



# Nevada Department of Education: Constituent Concern Inspection Guidance



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# Background

## Senate Bill No. 213, Chapter 493, Statutes of Nevada 2017

Senate Bill 213 (SB 213) was passed by the Nevada State Legislature in 2017 and was in effect July 1, 2017. This document is intended to provide guidance on the implementation of the new special education investigative process in SB 213, as codified in NRS §§388.417(6), 388.4352 and 388.4354 of Chapter 388 of the Nevada Revised Statutes (NRS), along with the regulations for SB 213 in the Nevada Administrative Code (NAC), Chapter 388.

NRS §§388.417(6), 388.4352 and 388.4354 establish a new investigative process for the Superintendent of Public Instruction (Superintendent) of the Nevada Department of Education (NDE) to determine if a school within a school district; or charter school; or other entity providing special education or services for a school district or charter school (Provider) is in compliance with the laws and regulations under the Individual with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., NRS Chapter 388 and/or, NAC Chapter 388 or other law or regulation governing the education of pupils with disabilities in Nevada. NRS §388.4354 provides the authority for the Superintendent to take appropriate measures if a Provider is found out of compliance and fails or refuses to comply in a timely manner.

This new investigative process can be initiated by the Superintendent at his/her own initiative or by a person, including an organization, or governmental agency filing a request for the Superintendent to inspect the believed noncompliant Provider. A request filed by a person or governmental agency is called a Constituent Concern Inspection (CCI) request. This Guidance addresses the CCI request process. It is important to note that the CCI process is in addition to existing alternative dispute resolution processes, under the IDEA, including due process hearings (NAC §§388.306, 388.308) and the State Complaint process (NAC §388.318). (See comparison of the CCI process to the due process hearing and State Complaint process below.)

## Compliance with What Law?

IDEA and NRS §§388.417 to 388.5243 and NAC §§388.001 to 388.450 or other law or regulation governing the education of Nevada pupils with disabilities. This investigative process specifically applies to the laws and regulations governing the education of pupils with disabilities by providers of special education. The NRS defines a “pupil with a disability” as a “child with a disability,” as that term is defined in IDEA, 20 U.S.C. § 1401(3)(A), who is under 22 years of age. NRS §388.417. Given the definition of a pupil with a disability under the NRS, this CCI process does not apply to determinations of compliance with Section 504 of the Rehabilitation Act of 1973, as amended (Section 504: 29 U.S.C. Sections 705, 794, 794a, 794b; 34 C.F.R. Part 104); or the Americans with Disabilities Act (ADA): 42 U.S.C. Sections 12101 et seq.; 28 C.F.R. Part 35).[1]

[1]Schools do have a responsibility to ensure equal opportunities for all students, including students with disabilities. Both Section 504 and the ADA provide grievance procedures at the local level alleging an action prohibited by Section 504 and ADA.

In addition, Section 504 and the ADA-Title II are enforced by the federal agency, the Office of Civil Rights. Further information is available at: <https://www2.ed.gov/about/offices/list/ocr/index.html>

## Is it the School District or the School?

It is the school within a school district or charter school that provides education or services to pupils with disabilities or other agency providing education or services to a pupil with a disability for a school district or charter school.

The CCI process applies to a “provider of special education”. A Provider is defined as “a school within a school district or charter school that provides education or services to pupils with disabilities or any other entity that is responsible for providing education or services to a pupil with a disability for a school district or charter school” ( NRS §388.417(6)). So, it is the school, including a charter school, within a school district or charter school or other agency providing special education for the school district or charter school, not the school district or governing body of a charter school that is the subject of a CCI Request or the initiation of action by the Superintendent under the CCI process. If the Superintendent finds noncompliance through the CCI process, the school district or the governing body of the charter school, as applicable, will be involved in the development and, possibly, the enforcement of the plan of corrective action.

## Is the CCI Request Process for Allegations Regarding an Individual Child with A Disability Only?

**No.** A Constituent can file a CCI Request concerning compliance with special education laws and regulations with regard to an individual child with a disability or systemic compliance with special education laws and regulations with regard to multiple or all children with **disabilities** in the school.

