

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL040819)**

Report Issued on June 6, 2019

INTRODUCTION

On April 8, 2019, the Nevada Superintendent of Public Instruction received a Complaint from a Parent¹ alleging 18 believed violations by the Clark County School District (CCSD) in the student's special education program relating to the provision of a Free Appropriate Public Education (FAPE) to the student; placement of the student in the Least Restrictive Environment; the conduct of the evaluation of the student; and access to education records.

The procedural history with regard to this Complaint is complicated given the Parent filed and resolved two different Due Process Complaints with related issues both before and after the filing of this State Complaint:

- A January 16, 2019 Due Process Complaint that was subsequently amended on February 4, 2019 and then withdrawn on March 15, 2019 as a result of a Resolution Agreement dated March 14, 2019; and
- A Due Process Complaint dated April 25, 2019 that was filed and then withdrawn on May 17, 2019 as a result of a Resolution Agreement dated May 13, 2019.

In accordance with the Individuals with Disabilities Education Act (IDEA), 34 C.F.R. §300.152(c), if a written State Complaint is received that is also the subject of a due process hearing or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the State Complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the State Complaint that is not a part of the due process action must be resolved using the State Complaint time limit and procedures.

After the review of the Due Process Complaint dated April 25, 2019, the April 8, 2019 State Complaint, and the April 18, 2019 letter from the Nevada Department of Education (NDE) setting forth the issues to be investigated through the State Complaint process, Issues One, Three and Four as set forth below were set aside until the conclusion of the due process action on May 17, 2019. At that time, the timelines for the investigation of these Issues through the State Complaint process recommenced with a new Report date of June 29, 2019. Issue Two of the State Complaint was not set forth in the Due Process Complaint dated April 25, 2019 and the NDE continued to investigate that issue through the State Complaint process with the Complaint Report to be completed on that issue no later than June 7, 2019. In order to comprehensively investigate all of the issues in the State Complaint at the same time, the NDE

¹ The Complainant is the student's grandparent and legal guardian. The term "Parent" will be used throughout this Report.

aligned the set-aside Complaint date with the June 7, 2019 for Issue Two and all issues are addressed in this Report.

The IDEA, 34 C.F.R. §300.152(c), also provides that if an issue raised in a State Complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the agency must inform the complainant to that effect. Given the resolution of these Due Process Complaints was not reached by a due process decision issued after a hearing, Title 34 C.F.R. 300.152(c) of the IDEA does not apply in this regard. (Orders of Withdrawal and Related Documentation)

However, the NDE requested and received a copy of each of the complete Resolution Agreements from the CCSD to determine whether the assumption of jurisdiction over this Complaint was precluded by the Resolution Agreements. While the terms of the Resolution Agreements required the Parent to withdraw the request for the due process hearing with prejudice, the filing of a State Complaint was not precluded by the Resolution Agreements. (Finding of Fact (FOF) #6)

The Resolution Agreements also included a term that the agreement of the parties was not and must not be construed as an admission as to the merits of the other party's position or claims raised in the Due Process Complaint. (FOF #6) Accordingly, the NDE did not construe the Resolution Agreement as an admission as to the merits of the claims in this State Complaint. However, the Parent and the CCSD were informed that the agreed upon remedies in the Resolution Agreement would be considered in the event it was determined that noncompliance occurred with regard to the designated issues in the Complaint and corrective action was warranted.

In the May 6, 2019 issue letter to the CCSD, the NDE requested additional documents and information in order to timely investigate the State Complaint. The CCSD was notified in that same communication that if the CCSD disputed the allegations of noncompliance in the Complaint, the submitted documents and information must include specifically referenced content relevant to that denial and that a failure to timely do so would be considered a concession of noncompliance for purposes of the investigation of the State Complaint. The CCSD did timely respond as follows:

- The CCSD did dispute Issues One in its entirety and did include specifically referenced content relevant to that denial.
- The CCSD did dispute Issue Two (b) with regard to access to the student's education record prior to the November 30, 2018 eligibility meeting and did include specifically referenced content relevant to that denial. However, the CCSD did **not** dispute Issue Two(a) with regard to access to the student's education record prior to before the student's January 11, 2019 IEP meeting.
- The CCSD did dispute Issue Three in its entirety and did include specifically referenced content relevant to that denial in part. Specifically, the CCSD referenced the provided IEE Report and related Resolution Agreement and documentation on consideration of assistive technology, but did **not** reference any documents relevant to the denial of the alleged noncompliance with regard to a failure to consider the student's Report Card and Progress Report in Issue Three(a).
- The CCSD did **not** dispute Issue Four regarding placement in the Least Restrictive Environment. (CCSD Response)

Therefore, in accordance with the notice provided to the CCSD in the May 6, 2019 issue letter, the failure of the CCSD to dispute Issue Two(a) and Issue Four are considered a concession of noncompliance with regard to these issues in the Complaint and the failure to include referenced content in the Response to support the CCSD's general denial in Issue Three with regard to the IEP Team's consideration of the student's Report Card and Progress Report is also considered a concession of noncompliance with regard to that aspect of Issue Three. These concessions of noncompliance are noted in the Conclusions of Law, when applicable.

