

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL020521)
Report Issued on April 5, 2021**

INTRODUCTION

On February 5, 2021, the Nevada Superintendent of Public Instruction received a State Complaint dated January 29, 2021 from a Parent alleging violations by the Clark County School District (CCSD) in a student's special education program. The allegations in the Complaint were that CCSD violated the Individuals with Disabilities Education Act (IDEA) and Nevada Administrative Code (NAC), Chapter 388, by failing: to conduct a good faith Resolution Meeting in a due process hearing case within the 15-day timeframe with someone present with decision-making authority; to provide for an examination of all of the student's education records pursuant to the IDEA, §20 U.S.C. §1415(b)(1), upon a July 13, 2020 request by withholding some of the student's educational records until August 24, 2020 to gain an advantage during the due process proceeding; and to comply with a State Review Officer's decision as required by the IDEA, 34 C.F.R. §300.514, in the ordered IEP meeting in that the IEP Team based the student's specially designed instruction on the across-the-board determinations without any customization of mode of time to the student's individualized needs. The Parent's proposed resolution was to provide monetary reimbursement¹ for the time and effort to prepare this Complaint; time lost in preparation, review and attendance at the IEP revision meeting and participating in the holding of the due process hearing and appeal, and compensatory services for the student.

The Parent was informed that Nevada Department of Education (NDE) does not have jurisdiction to investigate the allegations of the absence of a "good faith" state of mind. The Parent was also informed that while corrective action will be ordered if it is determined that CCSD violated the requirements of Part B of the IDEA, or the Nevada Revised Statutes or NAC for special education programs, the requested monetary remedy of fees for the Parent attorney's professional time spent in preparing the State Complaint and participating in the due process hearing and appeal processes was not available through the State Complaint system.

Given the State Complaint referenced the conduct of a due process hearing and appeal to a State Review Officer, the Parent was also informed that pursuant to the IDEA, 34 C.F.R. §300.152(c), if an issue raised in a State Complaint was previously decided in a due process hearing involving the same parties, the due process decision was binding on that issue. Both the Hearing Officer's and the State Review Officer's Decisions were reviewed in this investigation and it was determined that neither the Hearing Officer's nor the State Review Officer's Decision previously decided the allegations in this Complaint.

In the February 16, 2021 issue letter to CCSD, NDE requested additional documents and information in order to investigate the State Complaint. CCSD was notified in that same correspondence that if CCSD disputed the allegations of noncompliance in the Complaint, the submitted documents and information must include a denial of the alleged noncompliance; a brief statement of the factual basis for the denial; and specifically reference the documentation provided to NDE that factually supported the denial and that a failure to do so by March 3, 2021 or an extended timeline authorized by NDE, would be considered a concession of noncompliance for purposes of this State Complaint. CCSD did timely respond and dispute the allegations of noncompliance in the Complaint in their entirety and specifically referenced the indexed and well-organized documents relevant to that denial.

¹ The Parent in this case is an attorney licensed to practice in the State of Nevada and represented the student in the hearing and review proceedings referenced in this State Complaint.

The State Complaint, including all attachments, CCSD's denial of all claims, and all documents submitted by CCSD in response to the issues in the Complaint were reviewed and, with one exception, were considered in their entirety in the investigation of this Complaint. CCSD's response to this State Complaint included several assertions of inaccuracies in the State Review Officer's Decision. Pursuant to IDEA, 34 C.F.R. §300.514(d), the decision made by the State Review Officer is final unless a party brings a civil action under 34 C.F.R. §300.516. As such, the assertions of inaccuracies were disregarded in this investigation. The Findings of Fact cite the source of the information determined necessary to resolve the issues in this Complaint and the original source document, where available, was relied upon.

COMPLAINT ISSUES

The allegations in the Complaint, as clarified in the investigation process, that are under the jurisdiction of NDE to investigate through the special education complaint process raise the following issues for investigation:

Issue One:

Whether CCSD complied with the IDEA and NAC, Chapter 388, with regard to the conduct of a Resolution Meeting, specifically convening the Meeting with the Parent within 15 days of receiving notice of the Parent's Due Process Complaint and including a representative of CCSD who had decision-making authority on behalf of CCSD.