## Who Can Request a CCI?

*Any person, which includes an individual, organization and nongovernmental agency (NRS §0.039), or a governmental entity can file a CCI Request.* A nonparent can request a CCI to determine compliance with the laws and regulations governing the provision of education to an individual child with a disability or children with disabilities. However, in accordance with the requirements in the IDEA, 34 C.F.R. §§300.9 and 300.622, the NDE must obtain parental consent before personally identifiable information is disclosed to the requesting Constituent.

## How Can a Constituent File a CCI Request?

The NDE has developed a mandatory form to file a CCI Request to enable the NDE to easily distinguish this Request from other dispute resolution requests and to ensure the Constituent provides the necessary mandatory contents. This mandatory form is available on the NDE website at: [http://www.doe.nv.gov/Special\\_Education/Dispute\\_Resolution/](http://www.doe.nv.gov/Special_Education/Dispute_Resolution/).

700 E. Fifth Street, Suite 106  
Carson City, NV 89701

Using this mandatory form, a Constituent must either hand deliver the CCI Request form to the Superintendent’s office; send the form to the Superintendent at the above address by regular mail or other expedited delivery method, such as FEDEX or UPS; fax the CCI Request form to both the Superintendent at **775-687-9207** and to the Office of Special Education at **775-687-9123**; or email the CCI Request as an attachment to an email that indicates CCI in the subject line to the Superintendent, [sverdugo@doe.nv.gov](mailto:sverdugo@doe.nv.gov), with a copy to the NDE Office of Special Education, [ctorres@doe.nv.gov](mailto:ctorres@doe.nv.gov).

## How Does This Process Differ From the Due Process Hearing and State Complaint Processes?

A due process hearing is available to parents of a child with a disability and a public agency under the IDEA, and the NAC Chapter 388 to resolve educational disagreements regarding the identification, evaluation, educational placement or provision of a free, appropriate public education to a child with a disability or who is suspected of being a child with a disability. After the conduct of an evidentiary hearing, an impartial Hearing Officer issues a written decision that resolves the issue(s) of disagreement. The Hearing Officer is appointed by the NDE and his/her hearing decision is final, unless it is appealed to a State Review Officer appointed by the NDE.

The State Complaint process is required under federal law, IDEA, and the NAC Chapter 388. A State Complaint may be filed with the Superintendent by any individual or organization alleging a public agency (e.g., school district) has failed to comply with the IDEA law or regulations or the special education laws and regulations under NRS and NAC, Chapter 388. A copy must be sent to the public agency at the same time the complaint is sent to the NDE. The State Complaint process is available for an allegation of noncompliance with regard to an individual child or systemwide. After the conduct of an investigation, the NDE will issue a written decision to the complainant, including a corrective action if required. The decision must be issued no later than 60 calendar days after the complaint was received, unless the timeline is extended for exceptional circumstances.

The CCI process is State mandated under State law only, NRS Chapter 388. A CCI Request can be filed by a person, including an individual, organization and nongovernmental agency, or a governmental agency against a school providing special education within a school district or charter school or other entity providing education or services to a pupil with a disability for a school district or charter school alleging the school failed to comply with the IDEA law and regulations and provisions of law and regulations governing the education of pupils with disabilities in this State, including NRS §§388.417 to 388.5243 and NAC §§388.001 to 388.450. The CCI Request is filed with the Superintendent and while the Constituent does not have to provide the school a copy of the Request, this process does not provide anonymity for the Constituent. The Superintendent will only conduct an inspection if there is good cause to do so. The inspection must be concluded within 30 days of the Superintendent's determination of good cause and, if applicable, within 30 days of the completion of the inspection, the NDE will commence the corrective action process.

## What Happens if There Is An Open Due Process or State Complaint at the Time of a CCI Request is Filed?<sup>[2]</sup>

If an allegation(s) in the CCI Request is the subject of a due process hearing or appeal or a State Complaint, the Superintendent cannot make a determination of good cause or cause the conduct of an inspection through the CCI process concerning the allegation until the final resolution of the due process hearing, appeal or State Complaint. If the final resolution decides whether the Provider of special education is in compliance with an allegation in the CCI Request or the allegation was previously decided in a due process hearing or appeal or State Complaint involving the same parties and time frame, the Superintendent will adopt that determination in the CCI process.