The Parent was informed at the commencement of this investigation that the NDE did not have jurisdiction in the State Complaint process to investigate local personnel issues through the State Complaint process and was referred to the CCSD Superintendent if the Parent wished to pursue the personnel issues.

The State Complaint, including all attachments, and all documents and information submitted by the CCSD and the Parent in response to the Complaint were reviewed and considered in their entirety in the investigation of this Complaint. The voluminous documentation and argument submitted by the Parent in the course of this investigation included information outside the scope of this investigation. Any documentation and/or information outside the scope of this investigation provided by either the CCSD or the Parent were not considered in reaching the conclusions in this Report. 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 that are under the jurisdiction of the NDE to investigate through the special education complaint process raised the following issues for investigation:

Issue One:

Whether the CCSD complied with the IDEA and NAC with regard to the reevaluation² of the student that concluded in October 2018, specifically whether:

- a. The speech assessment in the area of speech and language functioning and the psycho-educational assessment with regard to the suspected area of learning disabilities provided relevant information that directly assisted the Eligibility Team to determine the student's eligibility and the student's IEP Team to determine the student's goals and benchmarks in reading and language; and
- b. The copy of the written report provided to the Parent relating to the determination of the student's eligibility included the results of the psycho-educational and speech assessments conducted.

Issue Two:

² While this issue was originally stated in reference to the initial evaluation of the student as set forth in the Complaint and the November 2018 evaluation, the facts reveal that this was a reevaluation and the disputed assessments procedures commenced with the interview of the Parent on September 14, 2018 and ended with the communication assessments on October 23, 2018. (Findings of Fact #1, #2, #31)

Whether the CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, with regard to:

- a. Permitting the Parent to inspect and review the assessment results in the student's education records without unnecessary delay and before the student's January 11, 2019 IEP meeting and in no case more than 45 days after the request has been made;
- b. Affording the Parent the opportunity to participate in the December 14, 2018³ eligibility meeting, specifically with regard to the Parent's request to inspect and review the requested assessment results prior to the meeting.

Issue Three:

Whether the CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, with regard to the development of the student's March 29, 2019 IEP, specifically whether:

- a. The student's goals were based on the student's present levels of academic achievement, specifically whether the student's IEP Team considered the results of the March 2019 Independent Educational Evaluation (IEE) and the student's February 28, 2019 Report Card and Progress Report with regard to the student's academic needs.
- b. The IEP Team considered the student's need for assistive technology devices and services, including a functional evaluation of the student in the student's customary environment.

Issue Four:

Whether the CCSD complied with the requirements of the IDEA and the NAC in the development of the student's March 29, 2019 IEP with regard to the determination to remove the student from the regular educational environment 18% of the school day; specifically, did the CCSD apply the required standard and reach a determination that was reasonably supported by the student-specific data that, due to the nature or severity of the student's disability, the student's education in regular classes with the use of the supplementary aids and services of assistive technology devices could not be achieved satisfactorily.

FINDINGS OF FACT

1. The student transferred to the CCSD in March of 2017 from an out-of-state public charter school. (2018 Multi-disciplinary Team Report (MTR))
2. The student was determined to be eligible as a student with disabilities in the State of Nevada on May 10, 2017 as a student with a Speech and Language Impairment. The student was referred for reevaluation by the student's Parent on September 14, 2018. At

³ While the complaint cited November 30, 2018 as the date for the student's eligibility meeting, it was actually conducted on December 14, 2018. (FOF #22)

the time of the referral for reevaluation, the only category of disability suspected was Specific Learning Disability. (2018 MTR, May 7, 2018 IEP)

Due Process Complaint – Resolution Agreements

3. The Parent and the CCSD agreed to the following for the student in the March 14, 2019 Resolution Agreement that resulted in the withdrawal of the February 4, 2019 Due Process Complaint and the March 15, 2019 Order of Withdrawal:
 - a. The CCSD agreed to “convene the Individualized Educational Program (IEP)” within fifteen (15) school days of the execution of the Resolution Agreement to discuss:
 - i. “Academic goals and benchmarks: letter and word recognition; nonsense word processing; phonological processing and spelling;
 - ii. Related Services: specifically discuss an assessment for Assistive Technology Services to determine if Student would benefit from Assistive Technology services and/or devices, with Parent signing consent for assessment;
 - iii. Supplementary Aids and Services: discuss home use of textbooks and materials, test/assessment locations for the Student, addition time for written assignments/assessments, provide Parent and Student with log-in access to classroom curricular materials, and provide Student with combined verbal and visual information when introducing new information/concepts (visual displays).
 - iv. Placement: discuss the Least Restrictive Environment that gives the Student the opportunity to access the general education curriculum.” (Resolution Agreement)
 - b. Upon the receipt of the IEEs for both speech and psycho-education, the CCSD agreed to convene the Multidisciplinary Team (MDT) meetings within ten (10) school days of receipt of each IEE to review and discuss the results and determine scope of assessment. (Resolution Agreement)
4. In the May 13, 2019 Resolution Agreement that resulted in the withdrawal of the May 1, 2019 Due Process Complaint and the May 17, 2019 Order of Withdrawal, the Parent and the CCSD agreed that the CCSD would “convene the Individualized Educational Program (IEP)” within ten (10) school days to discuss placement in the general education setting. (Resolution Agreement)
5. Ten school days after the execution of the May 13, 2019 Resolution Agreement was after the end of the 2018/2019 school year. (School Calendar)
6. The terms of Resolution Agreements for both Due Process Complaints included:
 - a. The Parent agreed that there were no remaining issues to be resolved or decided through the impartial hearing process by a hearing officer and to withdraw the Due Process Complaint in the terms of the Resolution Agreements for both Due Process Complaints.

