

**COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY020712)**

Report Issued on 4/6/12

INTRODUCTION

On 2/07/12, the Nevada Superintendent of Public Instruction received a complaint dated 1/17/12 from parents alleging violations in the special education program of a student with disabilities attending the Lyon County School District (LCSD). An investigation team was appointed to examine allegations that the LCSD failed to provide the parents copies of the student's educational records (records) so that they and their educational advocate (advocate) could review them prior to a meeting about their child's individualized educational program (IEP).

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 to investigate:

Issue One: Whether the LCSD complied with federal and state requirements to provide the parents with copies of the student's records if, without the copies, a meaningful inspection and review of the records would be impractical.

Issue Two: Whether the LCSD complied with federal and state regulations to provide the parents the right to have a representative inspect and review the records.

PERSONS PROVIDING INFORMATION

The investigation team reviewed information received from the following people:

- Parent
- LCSD Director of Special Services (Director of Special Services)

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

- Emails between the principal, the parents, the director of special services and the advocate dated between 12/14/11 and 1/29/12
- Prior written notice (PWN) dated 12/21/11

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

Please note that the NDE does not have jurisdiction under the special education complaint process to investigate allegations of the failure of the district to comply with the requirements of the Family Educational and Privacy Act (FERPA). FERPA has its own complaint process (34 §

C.F.R. Section 99.63). The findings and conclusions in this case are limited to the NDE's jurisdiction under the NAC and IDEA requirements related to special education.

FINDINGS OF FACT

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

On 12/14/11 the parents requested a copy of the student's records prior to the next IEP meeting being scheduled. The parents also requested that the next scheduled IEP meeting be at 4:00 or later so that the mother could attend following work. In response to the request for copies of the records, the principal informed the parents that he would work on scheduling a time for the parents to review the records prior to the next scheduled IEP meeting. Later in the day on 12/14/11 an IEP meeting was scheduled for 4:00 on 12/20/11

The principal informed the parents on 12/15/11 that copies of records would not be provided by the district, but that the parents were welcome to review the records at school. The parents again requested copies of the records stating that they needed the copies to review because the mother worked during the day and would be unable to make it to school to review the records. They also stated that they needed to deliver copies of the records to their advocate because it would be too expensive for them to pay the advocate for her time to drive to the district to review the records.

On 12/16/11 the parents repeated their request for copies of the records so that they could deliver them to the advocate to review prior to the IEP meeting. In response, the director of special services informed the parents that they and their advocate could make an appointment at any time during the school day to review the records. In addition, the director of special services offered to make the records available for review the day of the IEP meeting.

On 12/19/11 the director of special services reiterated the LCSD's offer to make the records available for review prior to the IEP meeting and asked that they let the district know when they wanted to make an appointment. Later on 12/19/11 the parents requested that the district provide the copies of the records to them at the IEP meeting. The parents stated that the father could not review the records prior to the IEP meeting because he had to wait for his wife to return from work since the family only had one car.

In a 12/20/11 email, the director of special services stated that since the day the parents first requested copies of the records, the district had offered to schedule a time for a review of the records any day the parents wanted to come in. She also asked them to inform her if they wished to review the records prior to the IEP meeting scheduled for later that day.

The parents and their advocate did not set up an appointment to review the records prior to the IEP meeting. At the beginning of the IEP meeting the parents again requested copies of the records and were informed that they could make an appointment to review the records.

On 12/21/11 the director of special services again offered the parents an opportunity to review all of their son's records at a time that was suitable for them and the mother's work schedule. In addition, the director of special services explained the district did not have the resources

available to offer copies of records upon request, “outside of the very specific circumstances described with the Family Education Rights and Privacy Act (FERPA)”.

The district also issued a 12/21/11 PWN that stated “The district is making the students [sic] records available for the parent to inspect and review the file at the school through an appointment at a time suitable to the parents’ work schedules. The district made this offer the day the parent requested access via copies of the records. The district continues to offer to make the records available for the parent and advocate to inspect and review”.

On 1/29/12 the district repeated the district’s offer to make the records available to the parents for their inspection and review and asked that the parents contact the school to make an appointment so that the staff could have time to prepare.

The parents and their advocate had not made an appointment to inspect and review the records as of the date of the filing of the complaint.

CONCLUSIONS OF LAW AND REASONS

Issue One: Whether the LCSD complied with federal and state requirements to provide the parents with copies of the student’s records, if, without the copies, a meaningful inspection and review of the records would be impractical.

This issue addresses the allegation that the LCSD did not provide the parents with copies of the student’s records prior to an IEP meeting when they requested them.

State regulations at NAC §388.287(1)(a) state that a district must allow the parents to inspect and review any educational records “before any meeting regarding an individualized educational program...”.

State regulations at NAC §388.287(2)(c) state that the parents may “Request that the public agency provide them with copies of the records if, without the copies, any meaningful review of the records is impractical”.

In this case, the parents stated that they needed copies of the records because the mother worked during the school day. In response, the district offered to make arrangements for the parents to inspect and review the records requested that the parents call and make an appointment for a review. The parents did not make an appointment. The district was required to allow the parents to inspect and review the records prior to the IEP meeting when the parents requested such a review. The district was only required to provide copies of the records if, without the copies, a meaningful inspection and review of the records was impractical. The parents were offered a number of opportunities to set an appointment, at their convenience, to inspect and review the records, including on the actual day of the IEP meeting when they were going to be at the school. It was not impractical for the parents to inspect and review the records prior to the IEP meeting.

Therefore the complaint investigation team concluded that the LCSD complied with state requirements when it offered the parents an opportunity to make a meaningful inspection and review of the records by inspecting and reviewing them at school.

Issue Two: Whether the LCSD complied with federal and state regulations to provide the parents the right to have a representative inspect and review the records.

This issue addressed the allegation that the LCSD did not provide the parents copies of the student's educational records so that they could give them to their advocate to review prior to an IEP meeting.

State regulations at NAC §388.287(2)(b) state that the parents may "Have their representative inspect and review the records;"

In this case, the district offered the parents the opportunity to set an appointment for their advocate to inspect and review the records on more than one occasion, including the day the advocate attended the IEP meeting. The parents did not avail themselves of this opportunity. There is no obligation for the district to provide copies of the records in order for an advocate to inspect and review them.

Therefore the complaint investigation team concluded that the LCSD complied with state requirements to provide the parents the right to have a representative inspect and review the records.