If the allegation(s) in the CCI Request is being investigated under other processes under the laws or regulations governing the education of pupils with disabilities, it is the discretion of the State Superintendent whether to set aside the determination of good cause concerning the allegation in the CCI Request until after the final resolution of the process.

[2] See the Quick Guide to Special Education Resolution Processes: [http://www.doe.nv.gov/Special\\_Education/Dispute\\_Resolution/](http://www.doe.nv.gov/Special_Education/Dispute_Resolution/)

## NDE Procedural Steps-Upon the Receipt of a CCI Request

While the NDE Superintendent is responsible for the implementation of the CCI process, the NDE Director of the Office of Special Education (Director) has been assigned the responsibility to implement some of the procedural steps in the CCI process on his/her behalf. Therefore, the term “NDE” is used throughout the procedural steps.

### Step 1: Determine jurisdiction

Upon the receipt of the CCI Request, the NDE will determine whether the CCI Request is within its jurisdiction under NRS §388.4352 as follows:

1. Was the CCI Request filed as required? Did the Constituent:
  - a. Use the Mandatory CCI Request form;
  - b. Include the required content in the CCI Request Form; and
  - c. File the CCI Request Form with the Superintendent by hand delivery to the Superintendent’s office, mail, Facsimile(fax) or email. If the Constituent filed the CCI Request by Facsimile, was it faxed to both the Superintendent and the Office of Special Education. If the Constituent filed the CCI Request form by email, did the Constituent:
    - i. Attach the signed CCI Request Form to the email with a subject line that included the term CCI or Constituent Concern; and
    - ii. Copy [ctorres@doe.nv.gov](mailto:ctorres@doe.nv.gov) of the NDE Office of Special Education.

If the answer is no to any of the above filing requirements, the CCI Request was not filed as required and the CCI process is terminated. The Constituent will be notified of that determination and the opportunity to re-file, if desired.

2. Are the allegation(s) in the CCI Request regarding:
  - a. Noncompliance with the laws or regulations governing the provision of education;
  - b. To pupils with disabilities in Nevada; and
  - c. The allegation(s) is with regard to a Provider of special education.

If the answer is no to any of the above, the CCI Request is not with the scope of NRS §388.4352 and the CCI process is terminated. The Constituent will be notified of that determination and the opportunity to re-file with the appropriate subject matter, if desired. If the answer is yes to all the above filing requirements, the NDE will determine good cause in accordance with Step 2.

### Step 2: Good Cause?

Upon the receipt of a CCI Request that meets the requirements regarding filing and subject matter (Steps #1 and #2), the NDE will determine whether there is good cause to conduct an inspection. This determination may include, but is not limited to, consideration whether the Request provides enough information to determine whether the alleged violation occurred and the date or dates on which the alleged violation occurred.

If the determination is that good cause does not exist to conduct an inspection of a Provider, the CCI process is terminated. The Constituent will be notified of that determination.

If the determination is that good cause does exist to conduct an inspection of a Provider, the Constituent will be notified of that determination and the NDE will conduct an inspection of the Provider in accordance with Step 3.

## Step 3: Inspection

The NDE must conclude the inspection of the Provider within 30 days of the determination of good cause.

The NDE may request additional documentation from the Provider and conduct the inspection of the Provider on-site, electronically or by telephone. At the conclusion of the inspection, the NDE will make a determination whether or not the Provider is in compliance with the identified law or regulation governing the education of pupils with disabilities.

If the determination is that the Provider is in compliance with the identified law or regulation governing the education of pupils with disabilities, the CCI process is terminated.

If the determination is that the Provider is not in compliance with the identified law or regulation governing the education of pupils with disabilities, the Provider will be brought into compliance with the identified law or regulation in accordance with Step 4.