- b. The Parent and the CCSD agreed that the entry into the Resolution Agreement was not and shall not be construed as an admission as to the merits of the other party's position or claims raised in the Due Process Complaint.
 - c. The Parent agreed withdrawal of the request for a due process hearing was with prejudice. (Resolution Agreements)
7. The March 14, 2019 Resolution Agreement was reached before the filing of this State Complaint and the May 13, 2019 Agreement was reached after the filing of this State Complaint. (Resolution Agreement)

Psycho-educational and Speech Assessments

8. The reevaluation of the student reported in the November 9, 2018 MTR, revised December 14, 2018, included a communication assessment conducted by a speech-language pathologist. The assessments conducted by the school psychologist included a classroom and test session observation; a cognitive assessment using the Differential Ability Scales, Second Edition; an academic achievement assessment using the Kaufman Test of Educational Achievement, Second Edition (KTEA-3); and a social/emotional assessment. (2018 MTR)
9. As a result of the classroom and test session observation done as part of the evaluation of the student, the school psychologist determined that overall the student's peer and adult interactions were appropriate; the student followed all classroom rules and routines without difficulty; the student had no difficulties with attention or concentration in the classroom or in a one-to-one setting. During testing, the student was quiet but cooperative and rapport was established and maintained; the student made social smiles at time in the testing and reported liking school and not having a favorite subject and the student appeared to try the student's best on all activities presented. The school psychologist determined no further assessment was needed in the social/emotional area. (2018 MTR)
10. As a result of the administration of the Differential Ability Scales, Second Edition cognitive assessment, the school psychologist determinations in the MTR included the following: the student's School-age General Conceptual Ability scores were in the average range, but the student obtained a verbal ability score considered below the average range; and a nonverbal reasoning ability score and a spatial ability score in the average range. (2018 MTR)
11. As a result of the administration of the KTEA-3, academic achievement assessment, the school psychologist's determinations in the MTR included the following with regard to reading: Based on the Letter-Word identification subtest and Reading Comprehension tests, the student's overall reading achievement was determined to be in the deficient range. The school psychologist provided detailed results in the Report such as:
 - a. the student was able to identify basic sight words; but had difficulty decoding multi-syllable words, typically getting the first syllable correct, but then the student's phonological processing skills broke down in the medial portion of the word (using examples);

- b. as passage difficulty increased, the student had great difficulty using context clues and knowledge of vocabulary to assist in understanding key information; difficulty referring to details and examples when explaining the text and drawing inferences;
 - c. the student's ability to read and comprehend single words quickly was in the deficient range and the student worked slower, which required longer processing time; and
 - d. with regard to the student's ability to apply phonic and structural analysis skills to the pronunciation of unfamiliar printed words, the student was able to decode easy words, but was unable to complete multisyllabic words; and made errors with medial vowels and ending sound patterns, changing words that were unfamiliar (using examples). (2018 MTR)
12. As a result of the administration of the KTEA-3, academic achievement assessment, the school psychologist determined that the student's performance on the Computation subtest and Concept and Applications subtest were in the average range. The school psychologist's determinations in the MTR included the following with regard to the student's abilities in math:
- a. the student was able to solve basic fact problems using addition and subtraction without regrouping and was generally successful when completing a number pattern and identification and appeared to have one-to-one correspondence;
 - b. the student was able to solve multi-step problems using addition and subtraction; and demonstrated that ability to tell time to the hour and hour and a half, identify coins, add money and order numbers. (2018 MTR)
13. As a result of the administration of the KTEA-3, Written Language Composite, the school psychologist determined that the student's performance on the Spelling subtest was in the deficient range and in the very deficient range in the Written Expression subtest. The school psychologist's determinations in the MTR included the following with regard to the student's abilities:
- a. the student was successful at spelling sight words, but made substitution sounds and medial sounds (using examples);
 - b. the student consistently applied a capital letter at the beginning of sentences and end punctuation, but had spelling and grammar errors;
 - c. the student was unable to construct simple sentences to communicate in writing and often fused sentences when attempting more complex forms;
 - d. the student's writing lacked detail and idea development and the student was unable to retell a story in the student's own words; and
 - e. the student was only able to write run on sentences that were simplistic and communicated only basic meaning and several omitted key information. (2018 MTR)
14. On the basis of the seven subtests of the KTEA-3 that provide data relative to areas that may be at-risk for indicator(s) of dyslexia, the school psychologist indicated that the findings may indicate a need for interventions in phoeme-grapheme relationships (using examples) as well as encoding skills. (2018 MTR)