Issue Two:

Whether CCSD complied with the IDEA and NAC, Chapter 388, with regard to permitting the Parent to timely inspect and review all of the student's education records after the Parent's July 13, 2020 request was made.

Issue Three:

Whether CCSD complied with the IDEA and the NAC, Chapter 388, and implemented the State Review Officer's December 18, 2020 Decision regarding the consideration of the student's individualized needs in the IEP Team's determination of the alternate instructional delivery method of distance education and the amount of time for synchronous and asynchronous distance education.

FINDINGS OF FACT

General

1. The student is a student with disabilities enrolled in CCSD. (Complaint, Hearing and State Review Decisions)
2. Classes commenced in the 2020/2021 school year on August 24, 2020. Eleven-month administrators and support professionals began the work year on July 22, 2020; 10-month administrators and support professionals began the work year on July 29, 2020; and all other licensed employees began the work year on August 5, 2020. (CCSD 2020/2021 School Calendar)

Resolution Meeting

3. The Parent filed a Due Process Complaint on July 13, 2020. Fifteen days thereafter is July 28, 2020. CCSD notified the Parent in writing of the required conduct of the Resolution Meeting on July 16, 2020. (Complaint, July 16, 2020 Email – Notice of Meeting and Letter of Notification of Phone Resolution Meeting, Due Process Complaint, Parent July 16, 2020 Email Communication)

4. On July 14, 2020, two members of the CCSD Office of Compliance and Monitoring, the administrative coordinator and a compliance monitor, initiated an unscheduled telephone conference call with the Parent in response to the filing of the Due Process Complaint. The administrative coordinator present on the call had decision-making authority for matters related to due process remedies. The administrative coordinator was also a member of the student's IEP Team at one of the two IEP meetings conducted in the 2019/2020 school year up to the date of the filing of the Due Process Complaint. No documentation or information was provided in the course of this investigation of the administrator's specific knowledge of the facts identified in the Due Process Complaint. (Complaint, July 16, 2020 Letter of Notification of Phone Resolution Meeting, Due Process Complaint, Parent July 16, 2020 Email Communication, May 8, 2019 and November 11, 2019 IEPs)
5. CCSD characterizes this July 14, 2020 phone conference as opening the Resolution Meeting with the purpose of the meeting to discuss the Parent's resolution demands and the continued scheduling of the Resolution Meeting due to the unavailability of school staff during the summer break. Thereafter, on July 16, 2020 and again on July 21, 2020, the Parent was provided the opportunity to suggest relevant IEP Team members to participate in the July 30, 2020 "continued" Resolution Meeting. (Complaint, July 16, 2020 and July 21-22, 2020 CCSD Letters of Notification of Phone Resolution Meeting, July 21, 2020 CCSD Email on Resolution Meeting)
6. CCSD's attempts to schedule the Resolution Meeting earlier than July 30, 2020 were not successful due to the unavailability of staff. The "continued" Resolution Meeting was conducted on July 30, 2020 and the student's Parents participated. (July 16, 2020 and July 21-22, 2020 CCSD Letters of Notification of Phone Resolution Meeting, July 21, 2020 CCSD Email on Resolution Meeting)
7. The only Resolution Meeting participant at issue in this Complaint at the July 30, 2020 Resolution Meeting is the representative of the public agency with decision-making authority on behalf of CCSD. The Office of Compliance and Monitoring administrative coordinator was present at the July 30, 2020 Resolution Meeting and had decision-making authority for CCSD for matters related to due process remedies, as was the Executive Director, at least intermittently. (Complaint, CCSD Response, July 21, 2020 Letter of Notification of Resolution Meeting)
8. There was no documentation provided in the course of this investigation that the two-day delay in convening the Resolution Meeting impacted the July 30, 2020 Resolution Meeting or due process hearing; the timeliness of the pending due process proceeding; or that the Parent requested the Hearing Officer appointed to the Due Process Complaint intervene to begin the due process hearing timeline due to the delay in the Resolution Meeting. (Review of the Record, Hearing and State Review Officers' Decisions)

