

**COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY091211)**

Report Issued on 11/7/11

INTRODUCTION

On 9/12/11, the Nevada Superintendent of Public Instruction received a complaint dated 9/12/11 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 scheduled an individualized educational program (IEP) meeting with one day’s notice which was not right”.

The parent, in filing the complaint: 1) made a request that the student be interviewed only with the parents or someone on their call list available to be with the student; 2) alleged that the principal used a threatening tone with the parent; 3) alleged that the teacher stated she would probably not read a 21-page report written by the student’s doctor; and 4) questioned the veracity of a statement written on a meeting notice. The NDE informed the parent that these requests, allegations and concerns were not under the jurisdiction of the NDE to investigate under the special education complaint process and referred her back to the LCSD to address them. In addition, the parent objected to a statement made by the principal that the student might, in the future, lose bus privileges. The parent was informed that the NDE does not have jurisdiction under the special education complaint process to investigate prospective actions of the LCSD.

COMPLAINT ISSUE

The allegation articulated in the complaint raised the following issue under the jurisdiction of the Nevada Department of Education (NDE):

Issue: Whether the LCSD complied with federal and state requirements to provide a meeting notice for a 9/8/11 annual IEP, specifically one that was given sufficiently far in advance to enable the parents to make arrangements to attend.

PERSONS PROVIDING INFORMATION

The investigation team reviewed information from the following people:

- Parent
- Principal
- Special Education Teacher
- Director of Special Services

DOCUMENTS REVIEWED

The investigation team reviewed the following documents:

- 9/2/11 and 9/7/11 IEP Meeting notice(s) for 9/8/11 IEP
- 9/7/11 principal’s working notes
- 9/8/11 IEP
- 9/9/11 Prior Written Notice (PWN) to implement 9/8/11 IEP
- 9/29/11 IEP

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 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.

On 9/2/11 and 9/7/11 the LCSD sent home meeting notices to schedule an annual IEP meeting for 9/8/11.

The parent returned the 9/2/11 meeting notice on 9/7/11. The parent indicated on the 9/2/11 meeting notice that she could not attend an IEP meeting until 9/26/11. The LCSD sent an additional meeting notice dated 9/7/11, noting that the annual IEP needed to be conducted prior to 9/10/11, offering to meet at the original time or an alternative time on 9/8/11, and offering an alternate date of 9/9/11, and offering the parent the opportunity to participate by phone.

At the beginning of the 2011/2012 school year, the parent provided the LCSD a doctor's report indicating what adjustments needed to be made to the student's health plan for the school year. On 9/7/11 the parent faxed a statement of her concern (parental concern) that the teachers not complete the student's work for him.

The annual IEP meeting was held on 9/8/11 without the parent in attendance. The parental concern was included in the 9/8/11 IEP, and new adjustments were made to the student's health plan.

Subsequent to the 9/8/11 IEP, meeting notices were sent out for a meeting to be held on 9/29/11. On 9/29/11, another IEP meeting took place with the parent present and the IEP was reviewed and revised.

CONCLUSIONS OF LAW AND REASONS

Issue: Whether the LCSD complied with federal and state requirements to provide a meeting notice for a 9/8/11 annual IEP that was given sufficiently far in advance to enable the parents to make arrangements to attend.

This complaint concerned an allegation that the LCSD provided one day's notice prior to a 9/8/11 IEP meeting.

State regulations at NAC §388.281(8) state that "...The [IEP meeting] notice must be given sufficiently far in advance of the meeting to enable the parents to make arrangements to attend."

State regulations at NAC §388.281(13)(c) state that the IEP committee shall "(c) Review the program at least annually..."

In this case, the LCSD provided the parent with notice of the annual 9/8/11 IEP meeting six days in advance of the meeting. The parent indicated she could not attend and the meeting was held without her. Although the 9/8/11 annual IEP committee considered and included the submission of the parental concern and revised the student's health plan based on information submitted to the district prior to the 9/8/11 IEP meeting, this did not relieve the LCSD of the responsibility to provide sufficient notice of the meeting to provide the parent an opportunity to participate.

The complaint investigation team concluded that, in this case, providing six days notice of the annual 9/8/11 IEP meeting for this parent was not sufficiently far in advance of the meeting for the parent to attend.

Therefore, the investigation team concluded that LCSD failed to comply with state law with respect to providing a meeting notice for the 9/8/11 annual IEP sufficiently far in advance to enable the parent to make arrangements to attend.

No Corrective Actions Required

Although the LCSD failed to comply with the requirement to provide a meeting notice sufficiently far in advance for the parent to attend the 9/8/11 meeting, the non-compliance has already been addressed by the LCSD. The LCSD staff involved in sending out the notices of the 9/8/11 IEP meeting sent out meeting notices for the subsequent 9/29/11 IEP meeting sufficiently far in advance for the parent to make arrangements to attend. Therefore no additional action by the LCSD is required.