15. With regard to communication, the student was referred for an evaluation in the areas of concern of speech/sound production and language. The student had been attending speech therapy with the examiner since the beginning of the school year. The MTR provided the following results for the communication assessment by the speech-language pathologist: The student works hard in speech therapy and is aware when pronouncing sounds incorrectly; has intelligible speech with noticeable errors; and for the past school year the student worked on correct production of various speech sounds (using examples). (2018 MTR)
16. The speech-language pathologist administered:
 - a. The Goldman Fristoe Test of Articulation – Third Edition (GFTA-3) and listing student’s errors in articulation, the speech-language pathologist concluded the student’s speech is characterized by sound substitution, with errors including with “ch”; “th” “gl” and “pl” in voiced words and “r” in initial word positions and blends. This conclusion was confirmed in both conversational and spontaneous speech and the speech-language pathologist confirmed that the student’s oral structure and/or function were adequate for speech production.
 - b. The Oral and Written Language Scales, Second Edition (OWLS-II) was also administered and describing the student’s performance in receptive and expressive language, the speech-language pathologist concluded that the student’s language skills were within normal limits, with receptive language skills stronger than the expressive language skills.
 - c. The Expressive One-Word Picture Vocabulary Test-4th Edition (EOWPVT-4) was also administered and, providing observations in voice and fluency, the speech-language pathologist concluded the student performed in the range of average. On the basis of these assessments, the speech-language pathologist recommended the student receive speech/language services focusing on articulation. (2018 MTR)

IEEs

17. At the Parent’s request, the CCSD approved the Parent’s request for IEEs in the areas of speech and language functioning and psychoeducational functioning. (December 21, 2018 and January 14, 2019 CCSD Letters to Parent)
18. The CCSD did not dispute the failure to consider the speech and language IEE at the March 29, 2019 IEP, but cited the March 14, 2019 Resolution Agreement that the CCSD would convene the MDT to review the IEE within ten school days of the receipt of each IEE. (Response, Resolution Agreement)
19. The speech-language IEE was received by the CCSD on March 26, 2019. Ten school days after the receipt of the IEE was April 9, 2019. As of May 29, 2019, the psychoeducational IEE had not been received by the CCSD. (Speech/Language Evaluation Report – IEE, Request for Information to CCSD, School Calendar)

Eligibility Determination

20. Based on the evaluation of the student, including the assessments by the school psychologist and the speech-language pathologist, the MDT determined that the

student's underachievement in basic reading skills, reading fluency, reading comprehension, and written expression were significantly low and not primarily the result of a visual, hearing or motor disability, or intellectual disability; emotional disturbance; other disabilities or exclusionary factors. The MDT further found that the student's education performance was indicative of an unexpected and unexplained underachievement for the student's age or to meet state-approved grade-level standards in one or more of the areas as defined by the CCSD in the operational definition of Specific Learning Disability. (2018 MTR)

21. The MDT recommended the student was eligible for special education services as a student with a Specific Learning Disability; and that the student continue speech-language services as recommended by the speech-language pathologist; continue to provide opportunities for individual and small group instruction; and, regarding the indicators of dyslexia, concluded that the data supported a need for intervention and progress monitoring in identified areas. The MDT also identified specific instructional content relative to the diagnostic results, including strategies and practice. (2018 MTR, December 14, 2018 Statement of Eligibility)
22. Based on the data from the evaluation of the student, the student's Eligibility Team analyzed the criteria for Specific Learning Disabilities and determined the student was eligible under the category of Specific Learning Disabilities. While the Parent did not participate in the Eligibility Team meeting and raises that under Issue Two, the Parent does not dispute the determination that the student is a student with Specific Learning Disabilities. (December 14, 2018 Statement of Eligibility, State Complaint, Due Process Hearing Complaints)
23. The speech-language pathologist and school psychologist were participants in the MDT meeting and Eligibility Team meeting on December 14, 2018. The Parent was provided a copy of the MTR by November 8, 2018. (2018 MTR, Statement of Eligibility, November 12, 2018 Letter to CCSD)

IEP

24. The student's March 29, 2019 annual IEP, the first IEP developed after the completion of the reevaluation of the student, included the assessment results of the school psychologist and speech-language pathologist for each of the assessments conducted and the results were included in the statement of present levels of academic achievement and functional performance. (March 29, 2019 IEP)
25. The student's IEP included three reading goals with:
 - a. a goal on the student reading with sufficient accuracy and fluency to support comprehension with a numerical criterion of words per minute with three benchmarks/short-term objectives (hereinafter, benchmarks) with increasing criteria of words per minute;
 - b. a goal on the student knowing and applying grade-level phonics and word analysis skills in decoding multi-syllabic words with four benchmarks, each with a different skill either in decoding words with digraphs, various medial sounds, or