## Step 4. Corrective Action

1. Within 30 days of the completion of the inspection and finding of noncompliance, the NDE will meet with the Provider of special education to determine the most efficient and expeditious manner to bring the Provider into compliance with the identified law or regulation; and will request the board of trustees of the school district or the governing board of the charter school, as applicable, establish a plan of corrective action to ensure compliance with the law or regulation.
2. The board of trustees of the school district or the governing board of the charter school, as applicable, must submit the Corrective Action Plan to the Superintendent. The NDE must review the plan to ensure that it complies with applicable federal and state law and regulations and advise the board if revision is necessary to ensure compliance. The NDE approved Corrective Action Plan must be implemented to avoid further action from the NDE. Documentation of the implementation of the Corrective Action Plan must be maintained by the board in accordance with document retention policies under the IDEA.
3. If the Provider of special education where a violation occurred fails or refuses to comply with the Corrective Action Plan in a timely manner, the Superintendent must determine and take appropriate measures to ensure compliance. In determining appropriate measures, the Superintendent must consider the factors set forth in NRS §388.4352 (2) regarding:
  - a. The severity of the failure to comply;
  - b. The length and number of times the Provider has been out of compliance with the laws and regulations governing the education of pupils with disabilities;
  - c. Whether the Provider made a good faith effort to comply with the Corrective Action Plan; and
  - d. Whether the Provider previously failed to comply with a Corrective Action Plan.

After considering these same factors, the Superintendent will also determine and take appropriate measures if the Provider failed or refused to comply with an order of a Hearing Officer issued pursuant to a due process hearing conducted pursuant to the IDEA, or, if an appeal is taken pursuant to NAC 388.315, the order of the State Review Officer, or the Corrective Action Plan for a State Complaint decision pursuant to NAC §388.318 or NRS §385.175.

NRS §388.4354 provides broad enforcement authority to the Superintendent to ensure compliance if the Provider fails or refuses to comply with a CCI Corrective Action Plan, a State Complaint Corrective Action Plan, or a Hearing or Review Officer's decision and to work with any other appropriate governmental agency in enforcing compliance.

# Constitute Concern Inspection (CCI) Request Filed

CCI Request filed as required with required content?



Yes



No

If no, CCI process terminated and  
Constituent Notified

State Superintendent determines if there is good cause to conduct inspection



If good cause found, CCI process  
moves forward and constituent notified



If no good cause found, CCI process  
terminated and constituent notified

Inspection conducted and concluded 30 days after the good cause determination



Provider Not in Compliance



Within 30 Days after the inspection,  
the Corrective Action Phase begins  
to bring Provider into compliance



If provider in compliance; CCI  
process is terminated

If compliance attained, CCI process concluded. If the provider fails or refuses to comply in a timely manner, enforcement actions instituted by the State Superintendent to ensure compliance.

# NEVADA DEPARTMENT OF EDUCATION

## Constituent Concern

### Mandatory Form for Persons/Governmental Agencies Requesting Inspection of a Provider of Special Education<sup>[1]</sup>

This form is to assist you in filing a Constituent Concern - Request for Inspection of a provider of special education. The Constituent Concern Inspection (CCI) process can be used when you believe a provider of special education has violated special education law or regulation(s). (A provider of special education means a **school** within a school district or **charter school** that provides education or services to pupils with disabilities or **any other entity that is responsible for providing education or services to a pupil with a disability** for a school district or charter school.)

You **are required** to use this form. In order to determine whether there is good cause to conduct an inspection of the provider of special education, the Superintendent of Public Instruction requires the request to be written, signed, and to meet the minimal requirements contained in this form. Upon the Superintendent's determination of good cause, an inspection will be conducted by the NDE within 30 days. Please be advised that the CCI process does not provide anonymity for the Constituent. Therefore, assume that the provider of special education will be informed of your Constituent Concern and your identity.

The CCI process is one of several dispute resolution processes available in the State of Nevada to resolve special education disputes. The use of this dispute resolution process is not exclusive. That is, filing a CCI Request does not affect the right to access other dispute resolution processes available to the requester. The other dispute resolution processes are explained on the Nevada Department of Education (NDE) website at: [http://www.doe.nv.gov/Special\\_Education/Dispute\\_Resolution/](http://www.doe.nv.gov/Special_Education/Dispute_Resolution/)

#### Filling out the form: PLEASE READ CAREFULLY.

- All CCI Requests must be in writing and signed by the requester.
- All CCI Requests must include this completed form with all contents.
- A CCI Request must be filed with the Superintendent:

