

**COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL103111)**

**Report Issued on 2/1/12**

**INTRODUCTION**

On 10/31/11, the Nevada Superintendent of Public Instruction received a complaint dated 10/25/11 from a parent 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 the allegations that the student regressed due to the fact that the CCSD did not implement the student's goals and objectives, did not individually teach her, and did not provide a school aide consistent with her individualized educational program (IEP) during the 2010/2011 school year.

The parent also alleged violations outside of the jurisdiction of the Nevada Department of Education (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)). In this case, the NDE's authority was for the period from 10/31/10 to 10/31/11.

Under 34 CFR §300.152(b) which permits the extension of the 60-day timeline for the completion of a complaint investigation report due to exceptional circumstances, the NDE extended the timeline for the completion of the complaint investigation due to the unavailability during the winter break of certain CCSD personnel with whom interviews were necessary to clarify and confirm facts in this case. The parents and the CCSD were notified of the extension in letters dated 12/27/11.

**COMPLAINT ISSUES**

The allegations articulated in this complaint, and further clarified by interviews and a review of documents, raised two issues under the jurisdiction of the NDE. The first issue concerns the implementation of a 12/9/09 IEP and the second issue concerns the implementation of a 1/11/11 IEP.

Issue One: Whether the CCSD complied with state requirements to implement the student's IEP from 10/31/10 to 1/11/11 specifically with regard to the IEP goals, the provision of specially designed instruction, accommodations, and the required reporting of progress.

Issue Two: Whether the CCSD complied with state requirements to implement the student's IEP from 1/11/11 to 6/9/11 specifically with regard to the IEP goals, the provision of specially designed instruction, accommodations, and the required reporting of progress.

## **PERSONS PROVIDING INFORMATION**

The investigation team reviewed information received from the following people:

- Parent
- Grandparent
- Physical education teacher
- Art teacher
- Special education teaching assistants for 2010/2011 school year (teaching assistants)
- Special education teacher for 2011/2012 school year

## **DOCUMENTS REVIEWED**

The documents reviewed by the investigation team included the following:

- CCSD school calendars for 2010/2011 and 2011/2012
- 1/11/11 IEP
- Student's class schedule for 2010/2011 school year
- Student's attendance records for 2010/2011 school year
- Attendance report from 10/31/10 through 6/9/11
- Lesson plans from 11/29/10-12/17/10
- Email descriptions of the provision of accommodations for the 2010/2011 school year
- Progress reports for spring semester of the 2010/2011 school year
- Report card for fall and spring semester of the 2010/2011 school year

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
- 34 C.F.R §76.731

## **FINDINGS OF FACT**

This investigation involved a middle school student eligible for special education services under the category of intellectual disabilities. A review of the information received revealed the facts set forth below.

The student attended school in the CCSD for the 2010/2011 school year.

The student had a 12/09/09 annual IEP. The CCSD was unable to produce a copy of that IEP or copies of any progress reports from 10/31/10-1/11/11. The only documentation about that period of time was the student's 2010/2011 report card, and group lesson plans for the classroom for three weeks. The teaching assistant who worked with the student during this period of time, as well as the physical education teacher, reported that they provided the accommodations required by the IEP although neither had a copy of the IEP or had read it in its entirety. The parent reported that the special education teacher for the fall 2010 semester, which included this period of time, apologized to her for not being able to implement the IEP because he was out of school a great deal of time due to health issues. This special education teacher was no longer working for the CCSD at the time of this complaint investigation and was not available to be interviewed.

There were thirty school days between 10/31/10 and 1/11/11. The student had two absences during that period of time.

Following the 12/09/09 IEP, the next IEP was a 1/11/11 IEP. The 1/11/11 IEP included specially designed instruction in language arts, math, science/social studies, reading and social learning.

The 1/11/11 IEP had four annual goals to be achieved between 1/11/11 and 1/11/12. The goals, which included benchmark/short-term objectives, were stated as:

1. “[Student] will apply appropriate strategies to aid comprehension”
2. “[Student] will write her thoughts independently”
3. “[Student] will increase spelling skills and use correct end punctuation”
4. “[Student] will use and create tables and charts to extend a pattern in order to describe a rule”.

Each goal was to be achieved by the annual review date, in the classroom setting.

The 1/11/11 IEP required that the student’s progress toward meeting the annual goals be reported through a district report card and quarterly specialized progress reports. The student was issued a district report card that covered the full 2010/2011 school year. Progress reports on each of the four goals were issued on 1/20/11, 4/27/11 and 5/31/11. The Progress reports showed that the student had made limited progress and more time was needed to achieve each of the goals.

The 1/11/11 IEP included four accommodations, to be provided from 1/11/11 to 1/11/12, as listed here:

1. “Adult supervision required during transitions (i.e. to and from lunch)”
2. “Use of calculator for math”
3. “Provide directions at student’s level; repeat as necessary and get feedback from student”
4. “Adult assistance with class assignments”

The special education teacher and teaching assistant addressed the four goals through 6/9/11, the end of the school year. The teaching assistant routinely worked with the student on a 1:1 basis, or a small group basis, to meet all of the goals. The student was consistently seated next to the teaching assistant so she could receive any individual help that she needed. During math, the student had a calculator. The teaching assistant worked with her on the calculator at each math session. Directions were provided and repeated to her each day based on her performance and feedback. An adult accompanied the student to all activities outside of the resource room.