Education Records

9. It is uncontested that the Parent requested the student's education records on July 13, 2020. On July 21, 2020, CCSD notified the Parent the student's education records were available for pick-up and the Parent did pick up the records on July 24, 2020. (Complaint, CCSD Response, Email Communications, Receipt of Educational Records)
10. At the time of the Parent's request for the student's education records, the student's school was closed. Licensed teaching staff did not return to school until August 5, 2020 and, thereafter, the student's special education teacher informed CCSD that she maintained supplemental education records. On August 24, 2020, CCSD electronically provided the Parent the 11 pages of

supplemental education records. (Complaint, July 13, 2020 Due Process Complaint, CCSD Response, Email Communications)

11. The 11 pages of supplemental education records were comprised of daily performance data on sound identification, listening comprehension, writing and counting/numbers for periods from three to five months and a summary of “historical results” for the 2019/2020 school year on diagnostic performance and personalized instruction activity. (Supplemental Education Records)

State Review Officer’s Decision

12. On October 23, 2020, a Hearing Officer issued a Hearing Decision after conducting the hearing on October 15, 2020 and October 16, 2020 on the Parent’s July 13, 2020 Due Process Complaint. On November 23, 2020, NDE received the Parent’s appeal of the Hearing Officer’s decision. The State Review Officer issued the State Review Decision on December 18, 2020. (State Review Officer’s December 18, 2020 Decision)
13. The parties received the State Review Officer’s Decision by email transmission on December 23, 2021 with hard copy to follow. At the date of the issuance of this State Complaint Report, more than 90 days had passed from the date of the electronic receipt of the Decision. Neither party brought a civil action to appeal the State Review Officer’s Decision. (State Review Officer’s Transmission Record, Review of the Record, Complaint, Information from NDE)
14. The State Review Officer’s December 18, 2020 Decision included the following Orders:
 - a. For the procedural denial of a Free Appropriate Public Education (FAPE): “The District shall promptly, but no later than January 30, arrange for an IEP team meeting guided by an IEP facilitator appointed by the state education department, so as to provide for meaning collaborative participation to revise the September 25 IEP.” The State Review Officer authorized the conduct of the ordered IEP meeting to be conducted virtually.
 - b. For the substantive denial of FAPE: “The District shall reimburse the Parent for the 16 hours per week of tutoring services, upon the submission of reasonable documentation, for the period of September 25 to the implementation date of the new IEP.” (Reasonable documentation was described in the footnote.)
 - c. For the implementation denial of FAPE: “The District shall provide direct payment for the cumulative total of 30-minute sessions missed between September 25 and the implementation of the new IEP, with the Parent making her own arrangements for a licensed occupational therapist and the District’s outlay limited to the prevailing rate that the District pays its contractual OT providers.” (December 18, 2020 State Review Officer’s Decision)
15. On January 26, 2021, NDE received a request from CCSD to appoint an IEP Facilitator to facilitate the student’s IEP meeting ordered in the December 18, 2020 State Review Officer’s Decision. NDE appointed an IEP Facilitator on January 26, 2021 and the appointed IEP Facilitator facilitated the virtual IEP meeting on January 29, 2021. The Parent was a member of the student’s IEP Team. (Documentation was provided in the course of the investigation that the student’s school requested IEP Facilitation on January 8, 2021 by facsimile to NDE. However, NDE does not have any record of the receipt of the request prior to January 26, 2021. The timely arrangement of the IEP Facilitation is not at issue in this Complaint.) (January 29, 2021 IEP, NDE Appointment Verification)
16. The Prior Written Notice issued after the conduct of the January 29, 2021 IEP Facilitation documents CCSD’s proposed and refused actions and the consideration of the Parent’s request for face-to-face instruction and assistance and additional direct service minutes in the areas of speech

and language therapy and occupational therapy. The explanation of why the CCSD's refused to provide the requested face-to-face in-person teaching was the COVID-19 restrictions and the delivery of instruction through fulltime distance education for all students. CCSD also refused to provide the additional related services minutes and the explanation for the refusal was that the speech/language pathologist's data showed the student's progress on the IEP speech goals and the occupational therapist's direct observations supported the existing minutes in the student's IEP. (January 29, 2021 Prior Written Notice, Notice of Intent to Implement IEP, Confidential Status Record)

