

**COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL022712)**

**Report Issued on 4/26/12**

**INTRODUCTION**

On 2/27/12, the Nevada Superintendent of Public Instruction received a complaint dated 1/31/12 from parents alleging violations in the special education program of a student with disabilities attending the Clark County School District (CCSD). An investigation team was appointed to examine allegations that the CCSD failed to implement their child's 5/11/11 individualized educational program (IEP) during the first semester of the 2011/2012 school year because the student was not provided with the special education classes and the accommodations and modifications (accommodations) his IEP required, and the student did not receive an opportunity to work in the school cafeteria or student store.

The parents also requested that the Nevada Department of Education (NDE) require that the student's grades be changed for the first semester because the failure to be placed in the special education classes resulted in failing grades that prevented the student from being accepted by a magnet school. The parents were informed that the NDE did not have authority to direct a district to change grades for a student under the special education complaint process. It was recommended that they pursue the matter directly with Clark County School District.

In addition, the parents alleged violations that occurred outside of the jurisdiction of the NDE to investigate because they had occurred more than a year prior to the date of the receipt of the complaint. The NDE has authority to investigate complaints that have been filed not more than one year after the date on which the alleged violation(s) have occurred (NAC §388.318((1)(b))). The parents were informed of such through correspondence from the NDE.

**COMPLAINT ISSUES**

The allegations articulated in this complaint, and further clarified by interviews and a review of documents, raised the following issue under the jurisdiction of the NDE to investigate, for the first semester of the 2011/2012 school year:

- Issue:            Whether the CCSD complied with federal and state regulations to implement the student's IEP specifically with regard to:
- a.    The student's placement
  - b.    The provision of specially designed instruction
  - c.    The provision of accommodations
  - d.    An opportunity to work in the cafeteria or student store to develop functional math skills

**PERSONS PROVIDING INFORMATION**

The investigation team reviewed information received from the following people:

- Parent
- CCSD compliance monitor
- Special education teachers

- World geography teacher
- Science teacher

## **DOCUMENTS REVIEWED**

The documents reviewed by the investigation team included the following:

- Student's IEP
- Class schedule for 2011/2012 school year
- 2011/2012 school calendar
- Student status record for 2/27/11 through 2/27/12
- Progress reports dated 6/1/11 and 1/20/12
- Report card for the first semester of 2011/2012 school year
- Note from special education teacher regarding student working in student store

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 middle school student eligible for special education services under the category of specific learning disabilities. A review of the information received revealed the facts set forth below.

The first semester began on 8/29/11 and ended on 1/20/12. There were 88 school days in the semester. The student was absent for 1 day. The school day was from 9:06 AM to 3:17 PM for a total of 371 minutes per day or 1,855 minutes per week.

The IEP indicated that the IEP committee selected placement in a self-contained program (special education classroom). The student was to spend 33% of the day in the regular education environment and 67% of the day in the special education classroom. District staff conceded that the student was placed in the regular education environment for approximately 60% of the day and in the special education classroom approximately 40% of the day.

The IEP required that the student have special education services of 1,250 minutes per week of specially designed instruction. District staff conceded that the student received 750 minutes per week of specially designed direct instruction. The district conceded the student did not receive 250 minutes per week of specially designed instruction to learn behavioral/social skills and did not receive 250 minutes per week of "reading in content" in a "CC" general education classroom (one that has a general education teacher and a special education teacher).

The student had 12 accommodations in his IEP. The student had two special education teachers: one taught math and the other taught language arts and reading. Both special education teachers reported that they were aware of the accommodations required for the student and that they provided the accommodations.

Two of the student's regular education teachers (world geography and science) stated they had not received copies of the student's accommodations. During the course of the investigation, the complaint investigation team read the accommodations to them. The world geography teacher

reported that he previously had the student in his class and so was aware of what accommodations the student needed from previous IEPs and that he provided all the accommodations. The science teacher reported that she provided some of the accommodations for the student but not all of them. The health teacher did not respond to a request for an interview and the complaint investigation team was unable to determine whether he provided any accommodations to the student.

At the IEP meeting, the parents indicated that they wanted the student to work on his functional math skills in the cafeteria or student store. The special education teacher told the parents that this could easily happen in his math class because the math special education teacher managed the student store. The student never worked in the cafeteria. Beginning in early November the student worked on Wednesday mornings for 40 minutes stocking the student store. A requirement that the student work in the cafeteria or student store was not written in the IEP. The student did have a math goal that addressed functional math skills. That goal was addressed in the student's special education math class.

Subsequent to the filing of the complaint, at the beginning of the second semester, the student's placement was changed to comply with the requirements of the IEP, and the student's schedule reflected that the student was receiving the required specially designed instruction.