- vowel teams or receptive and expressive identification of letters and letter sounds; and
- c. a goal on the student independently reading a passage at the student's instructional level and correctly answering comprehension questions by using context clues and knowledge of the vocabulary with benchmarks with increasing criteria of comprehension questions correctly answered. (March 29, 2019 IEP)
26. The student's IEP included three articulation goals for the student:
- a. a goal on correctly producing "pl" and "gl" blend with four benchmarks going from production in words to spontaneous speech tasks;
 - b. a goal on correctly producing "ch" and "th" in sentences with four benchmarks from production in isolation to word positions in sentences; and
 - c. a goal on correctly producing initial and "r" blends with four benchmarks going from production in words to spontaneous speech tasks. (March 29, 2019 IEP)
27. In the consideration of special factors section of the student's March 29, 2019 IEP, the IEP Team indicated by checking "Yes" that the student required assistive technology devices and services and it was addressed in the student's IEP. In addition, the student's IEP included the related service of an assessment in assistive technology with the location of services in general education. (The frequency of services denoted 0 minutes per week; however, that was determined to reflect the nature of the service being an assessment rather than a consultative or direct related service.) (March 29, 2019 IEP)
28. On April 26, 2019, the Parent received a request to sign a consent for an assistive technology evaluation. (April 27, 2019 Letter to CCSD)
29. The student's March 29, 2019 IEP included an annual goal in the area of writing and the provision of access to a computer when writing with the frequency of services "when given a writing assignments" (sic) with the location of services in both the resource room and general education. (March 29, 2019 IEP, Status)
30. The CCSD did not dispute the failure of the student's IEP Team to consider the student's February 28, 2019 Report Card and Progress Report with regard to the student's academic needs. The March 29, 2019 Prior Written Notice cited only the MTR and IEP Team input as the basis for its proposed/refused actions. (CCSD Response, March 29, 2019 Prior Written Notice)

Education Records

31. The reevaluation procedures commenced with the interview of the Parent on September 14, 2018 and ended with the communication assessments on October 23, 2018. (2018 MTR)
32. The Parent requested the CCSD provide the evaluation results on numerous occasions prior to the December 14, 2018 Eligibility Team meeting and the January 11, 2019 IEP Team meeting:
- a. On November 12, 2018, a school holiday, the Parent sent the first documented request to review all evaluation results" as soon as possible" in the request for

an IEE. There is no record of the date of receipt, so for purposes of this investigation it is determined it was received by the CCSD on the first business day after the school holiday, November 13, 2018.

- b. In subsequent written communications with CCSD personnel, the Parent repeated the requests for all evaluation results and provided a history of the repeated requests from November 12, 2018 to at least January 8, 2019.

There were 17 school days between the CCSD's receipt of the Parent's request for records on November 13, 2018 and the conduct of the Eligibility Team meeting on December 14, 2018. (November 12, 2018 request for an IEE, November 16 and 17, 2018 letters to CCSD, November 17, 2018 Email to CCSD, November 24, 2018 Letter to CCSD, December 5, 2018 Letter to CCSD, December 15, 2018, January 8, 2019 Parent Concerns Statement for IEP, December 15, 2018 Parental Safeguards to Review Student Records, School Calendar)

33. Based on the Status Record for the student, on November 2, 2019 a copy of "test results" was attached to an email to the Parent. The Status Record also included a November 9, 2018 notation of the Parent's request to review the speech results and the November 14, 2018 notation on the Parent's request for more testing results. There were 18 school days between the CCSD's November 9, 2018 notation of the Parent's request to review the speech results and the conduct of the Eligibility Team meeting on December 14, 2018. (Status Record, School Calendar)
34. On November 17, 2018, the Parent acknowledged receipt of one of the evaluation results, but indicated that to date the Parent had not received the additional five assessments requested and specifically named the assessments. The Parent further indicated "[I] am requesting the above (5) evaluations results (Full Reports) to review (the entire contents), not just partial bits and pieces of the evaluation report results, with specifically selected information from them." (November 17, 2018 Email to CCSD)
35. On November 24, 2019, the Parent requested the "comprehensive evaluation report results", noting they had not been received as of that date. (November 24, 2018 Letter to CCSD)
36. On December 3, 2018, the Parent wrote to the principal of the school indicating that the Parent had been informed the CCSD was only permitted to give the cover sheets where the scores are indicated, rather than the requested evaluation results. The Parent indicated that the evaluation results received to date only contained scores. "Scores alone don't help you determine what's going to help the child. The summary and recommendations come together, and the evaluator is able to give clear interpretation of what the results mean." On December 5, 2018, the Parent wrote to the CCSD Director of Psychological Services indicating again that only the scores had been provided; and asking whether the Parent was required to attend another meeting without being able to review any evaluation results. (December 3, 2018 Letter to CCSD, December 5, 2018 Letter to CCSD)
37. Based on referenced attachments of the Score Reports for the evaluation results, it appears that by December 3, 2018, the Parent received the one-page Score Reports for

one of the three psychological evaluations, the Differential Ability Scales, and all three of the speech evaluations: Expressive One Word Picture Vocabulary Test, OWLS Second Edition – Oral and Written Language Scales, and GFTA – Goldman-Fristoe. (Complaint Attachments)