CONCLUSIONS OF LAW

Issue One:

Whether CCSD complied with the IDEA and NAC, Chapter 388, with regard to the conduct of a Resolution Meeting, specifically convening the Meeting with the Parent within 15 days of receiving notice of the Parent's Due Process Complaint and including a representative of CCSD who had decision-making authority on behalf of CCSD.

Pursuant to the IDEA, 34 C.F.R. §300.510, with some exceptions not relevant to this Complaint (34 C.F.R. §300.510(a)(3); NAC §388.307(6)), within 15 days of receiving notice of a parent's Due Process Complaint, the Local Educational Agency (LEA) must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the Due Process Complaint that includes a representative of the public agency who has decision-making authority on behalf of that agency. The parent and the LEA are required to determine the relevant members of the IEP Team to attend the meeting. (See also NAC §388.507.) The purpose of the meeting is for the parent of the child to discuss the Due Process Complaint, and the facts that form the basis of the Due Process Complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the Due Process Complaint. 34 C.F.R. §300.510(a)(2); NAC §388.307(5). If the LEA fails to hold a Resolution Meeting within 15 days after receipt of a Due Process Complaint or fails to participate in such a Meeting, a parent may request that the Hearing Officer begin the timeline for a due process hearing. 34 C.F.R. §300.510(b)(5); NAC 388.307(10).

The Parent filed the Due Process Complaint on July 13, 2020 and 15 days thereafter is July 28, 2020. (Finding of Fact (FOF) #3) On July 14, 2020, two members of CCSD Office of Compliance and Monitoring, the administrative coordinator and a compliance monitor, initiated an unscheduled telephone conference call with the Parent in response to the filing of the Due Process Complaint. The administrative coordinator present on the call had decision-making authority for matters related to due process remedies and was a member of the student's IEP Team at one of the two IEP meetings conducted in the 2019/2020 school year prior to the date of the filing of the Due Process Complaint. (FOF #4)

CCSD characterizes the July 14, 2020 phone conference as opening the Resolution Meeting with the purpose of discussing the Parent's resolution demands and the continued scheduling of the Resolution Meeting due to the unavailability of school staff during the summer break. On July 16, 2020 and again on July 21, 2020, the Parent was provided the opportunity to suggest relevant members to participate in the "continued" July 30, 2020 Resolution Meeting. (FOF #5)

Even though a representative of CCSD with decision-making authority participated in the July 14, 2020 phone conference initiated by CCSD and had been a member of the student's IEP Team at one of the IEP meetings in the school year, this conference call did not meet the requirements of the IDEA, 34 C.F.R. §300.510, and NAC §388.507 in all regards. At minimum, the Parent and the CCSD did not determine the relevant member or members of the IEP Team to attend this meeting; and the phone conference was not

convened for the required purpose for the Parent to discuss the Due Process Complaint and the facts that formed the basis of the Due Process Complaint (FOF #4). 34 C.F.R. §300.510(a)(2) and (4); NAC §388.307.