No related services were required by the 1/11/11 IEP.

The parent withdrew the student from school on 9/19/11, fifteen days after the start of the 2011/2012 school year. Subsequent to the filing of the complaint the parent re-enrolled the student in the CCSD and meetings to develop a new IEP were initiated.

## **CONCLUSIONS OF LAW AND REASONS**

Issue One: Whether the CCSD complied with state requirements to implement the student's IEP from 10/31/10 to 1/11/11 specifically with regard to the IEP goals, the provision of specially designed instruction, accommodations, and the required reporting of progress.

This complaint concerned allegations that the CCSD did not implement the student's IEP goals, did not provide individualized instruction, and did not provide an aide to work with her between 10/31/10 and 1/11/11.

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."

Federal regulations at 34 C.F.R §76.731 state that "A State and a subgrantee shall keep records to show its compliance with program [IDEA] requirements".

In this case, the CCSD was unable to provide copies of the student's IEP in effect between 10/31/10 and 1/11/11 (12/09/09 IEP) or any progress reports. Further, the special education teacher for this period of time had left the district and was unavailable to the complaint investigation team and the remaining staff who had worked with the student had no specific knowledge of the contents of the 12/09/09 IEP other than what accommodations they provided. The only documentation that the CCSD provided covering this period of time was the student's annual report card for the 2010/2011 school year and group lesson plans for the student's class for three weeks and these did not specify the individual needs, accommodations, etc., of the student. Pursuant to C.F.R. §76.731 the CCSD was required to maintain documentation to demonstrate that it was compliant with the requirements of the IDEA and failed to do so. Absent any documentation indicating what the IEP required, and therefore what the student should have been taught, including any goals, objectives/benchmarks, specially designed instruction, accommodations and specialized progress reports, the complaint investigation determined that the district could not demonstrate that the student's IEP was implemented between 10/31/10 and 1/11/11.

*Therefore the complaint investigation team concluded that the CCSD failed to comply with requirements to implement the student's IEP from 10/31/10 through 1/1/11, a period of 28 school days.*

Issue Two: Whether the CCSD complied with state requirements to implement the student's IEP from 1/11/11 to 6/9/11 specifically with regard to the IEP goals, the provision of specially designed instruction, accommodations, and the required reporting of progress.

This complaint concerned an allegation that the CCSD did not implement the student's IEP goals, did not provide individualized instruction and did not provide an aide to work with her.

State regulations at NAC §388.281(6)(g) require that the school district shall "provide the services and instruction deemed necessary for the pupil by the [IEP] committee."

In this case, the student's 1/11/11 IEP included four annual goals, all of which were addressed by her special education teacher and the teaching assistant. As required by the 1/11/11 IEP, the student received all of her specially designed instruction in a self-contained special education classroom. The 1/11/11 IEP also included four accommodations that were provided to the student. A report card was issued, as were quarterly specialized progress reports, indicating how the student performed on each of her goals, as required by the 1/11/11 IEP.

*Therefore the complaint investigation team concluded that the CCSD complied with state requirements to implement the student's IEP from 1/11/11 to 6/9/11 specifically with regard to the IEP goals, specially designed instruction, accommodations and the required reporting of progress.*

### **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 comply with requirements to implement the student's IEP from 10/31/10 through 1/1/11.

#### **Compensatory Education**

An order for compensatory services is appropriate under these circumstances. The complaint investigation team recognizes that the student was in class during that period of time for which the noncompliance was found. However, given the lack of documentation including no IEP, no access to the student's teacher, and inconsistent reports from other personnel interviewed, there is no way at this point in time to know the CCSD's obligation to the student, nor the delivery any special education services that were provided. Therefore, the complaint investigation team determined that the CCSD must provide compensatory education to address this finding. Because the student was in school during this period, and likely received at least some services, even though this cannot be confirmed with certainty, the complaint investigation team determined the student is entitled to no less than 60 hours of compensatory education.

It is therefore ordered that no later than 30 days after receipt of this investigation report, the student's IEP committee must meet to review the student's current educational needs. Then based on the student's identified needs, unless the parent and the CCSD otherwise agree, the CCSD must provide sixty hours of compensatory services to the student.

The compensatory education must be provided in addition to the hours of education the student receives during the regular school day.

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 must be provided to the student by December 31, 2012. Verification that agreed-upon services have been provided must be provided to the NDE by January 31, 2013.

### Professional Development/Training

Within 30 days of receipt of this report, CCSD must develop and submit to the NDE a proposed Corrective Action Plan (CAP). The proposed CAP must:

1. Include a plan to review and revise as necessary, the CCSD policies and procedures with regard to implementing IEPs and documenting said implementation.
2. Provide professional development for teachers and administrators at the school site on the requirements for implementing IEPs and documenting that implementation.

The CAP must be approved by the NDE prior to implementation. Following implementation of the approved activities, documentation of the CCSD corrective actions must be provided to the NDE within 30 days of completion.