38. On November 17, 2018, the Parent informed the CCSD in writing that while a second meeting notice was provided to the Parent, the Parent did not intend to attend "...without adequate information on the evaluation results from the assessments that were administered..." The Parent later emailed the CCSD and explained: "if I can not (sic) review the evaluation results, how do I determine if the plan you implement is an adequate course of intervention for my student to achieve measurable results." (November 17, 2018 Parent Final Fair Hearing Report, November 17, 2018 Email to CCSD)
39. On December 7, 2018, the Parent informed the CCSD that she was opting out of attending the December 14, 2018 eligibility meeting in part due to not having the complete evaluation results/report and to proceed without her. (December 7, 2018 Letter to CCSD)
40. On December 17, 2018 the Parent informed the CCSD that: There is no way that I did not want to be a participant in any meeting held on _____ behalf. However, how do I attend a meeting not being able to ask meaningful questions; and without having the necessary information I need 'to fully participate' in any meeting." (personally identifiable information deleted) (December 17, 2018 Letter to CCSD)
41. The Eligibility Team meeting was conducted on December 14, 2018 and the Parent did not participate. The Parent acknowledged having received three meeting notices from CCSD on the December 14, 2018 Eligibility Team meeting and did not dispute the CCSD's efforts to convince her to attend the Eligibility Team meeting. (December 14, 2018 Statement of Eligibility, December 10, 2018 Email to CCSD, Parent Response)
42. Parent participated in the student's January 11, 2019 IEP meeting and provided a concerns' statement to the CCSD regarding the contents of the IEP. (January 8, 2019 Parent Concerns Statement for IEP 1/11/19)

Placement in the LRE

43. The CCSD did not dispute the alleged noncompliance with the requirements of the IDEA and the NAC in the development of the student's March 29, 2019 IEP with regard to the determination to remove the student from the regular educational environment 18% of the school day. (Response)
44. The student's selected placement in the March 29, 2018 IEP was a regular class and special education class (e.g. resource) combination, with the student spending 82% of the school day in the regular education environment. The IEP documents the IEP Team's consideration and rejection of placement in the regular class with supplementary aids and services (no removal). (March 29, 2019 IEP)

CONCLUSIONS OF LAW

Issue One:

Whether the CCSD complied with the IDEA and NAC with regard to the reevaluation of the student that concluded in October 2018, specifically whether:

- a. The speech assessment in the area of speech and language functioning and the psycho-educational assessment with regard to the suspected area of learning disabilities provided relevant information that directly assisted the Eligibility Team to determine the student's eligibility and the student's IEP Team to determine the student's goals and benchmarks in reading and language; and**
- b. The copy of the written report provided to the Parent relating to the determination of the student's eligibility included the results of the psycho-educational and speech assessments conducted.**

On May 10, 2017, the student was determined to be eligible as a student with disabilities with a Speech and Language Impairment in the State of Nevada and was receiving special education and related services at the time the Parent referred the student for reevaluation. The only category of disability suspected at the time of the referral for reevaluation was Specific Learning Disabilities. (FOF #2)

In accordance with the IDEA, 34 C.F.R. §§300.303 and 300.304, and NAC §§388.340 and 388.440, in conducting a reevaluation of a student, the CCSD was required to use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information concerning the student that would assist in determining whether the student continued to be a student with a disability, the educational needs of the student, and the content of the student's IEP.

It is only the speech and language and psycho-educational assessments conducted in the reevaluation of the student that are at issue in this Complaint. In order to reach a conclusion whether the assessment tools and strategies used in the conduct of these assessments provided relevant information to the student's Eligibility Team to determine the student's eligibility and the student's IEP Team to determine the student's goals and benchmarks in reading and language, it is necessary to not only review the information from the assessments, but the student's eligibility determination and contents of the student's IEP.

The assessments conducted by the school psychologist in the reevaluation of the student included a classroom and test session observation; a cognitive assessment using the Differential Ability Scales, Second Edition; an academic achievement assessment using the Kaufman Test of Educational Achievement, Second Edition (KTEA-3); and a social/emotional assessment. (FOF #8) The assessment results as set forth in FOFs number nine to 14 included information on:

- The student's peer and adult interactions; adherence to classroom rules and routines; and attention or concentration in the classroom or one-to-one setting. (FOF #9)
- The student's verbal ability, nonverbal reasoning ability, and spatial ability. (FOF #10)

- Detailed results regarding the student’s abilities and difficulties in reading achievement. (FOF #11)
- Detailed results regarding the student’s abilities and difficulties in math. (FOF #12)
- Detailed results regarding the student’s abilities and difficulties in spelling and written expression. (FOF #13)
- Data relative to areas that may be at-risk for indicator(s) of dyslexia, and indications of need in phoeme-grapheme relationships ((using examples) as well as encoding skills. (FOF #14)

With regard to communication, the student was referred for an evaluation by the speech-language pathologist in the areas of concern of speech/sound production and language. The assessments conducted by the speech-language pathologist in the reevaluation of the student included the student’s performance in speech therapy with the examiner since the beginning of the school year; the Goldman Fristoe Test of Articulation – Third Edition (GFTA-3); Oral and Written Language Scales, Second Edition (OWLS-II); and Expressive One-Word Picture Vocabulary Test-4th Edition (EOWPVT-4) The assessment results as set forth in FOFs number 15 to 16 included information on:

- The student’s diligence in speech therapy, awareness of incorrect sound pronunciation, intelligible speech, and work on the correct production of various speech sounds (using examples) in the past school year. (FOF #15)
- Detailed results regarding the student’s abilities and difficulties, the student’s articulation, oral structure and/or function, receptive and expressive language, voice and fluency. (FOF #16)