On July 30, 2020, two days after the passage of the 15-calendar day timeline, CCSD convened the Resolution Meeting for the Due Process Complaint and the student's Parents participated in the Resolution Meeting. (FOF #6) The only Resolution Meeting participant at issue in this Complaint at the July 30, 2020 Resolution Meeting was the representative of the public agency with decision-making authority on behalf of CCSD. However, the above referenced Office of Compliance and Monitoring administrative coordinator was also present at the July 30, 2020 Resolution Meeting, as was the Executive Director (at least intermittently), both of whom had decision making authority for CCSD for matters related to due process remedies. (FOF #7)

In mitigation, it is recognized that the unavailability of licensed employees (FOF #2) at the time when the Resolution Meeting was required to be convened was a significant complicating factor. (FOF #6) However, neither the IDEA, 34 C.F.R. §300.510, nor the NAC §388.507 provide an exception to the 15-calendar day timeline for convening the Resolution Meeting with the parent and the relevant member or members of the IEP after the filing of a Due Process Complaint, and CCSD failed to do so in this case. For purposes of the determination of the appropriate remedy, it is noted that no documentation was provided in the course of the investigation that the two-day delay in convening the Resolution Meeting impacted the Parents' participation in the July 30, 2020 Resolution Meeting or due process hearing; the timeliness of the pending due process proceeding; or caused the Parent to exercise the remedy available at the time of the delay to request the appointed Hearing Officer intervene and commence the due process hearing timeline upon CCSD's failure to timely convene the Resolution Meeting (34 C.F.R. §300.510(b)(5); NAC §388.307(10)). (FOF #8)

Therefore, CCSD failed to comply with the requirements of the IDEA and NAC, Chapter 388, with regard to the conduct of a Resolution Meeting with the Parent within 15 days of receiving notice of the Parent's Due Process Complaint.

Issue Two:

Whether CCSD complied with the IDEA and NAC, Chapter 388, with regard to permitting the Parent to timely inspect and review all of the student's education records after the Parent's July 13, 2020 request was made.

The IDEA, 20 U.S.C. §1415(b)(1), requires an opportunity be provided for the parents of a child with a disability to examine **all** records relating to such child. (bolded for emphasis.) As discussed previously, the Parent alleged CCSD violated this provision of the IDEA by withholding some of the student's education records to gain an advantage during due process proceedings.

The IDEA does not prohibit the maintenance of a student's education records in various locations.² On the contrary, the IDEA, 34 C.F.R. §300.616, specifically references such various locations by requiring each participating agency to provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency. However, if an agency elects to maintain education records in more than one location, it does not alter the mandatory timeline under the IDEA and NAC to allow the Parent to inspect and review all of the student's education records.

Both the IDEA, 34 C.F.R. §300.613(a), and NAC §388.287(1) require the parents of a student with a disability have the opportunity to inspect and review any education records relating to their child within specific timelines. The public agency must comply with such request without unnecessary delay and in any

² The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 C.F.R. Part 99, referenced in the IDEA, 34 C.F.R. §300.610 et seq. also does not prohibit the maintenance of students' education records in multiple locations.

event before any meeting regarding an IEP, or any hearing pursuant to 34 C.F.R. §300.507 or §§300.530 through 300.532, or a resolution session pursuant to 34 C.F.R. §300.510, and in no case more than 45 days after the request has been made.

The Resolution Meeting for the pending Due Process Complaint to be conducted on July 28, 2020 is the earliest event that determined the timeline for CCSD to comply with the Parent's request to inspect and review the student's education records. 34 C.F.R. §300.613(a); NAC §388.287(1). As discussed previously, while CCSD characterized the July 14, 2020 phone conference as opening the Resolution Meeting, it was determined through this investigation that the Resolution Meeting was conducted on July 30, 2020. (FOF #3)

The Parent requested the student's education records on July 13, 2020, the same day the Parent requested the due process hearing. (FOFs #9, #12) At a time of the Parent's request for the student's education records, the student's school was closed. Licensed teaching staff returned to school from the summer break on August 5, 2020 and, thereafter, the student's special education teacher informed CCSD that she maintained supplemental education records. (FOFs #2, #10) On August 24, 2020, CCSD electronically provided the Parent 11 pages of supplemental education records maintained by the special education teacher. (FOFs #7, #10, #11) It is the provision of these supplemental education records 42 days after the Parent's request that is at issue in this Complaint.

