

**COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY021209)**

INTRODUCTION

On 2/12/09, the Nevada Superintendent of Public Instruction received a complaint dated 2/3/09 from a parent alleging violations in the special education program of a student with disabilities attending Lyon County School District (LCSD). An investigation team was appointed to examine the allegations that the LCSD did not implement the student's 9/3/08 individualized educational program (IEP) and the 12/12/08 IEP in that it did not provide daily resource room instruction in math and language arts, and did not provide supplementary aids and services, specifically: reading tests aloud to the student; allowing the student to dictate answers to tests and assignments; teacher-made notes of assignments to the student and assistive technology support to the student when preparing written reports.

Subsequent to the filing of the complaint, the parent clarified her allegations in two interviews with the investigation team. She indicated that while the student was provided with resource math and resource language arts classes (resource classes), 1:1 instruction was not provided in those classes and she alleged it was supposed to be provided. The parent also clarified that she was referring to the lack of the four supplementary aids and services being provided to the student in the resource classes, not in the electives and other classes in which the student was enrolled.

The parent also indicated to the investigation team in the interviews that she was concerned about the student's behavior plan. The investigation team informed her that allegations other than those originally filed and clarified in this complaint would not be considered in this investigation. The parent was told that she had the option to file another complaint for concerns related to the behavior plan or other issues.

COMPLAINT ISSUES

The allegations articulated in the complaint, and further clarified by a review of the documents and interviews, raised the following issue under the jurisdiction of the Nevada Department of Education (NDE):

- Issue 1: Whether LCSD complied with state requirements to implement the student's IEPs with regard to:
- a. Providing 1:1 instruction in the resource classes
 - b. Providing supplementary aids and services in the resource classes

PERSONS INTERVIEWED

The investigation team interviewed the following persons:

- Parent
- Special services director
- Principal
- Assistant principal
- Resource math and resource language arts teacher (resource teacher)
- Case manager

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

1. 9/3/08 IEP
2. 12/12/08 IEP
3. 3/2/09 IEP
4. 3/30/09 IEP
5. Student first semester progress reports

6. Student first semester daily grade reports
7. Student daily grade reports dated 3/11/09–4/1/09
8. Samples of worksheets introducing new concepts
9. Student behavior log
10. Student class schedule for 2008/2009 school year
11. Student attendance record for 2008/2009 school year
12. School calendar for 2008/2009 school year

The investigation team also reviewed the following material:

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

FINDINGS OF FACT

This investigation involved a high school special education student with specific learning disabilities. A review of documents, as well as interviews with the parent, special services director, principal, assistant principal, resource teacher and case manager revealed the following facts.

Both the 9/3/08 IEP and 12/12/08 IEP (IEPs) had the same requirements for specially designed instruction and supplementary aids and services. The specially designed instruction was listed as “resource math” and “resource language arts.” The student was enrolled in each resource class for one period a day during the first and second semesters. The resource teacher was present at the 9/3/08 IEP meeting but not at the 12/12/08 IEP meeting. There were conflicting reports as to whether the resource teacher had access to the IEPs at the initiation of this investigation.

The parent stated to the investigation team that the IEPs required that the student be provided with 1:1 instruction in the resource classes and that the 1:1 instruction was not offered or provided to the student. The IEPs did not include a requirement that the student be provided with 1:1 instruction in the resource classes. The resource teacher reported that he often offered the student individual extra help or instruction in class and that at times the student accepted the help and at other times declined it.

The IEPs included the following supplementary aids and services all of which were to be provided daily in the resource classrooms: 1) “Tests will be read to [student] and teacher writes responses...”; 2) “Teacher made notes for instruction will be provided to [student]...”; 3) “[Student] may dictate answers to assignments in language arts...”; and 4) “[Student] will be able to use assistive technology support tools for drafting, reading and writing such as CoWriter, Co-draft and co-reading when preparing written reports on various subjects.” The parent reported that none of these four supplementary aids and services were ever provided to the student.

The resource teacher reported that while instructions for tests were read aloud to the student, the tests themselves were not read to the student and he [resource teacher] did not write down the student’s responses with the exception of occasionally writing down words that the student had difficulty spelling. The resource teacher also stated that tests were not given to the student on a daily basis.