On the basis of these assessments, the speech-language pathologist recommended the student receive speech/language services focusing on articulation. (FOF #16)

Based on the evaluation of the student, including the assessments by the school psychologist and the speech-language pathologist, the MDT made determinations and findings with regard to the student’s eligibility. The eligibility criteria under the IDEA, 34 C.F.R. §300.309, and the NAC §388.420 required the Eligibility Team to determine that the student did not achieve adequately for the student’s age or meet State-approved grade-level standards in one or more designated areas and make additional findings based on data-based documentation. The student’s Eligibility Team relied on the data in the evaluation of the student, including the speech-language and psycho-educational assessments, to determine the student was eligible under the category of Specific Learning Disabilities. (FOFs #20 - #22)

Similarly, in the student’s March 29, 2019 annual IEP meeting, the first IEP developed after the completion of the evaluation of the student, the IEP Team cited the assessments conducted by the school psychologist and speech-language pathologist and included the results in the statement of present levels of academic achievement and functional performance. (FOF #24) The student’s IEP included three goals with benchmarks in the area of articulation (FOF #26) and three reading goals with benchmarks in the areas of reading with sufficient accuracy and fluency to support comprehension; knowing and applying grade-level phonics and word analysis skills in decoding multi-syllabic words; and a goal on independent reading and comprehension. (FOF #25).

In the course of this investigation, the Investigation Team analyzed and compared the results of the assessments conducted by the speech-language pathologist and school psychologist in the reevaluation of the student to these goals and benchmarks in the areas of

communication/language and reading. Due to the details in the assessment results with regard to the student's abilities and deficiencies, the Investigation Team determined that it was readily apparent that the student's goals and benchmarks in reading and language tracked to the results of these assessments.

Upon the completion of the reevaluation and determination of continued eligibility, any decision of the Eligibility Team concerning the eligibility of the student for special education and related services was required to be justified in a written report. This written report and any other documentation relating to the determination of the eligibility of the student was required to be provided to the Parents at no cost. (34 C.F.R. §300.306(a)(2), NAC §§388.340(9), 388.440(4)) There is no allegation that the Parent was not provided the MTR or the determination of the student's eligibility as required, only that the provided evaluation did not include the results of the psycho-educational and speech assessments conducted. As summarized and discussed above, the MTR included these results in great detail (FOFs #8 - #16).

Therefore, the CCSD complied with the IDEA and NAC with regard to the reevaluation of the student that concluded in October 2018 in that the speech assessment in the area of speech and language functioning and the psycho-educational assessment with regard to the suspected area of learning disabilities provided relevant information that directly assisted the Eligibility Team to determine the student's eligibility and the student's IEP Team to determine the student's goals and benchmarks in reading and language; and the written report provided to the Parent relating to the determination of the student's eligibility included the results of the psycho-educational and speech assessments conducted.

Issue Two:

Whether the CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, with regard to:

- a. Permitting the Parent to inspect and review the assessment results in the student's education records without unnecessary delay and before the student's January 11, 2019 IEP meeting and in no case more than 45 days after the request has been made;**
- b. Affording the Parent the opportunity to participate in the December 14, 2018 eligibility meeting, specifically with regard to the Parent's request to inspect and review the requested assessment results prior to the meeting.**

The NAC §388.287(1) requires parents of a student with a disability be allowed to inspect and review any education records relating to their child which are collected, maintained, or used by a public agency. The public agency must comply with such request without unnecessary delay and in any event: (a) before an IEP meeting or any hearing relating to the identification, evaluation or placement of the pupil or the provision of a FAPE; and (b) not later than 45 days after the request has been made. (See also 34 C.F.R. §300.613)

Neither the IDEA nor the NAC require an educational agency to provide parents copies of requested education records. Rather, the parents have the right to inspect and review the

education records relating to their child. (NAC §388.287; 34 C.F.R. §300.613) This right to inspect and review only includes the right to request that the agency provide copies of education records if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records or, without the copies, any meaningful review of the records is impractical. (NAC §388.287(2)(c) and 34 C.F.R. §300.613(b)(2))

In addition to this referenced right of parents to timely inspect and review any education records relating to their child, parents have the right to participate in meetings relating to the identification, evaluation and educational placement of their child, and the provision of a FAPE to their child. Relevant to this Complaint, parents are member of their child's Eligibility and IEP Teams and their right of participation is one of meaningful participation. (34 C.F.R. §§300.321 and 300.306, NAC §388.281)

The Ninth Circuit Court of Appeals⁴ has addressed the issue of whether a failure to provide evaluation data prevented parents from meaningfully participating in the educational process for a student with disabilities at least twice. In *Amanda J. v. Clark County School District*, 267 F.3d 877; 103 LRP 33278 (9th Cir. 2001), the student's parents had requested copies of the assessment reports and the district sent a summary of the present levels of present performance, including a paraphrased evaluation report. The parents' contentions included that the district's failure to allow them to examine all of the records used in identifying and addressing the student's disability violated the IDEA.