CCSD did provide the Parent the opportunity to inspect and review most of the student's education records prior to July 28, 2020, the date the Resolution Meeting was to be conducted, and prior to July 30, 2020, the date the Resolution Meeting was conducted. (FOFs #3, #9) However, with regard to the supplemental education records (FOFs #10, #11), CCSD did not timely provide the opportunity for the student's Parent to inspect these education records, and the failure to do so violated the IDEA, 34 C.F.R. §300.613(a), and NAC §388.287(1).

For purposes of the determination of the appropriate remedy, it is noted that the Parent did not raise an allegation in this Complaint that the absence of access to the student's complete education record impacted the Parent's meaningful participation in the Resolution Meeting. Furthermore, it is noted that CCSD did comply with the Parent's request to inspect and review all of the student's education records within the outside timeline of 45 days after the request has been made (34 C.F.R. §300.613(a); NAC §388.287(1)) and significantly in advance of the conduct of the pending due process hearing and the required disclosure of intended evidence at least five business days before the commencement of the hearing (34 C.F.R. §300.512(a)(3)).

Therefore, while CCSD did provide the Parent the opportunity to inspect and review all of the student's education records upon request, CCSD failed to comply with the IDEA and NAC, Chapter 388, with regard to timely providing this opportunity in all regards prior to the conduct of the Resolution Meeting pursuant to IDEA, 34 C.F.R. §300.613(a), and NAC §388.287(1).

Issue Three:

Whether CCSD complied with the IDEA and the NAC, Chapter 388, and implemented the State Review Officer's December 18, 2020 Decision regarding the consideration of the student's individualized needs in the IEP Team's determination of the alternate instructional delivery method of distance education and the amount of time for synchronous and asynchronous distance education.

Pursuant to NAC §388.315(1), a party may appeal from the decision of a Hearing Officer by filing the required notice of appeal with the NDE Superintendent of Public Instruction within 30 days after receiving

the decision. In this case, the Parent filed an appeal of the Hearing Officer's Decision on November 23, 2020 and the State Review Officer issued the State Review Decision on December 18, 2020.³ (FOF #12)

The decision made by the State Review Officer is final unless a party appeals from the decision of the State Review Officer by initiating a civil action in a court of competent jurisdiction within 90 days after receipt of the decision. NAC §388.315; 34 C.F.R. §§300.514, 300.516. More than 90 days have passed since the parties' receipt of the State Review Officer's Decision with neither party bringing a civil action to appeal the State Review Officer's Decision. (FOF #13) As such, for purposes of this Complaint, the State Review Officer's Decision was determined to be a final and enforceable decision. NRS §388.4685; 34 C.F.R. §300.152(c)(3).

The State Review Officer's December 18, 2020 Decision included remedies for the determined procedural and substantive denial of FAPE to the student. Relevant to this Complaint, the Parent alleged CCSD failed to comply only with the following Order:

“The District shall promptly, but no later than January 30, arrange for an IEP team meeting guided by an IEP facilitator⁴ appointed by the state education department, so as to provide for meaning collaborative participation to revise the September 25 IEP.” (FOF #14)

The ordered IEP meeting no later than January 30, 2021 was to revise the September 25, 2020 IEP and was considered by the State Review Officer to be a new IEP. (FOF #14(b)-(c)) On January 26, 2021, NDE received a request from CCSD for NDE to appoint an IEP Facilitator to facilitate the IEP meeting ordered in the December 18, 2020 State Review Officer's Decision.⁵ NDE appointed an IEP Facilitator on January 26, 2021 and the appointed IEP Facilitator facilitated the virtual IEP meeting on January 29, 2021. (FOF #15) As such, CCSD complied with the Order of the State Review Officer to arrange for an IEP meeting with an IEP Facilitator appointed by NDE no later than January 30, 2021.