The resource teacher reported that he did not prepare his own notes for instruction. He reported that when introducing a new concept in math and language arts, he copied worksheets that included the concepts and rules being taught and that the student received copies of those worksheets, but not on a daily basis. The resource teacher explained that the concepts and rules discussed on the worksheets are those that he would have had on any teacher made notes should he have felt the necessity to prepare his own notes. The investigation team had samples of the worksheets that included the concepts and rules being taught.

The resource teacher stated that he offered the student the opportunity to dictate answers in language arts though not on a daily basis and that the student chose to dictate the answers on some occasions. The resource teacher had no documentation of the times the student had the opportunity to dictate answers.

The resource teacher reported that while there were worksheets to fill out in the resource classes, no written reports were required. Daily grade reports were provided to the investigation team and include a list of all assignments in the resource classes. The assignments were exclusively worksheets and tests. No written reports were listed. No assistive technology was available to the student when completing the worksheets in the resource rooms.

The first semester ended on 1/17/09. The student's grades for the first semester were: "D" in resource language arts and "C" in resource math.

CONCLUSIONS OF LAW AND REASONS

Issue 1: Whether the LCSD complied with state requirements to implement the student's IEPs with regard to:

- a. Providing 1:1 instruction in the resource classes
- b. Providing supplementary aids and services in the resource classes

This complaint concerned allegations that the LCSD did not implement the student's IEPs in that it did not provide 1:1 instruction in the resource math and the resource language arts classes daily, and it did not provide supplementary aids and services in those two classes, specifically: reading tests to the student; allowing the student to dictate answers to tests and assignments; providing teacher made notes of assignments to the student and providing assistive technology support to the student when preparing written reports or assignments.

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. 1:1 instruction in resource class

In this case, the IEPs required that the student receive specially designed instruction of resource math and resource language arts. However, there was no requirement in the IEPs for the student to receive 1:1 instruction in the resource classes. As there was no requirement in the IEPs for the student to receive 1:1 instruction in the resource classes, the district was not obligated to provide any 1:1 instruction in those classes.

Therefore, the investigation team concluded there was no finding regarding this issue.

b. Supplementary Aids and Services

In this case the district was required to read tests aloud to the student and write down the responses which it failed to do. There was no documentation as to whether the district met the requirement of offering the student the option of dictating answers to language arts assignments so the investigation team was unable to conclude whether this requirement was met.

All the supplementary aids and services were required to be provided, not on some occasions, but on a daily basis. While the district was not required to provide assistive technology support because there were

no written reports required in the resource rooms, district staff confirmed that none of the other supplementary aids and services were provided on a daily basis as required.

Therefore, the investigation team concluded that LCSD did not comply with state regulations to implement the student's IEPs with regard to providing supplementary aids and services in the resource classes.

ORDER FOR CORRECTIVE ACTION

The LCSD is required to take corrective actions to address the violations found in this complaint investigation. Specifically, the district did not implement the student's IEPs when it failed to implement the student's IEPs with regard to providing supplementary aids and services in the resource classes, specifically failing to provide appropriate supplementary aids and services, reading tests to the student and recording the responses and providing required supplementary aids and services on a daily basis.

Directed Action

The district must implement a plan to provide the supplementary aids and services as required by the student's current IEP. Within 30 days of the receipt of this report, the district must provide documentation that it is providing the supplementary aids and services as required in the current IEP and delivering those services with the frequencies indicated. Should the district wish to schedule an IEP meeting to review the supplementary aids and services, it must do so within 30 days of the receipt of this report and provide documentation of the implementation of the supplementary aids and services in that new IEP.

Professional Development/Training

Within 30 days of receipt of this report, the LCSD must develop and submit to the NDE a proposed Corrective Action Plan (CAP). The proposed CAP must include professional development for relevant LCSD administrators and staff regarding:

- State regulations for implementing IEPs specifically with regard to:
 - Providing appropriate supplementary aids and services that can be implemented by the teachers
 - Providing the supplementary aids and services required, including their frequencies

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