

**COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY042012)**

Report Issued on 6/19/12

INTRODUCTION

On 4/20/12, the Nevada Superintendent of Public Instruction received a complaint dated 4/19/12 from a parent alleging a violation in the special education program of a student with disabilities attending the Lyon County School District (LCSD). An investigation team was appointed to examine the allegation that the LCSD denied the parents their rights as parents of a special education child when it refused to engage in mediation requested by the parents.

COMPLAINT ISSUES

The allegation articulated in the complaint, and further clarified by a review of documents, raised the following issue under the jurisdiction of the Nevada Department of Education (NDE) to investigate under the special education complaint process:

Issue: Whether the LCSD's refusal to engage in mediation with the parent complied with federal and state regulations?

PERSONS PROVIDING INFORMATION

The investigation team reviewed information received from the following people:

- Parent
- LCSD Director of Special Services

DOCUMENTS AND MEDIA REVIEWED

The documents reviewed by the investigation team included the following:

- Letter from the LCSD to the parent dated 4/24/12
- Letter from Nevada mediator dated 5/14/12

The investigation team also reviewed the following authorities:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300

FINDINGS OF FACT

This investigation involved an LCSD elementary school student eligible for special education services under the category "other health impairment". A review of the information received revealed the facts set forth below.

The parent made a request to the district for mediation with respect to the student's proposed new individualized educational program (IEP) on 4/19/12. In a 4/24/12 letter to the parent, the LCSD Director of Special Services stated that she had forwarded the parent's request for

mediation to the NDE to get assistance in clarifying the issues for which the parent was requesting mediation, after which they would make a response to her.

Subsequent to the filing of the complaint, although the district agreed to mediation with the parent, the parent withdrew her request for mediation.

CONCLUSIONS OF LAW AND REASONS

Issue: Whether the LCSD's refusal to engage in mediation with the parent complied with federal and state regulations?

This complaint concerned an allegation that the LCSD denied the parents their rights when it refused to engage in mediation.

State regulations at NAC §388.318(3)(a) state that a complaint must include “A statement that a public agency **has violated** (emphasis added) a provision of the Individuals with Disabilities Education Act...”.

State regulations at NAC §388.305(1) state that “...mediation is voluntary and either the parent or the public agency may decline to participate”

In this case, the complaint investigation team determined that, as of the date of the complaint, the LCSD had neither declined nor accepted the parent's request for mediation. Although the parent had submitted a complaint alleging that the LCSD had refused a request to mediate, she was incorrect. The NDE does not have jurisdiction through the special education complaint process to investigate complaints about prospective actions of a district. In the absence of jurisdiction the NDE makes no finding in this case.