The Parent's stated allegation in this Complaint substantively relied on the State Review Officer's findings with regard to CCSD's conduct of the September 25, 2020 IEP meeting. However, the State Review Officer's enforceable Order was limited to CCSD's arrangement of the IEP meeting with an IEP Facilitator, “so as to provide for meaningful collaborative participation” in the development of this new IEP. The phrase “so as to” in this context is determined to express the State Review Officer's intended purpose of the ordered IEP meeting with an IEP Facilitator. The fact that the Parent and CCSD disagreed on the substantive determinations of the IEP Team (FOF #16) with regard to the consideration of the student's individualized needs at the IEP Team meeting guided by NDE-appointed IEP Facilitator does not result in a contrary determination.⁶

³ The State of Nevada has a two-tier special education hearing system. That is, the hearing is a local level hearing (even though conducted by a State Hearing Officer) and the final administrative decision is appealable to a State Review Officer. 34 C.F.R. §300.514(b), NAC §§388.315, 388.310(14).

⁴ IEP Facilitation is an optional alternative dispute resolution process offered by NDE to Parents and the involved public agency who agree it would be valuable to have a neutral person, the IEP Facilitator, present at an IEP meeting to assist them in discussing issues regarding the IEP. Generally, NDE will only appoint an IEP Facilitator if both the parents and the public agency request the IEP Facilitation. In this case the IEP Facilitator was ordered by the State Review Officer for the determined denial of a FAPE. (FOF #14)

⁵ Documentation was provided in the course of the investigation that the student's school requested IEP Facilitation on January 8, 2021 by facsimile. However, NDE does not have any record of the receipt of the request prior to January 26, 2021. CCSD's compliance with the Order to “promptly” arrange for the IEP Facilitation meeting was not at issue in this State Complaint. (FOF #15)

⁶ This determination with regard to CCSD's implementation of the State Review Officer's Decision does not limit the Parent's and/or CCSD's access to appropriate dispute resolution procedures to resolve any disagreement regarding whether the January 29, 2021 IEP provides the student a FAPE, including whether the Parent was provided meaningful participation in the development of this IEP.

Therefore, CCSD complied with the IDEA and the NAC, Chapter 388, and implemented the Order in the State Review Officer's December 18, 2020 Decision to arrange for an IEP Team meeting guided by a State IEP Facilitator by January 30, 2021, so as to provide for meaning collaborative participation to revise the student's September 25 IEP.

CORRECTIVE ACTION

CCSD is required to take corrective action to address the violations of the IDEA and the NAC found in this Complaint, specifically the failure to timely convene the Resolution Meeting after the filing of the Parent's Due Process Complaint and timely provide the Parent the opportunity to inspect and review all of the student's education records. After consideration of the facts in this instant case, including the absence of documentation that the violation of the pertinent timelines resulted in a loss of educational opportunity for the student or impacted the Parent's ability to participate in the Resolution Meeting or related due process proceeding (*J.L. and M.L. v. Mercer Island*, 53 IDELR 280; 592 F.3d 938 (9th Cir. 2009). Amended; *Mahoney v. Carlsbad Unified School District*, 430 F. App'x 562; 56 IDELR 217 (9th Circuit 2011). Unpublished.), NDE has determined that while a systemic remedy is warranted, no student-specific remedy is required to remedy these findings of noncompliance.

In accordance with NRS §385.175(6), NDE requests a plan of corrective action (CAP) from CCSD within 20 CCSD business days of the receipt of this Report. The CAP must be approved by NDE prior to implementation and include:

- a. A systemic plan for timely convening Resolution Meetings in accordance with the IDEA and NAC, including when school is not in session; or, in the alternative, CCSD may provide documentation of the following to demonstrate this identified noncompliance was limited to this instant case: the filing date of each Due Process Complaint filed from July 12, 2019 through July 12, 2020; the date the associated Resolution Meeting was convened and the notice(s) of the Resolution Meeting; and the relevant IEP Team members in attendance at the convened Resolution Meeting.
- b. If CCSD elects to maintain education records for students in more than one location at the school the student attended in the 2019/2020 and 2020/2021 school years, a systemic plan for parents to timely inspect and review all of their child's education records, including those maintained in various identified locations.

Documentation of the completion of the CAP must be provided to NDE within 14 days of its completion.