700 E. Fifth Street, Suite 106  
Carson City, NV 89701

- o At the above address by regular mail or other expedited delivery method, such as FEDEX or UPS; or by facsimile (fax) to **both** the Superintendent at **775-687-9207** and to the Office of Special Education at **775-687-9123**
- The NDE will accept emailed CCI Requests **only if the following are met:**
  - o The email includes the attached signed Mandatory CCI Request form; and
  - o The email is sent to the Superintendent of Public Instruction at **sverdugo@doe.nv.gov** with a copy to **ctorres@doe.nv.gov** of the NDE Office of Special Education with a subject line that included the term CCI or Constituent Concern. The date of receipt will be the date the emailed copy to **ctorres@doe.nv.gov** with the attachment is opened. An automatic acknowledgement of receipt of the CCI Request will be provided to the Constituent.

[1]Sections 5, 6, 7 of Senate Bill No. 213, Chapter 493, Statutes of Nevada 2017. [https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB213\\_EN.pdf](https://www.leg.state.nv.us/Session/79th2017/Bills/SB/SB213_EN.pdf) Additional information regarding the Constituent Concern Investigation process is available on the NDE website: [http://www.doe.nv.gov/Special\\_Education/Dispute\\_Resolution/](http://www.doe.nv.gov/Special_Education/Dispute_Resolution/)

# CONSTITUENT CONCERN INSPECTION REQUEST FORM

Your Name[1]: \_\_\_\_\_ (This process does not protect the identity of the Constituent filing a CCI Request.)

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

Superintendent of Public Instruction  
Nevada Department of Education  
700 E. Fifth Street  
Carson City, NV 89701-5096

Dear Superintendent of Public Instruction:

I/we are submitting this form to request the Superintendent conduct an inspection of a provider of special education; for determination of compliance. (Provider is, a school within a school district or charter school that provides education or services to pupils with disabilities or other agency providing education or services to a pupil with a disability for a school district or charter school)

1. I/we believe that a provider of special education has violated a provision(s) of one or more of the following laws or regulations:

a. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq. 34 C.F.R. Part 300);

YES \_\_\_\_\_ NO \_\_\_\_\_

b. NRS and/or NAC Chapter 388 (NRS §§388.417 to 388.5243 and NAC §§388.001 to 388.450, inclusive);

YES \_\_\_\_\_ NO \_\_\_\_\_; or

c. Other law or regulation governing the provision of education to pupils with disabilities in Nevada.

YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, provide the citation or, at minimum, cite to the name of the law/regulation \_\_\_\_\_

(Check yes or no for items a through c. For item c provide the citation to the law/regulation or, at minimum the name of the law, if "Yes" is checked.)

2. Name of the provider of special education: \_\_\_\_\_

(This is the school or charter school or, if it is another provider of special education (or services) for a school district or charter school, the name of that entity.)

[1]If you are filing the Request on behalf of a governmental agency or other organization/agency, please also indicate the name of the organization/agency.

3. The facts supporting your belief that there has been a violation of special education law(s) and regulation(s).  
(Be as specific as you can be to clearly identify the believed violation.)

A. The believed violation(s):

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*(If available, you may, but are not required to, provide the specific provision of the IDEA or NRS/NAC for special education programs you believe has been violated.)*

B. The facts relating to the violation, including when the date(s) the believed violation(s) occurred:

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*(Provide the facts, including the dates, that support your belief that the school, charter school or other provider of special education (or services) for a school district or charter school violated the laws and regulations governing the education of pupils with disabilities. If needed, attach additional sheets of paper. If the believed violation occurred more than one year before the date that the Request for Inspection will be received by the NDE, please indicate if this is a continuing violation and the basis for that belief.)*

4. Your contact information: *(Complete parts A and B)*

A. If all contact information is provided above: Check here: \_\_\_\_\_

B. Additional contact information, such as email address, if any, and preferable mode of contact, if any: (Optional)\_\_\_\_\_

5. Alleged violation(s) concerning a specific child must also include the following:

A. Are you the parent of the child? YES\_\_\_\_\_ NO\_\_\_\_\_

6. Signature: \_\_\_\_\_

*(Physical signature required. No electronic signature accepted at this time.)*