## **CONCLUSIONS OF LAW AND REASONS**

- Issue: Whether the CCSD complied with federal and state regulations to implement the student's IEP specifically with regard to:
- a. The student's placement
  - b. The provision of specially designed instruction
  - c. The provision of accommodations
  - d. An opportunity to work in the cafeteria or student store to develop functional math skills

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."

### **a. Placement**

This issue addresses the allegation that the student did not receive the placement in the special education classroom that his IEP required.

In this case, the IEP required that the student be placed in the regular education environment 33% of the time and be provided with a self contained special education class the remainder of the time. The district conceded that it did not provide the placement required by the IEP.

*Therefore the complaint investigation team concluded that the CCSD failed to comply with state requirements with regard to the placement of the student.*

### **b. Specially designed instruction**

This issue addresses the allegation that the CCSD did not provide the specially designed instruction required by the IEP.

In this case, the district provided 750 minutes per week of the 1,250 minutes per week of specially designed instruction required to be delivered to the student. The district conceded that it did not provide all the required specially designed instruction. Specifically, the district did not provide the required 250 minutes per week in a behavioral/social skills classroom and the 250 minutes per week in a CC general education classroom learning “reading in content”.

*Therefore the complaint investigation team concluded that the CCSD failed to comply with state requirements with regard to providing specially designed instruction to the student.*

**c. Accommodations**

This issue addresses the allegation that the CCSD did not provide all of the student’s accommodations.

In this case, the two special education teachers reported that they provided the accommodations to the student. While the world geography teacher reported that he provided all of the accommodations for the student, the science teacher reported that she provided some of them. There was no information provided by the health teacher. While some of the general education teachers, in their normal course of instruction, did provide some of the accommodations to the student, all of the accommodations were required to be provided by all of the teachers and were not.

*Therefore the complaint investigation team concluded that the CCSD failed to comply with state requirements with regard to providing accommodations to the student.*

**d. Opportunity to work in the cafeteria or student store**

This issue addresses the allegation that the student did not have an opportunity to work in the cafeteria or student store to work on his functional math skills.

In this case, the student did have a goal that addressed functional math skills and those were addressed in his math class. While the special education teacher told the parents there would not be a problem with the student working in the cafeteria or student store, the IEP did not include a requirement that he do so. Despite this, the student did have an opportunity to work in the student store, though not the amount of time to which the parent believed the student was entitled.

While there was a verbal agreement that the student would receive an opportunity to work in the cafeteria or student store there was no obligation to provide that service because the district was only obligated to provide the services and instruction deemed necessary by the IEP committee.

*Therefore the complaint investigation team concluded that the CCSD complied with state requirements with regard to providing an opportunity to work in the cafeteria or student store.*

**ORDER FOR CORRECTIVE ACTION**

CCSD is required to take corrective actions to address the violations found in this complaint investigation. Specifically, the CCSD failed to provide the required placement, specially

designed instruction and accommodations. The district staff are to be commended for correcting the placement, the delivery of the specially designed instruction and accommodations prior to the completion of this complaint investigation.

### **Directed Action**

The district is directed to conduct a thorough investigation into the cause of this non-compliance. The results of the investigation must be included in a report to the NDE and also include procedures, including any revision of policies and procedures and training of staff, to prevent the violations that occurred in this case from re-occurring in the school.

Within 30 days of the receipt of this report, the district must submit the results of the investigation to the NDE and the proposed procedures it will take at the student's school to prevent the violations from re-occurring. Within 30 days of the NDE's notification to the district of its satisfaction with the results of the investigation and its approval of the proposed procedures, documentation that the proposed procedures have been completed must be submitted to the NDE.

### **Compensatory Education**

An order for compensatory services is appropriate under these circumstances. It is ordered that no later than 30 days after receipt of this investigation report, that the IEP committee meet to review the student's current educational needs unless the parent and the CCSD agree otherwise. Then based on the student's identified needs, **unless the parent and the CCSD agree otherwise**, the CCSD must provide 145 hours of compensatory education (100 minutes per day [missed minutes per day of specialized instruction] multiplied by 87 days [days in attendance during the first semester]). These hours may be provided during the regular school year and/or during the summer months as agreed to by the parents and the CCSD.

The compensatory education must be provided in addition to the hours of education the student receives during regular educational programming. During the course of the complaint investigation, the parent indicated that the student might feel that compensatory education would be considered a "punishment". It is clear, however, that the student is entitled to the compensatory education and the district must offer it. The IEP committee including the parent, is directed to consider the student's preferences and interests as it develops the compensatory education for the student.

A copy of the student's IEP reflecting decisions concerning the compensatory education services must be provided to the NDE no later than 45 days from the receipt of this report. The services, unless otherwise agreed to by the parents and the district, must be provided to the student by December 31, 2012. Verification that agreed-upon services have been delivered must be provided to the NDE by March 31, 2013.