The Court ruled that the district violated the procedural requirements of the IDEA by failing to timely disclose the student's records and found that the violation was particularly egregious in that case in that the evaluations included critical information and denied the student a FAPE. "Procedural violations that interfere with parental participation in the IEP formulation process undermine the very essence of the IDEA. An IEP which addresses the unique needs of the child cannot be developed if those people who are most familiar with the child's needs are not involved or fully informed." (See also *M.M. v. Lafayette School District*, 64 IDELR 31; 767 F.3d 842 (9th Cir. 2014): "Without the RTI data, the parents were struggling to decipher his unique deficits, unaware of the extent to which he was not meaningfully benefitting from the ISP, and thus unable to properly advocate for changes to his IEP.")

In this case, commencing November 9, 2018 to at least January 8, 2019, the Parent requested the education records of the student's evaluation results on numerous occasions prior to the December 14, 2018 Eligibility Team meeting and the January 11, 2019 IEP Team meeting. (FOFs #32, #33) At the time of the Parent's first request for evaluation results all of the assessment procedures had been completed. (FOF #31)

There were 18 school days between the CCSD's receipt of the Parent's first request for records on November 9, 2018 and the conduct of the Eligibility Team meeting on December 14, 2018. (FOFs #32, #33) By December 3, 2018, the Parent had only received the score report for one of three psychological assessments, but had received all three of the score reports for the speech-language assessments. (FOFs #33 - #36) While the original request for "test results" on November 12, 2018 may have been misinterpreted as being satisfied by the score report for the assessments provided, by November 17, 2018 the Parent had clarified that she wanted access to the comprehensive evaluation results "not just partial bits and pieces of the evaluation report

⁴ The State of Nevada is in the United States Court of Appeals, Ninth Circuit.

results." On December 3, 2018, the CCSD informed the Parent that they were only permitted to give the cover sheets where the scores were indicated, rather than the requested evaluation results. (FOF #36)

The CCSD provided the Parent multiple meeting notices for the student's Eligibility Team meeting and there is no dispute with regard to the CCSD's efforts to convince her to attend the meeting. In response to the notices, the Parent cited the CCSD's failure to provide the requested evaluation results as the reason for her decision not to attend the noticed Eligibility Team meetings: "There is no way that I did not want to be a participant in any meeting held on _____ behalf. However, how do I attend a meeting not being able to ask meaningful questions; and without having the necessary information I need 'to fully participate' in any meeting." (personally, identifiable information deleted) The Parent did participate in the student's January 11, 2019 IEP meeting and provided a concerns' statement to the CCSD. (FOFs #38 - #42)

Other than the cited correspondence on December 3, 2018 informing the Parent that they were not "permitted" to provide evaluation results (FOF #36), CCSD did not provide further explanation in the course of this investigation for the failure to afford the Parent the right to inspect and review the requested evaluation results. In the event, the CCSD's failure to afford the Parent this right was based on Federal copyright law that protects against the distribution of copies of a copyrighted document, such as a test protocol, it was determined that further explanation was warranted. As explained in the referenced letter from the United States Department of Education, when a parent requests copies of evaluation results, providing access to the test protocols, rather than the provision of copies is permissible:

"The Office of Special Education and Rehabilitative Services (OSERS) has noted that if a document is copyrighted, the IDEA's inspection and review rights generally do not implicate copyright law. Specifically, the Analysis of Comments and Changes to the 1999 IDEA Part B regulations states:

[P]ublic agencies are required to comply with the provisions of IDEA and FERPA [Family Educational Rights and Privacy Act of 1974], and must ensure that State law and other contractual obligations do not interfere with compliance with IDEA and FERPA. Federal copyright law protects against the distribution of copies of a copyrighted document, such as a test protocol. Since IDEA and FERPA generally do not require the distribution of copies of an education record, but rather parental access to inspect and review, Federal copyright law generally should not be implicated under these regulations.

There is nothing in the legislative history of section 615(b)(1) of the [IDEA] to suggest that it expanded the scope of information available to parent examination beyond those records that they would have access to under FERPA. 64 Fed. Reg. 12606, 12641 (March 12, 1999) (Analysis)."⁵

Based on the Parental request for test results on November 9, 2018 and given that an IEP Team meeting did not take place in the interim that would have accelerated the time period, the Parent was required to be provided the opportunity to inspect and review the student's test

⁵ This letter is publicly available at: <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/all2010.html>

results without unnecessary delay and no later than December 24, 2018. (FOF #32) The Investigation Team did consider the mitigating factor that the CCSD attempted to comply with the Parent's request for evaluation results starting November 17, 2018 with the perceived limitation of the Parent's access to the score report only. However, by the time of the Eligibility Team meeting on December 14, 2018, the Parent still had not received all of the score reports for the assessments conducted. (FOF #37)

Upon consideration of the totality of facts in this case and the importance of meaningful parental participation under the IDEA and the NAC, Chapter 388, the Investigation Team determined that the failure of the CCSD to afford the Parent the opportunity to inspect and review the evaluation results in the student's education records within the intervening 18 school days from the CCSD's receipt of the Parent's request to the conduct of the Eligibility Team meeting did not meet the standard of "without unnecessary delay" under the IDEA, 34 C.F.R. §300.613, and NAC §388.287(1).

As previously discussed, the CCSD did not dispute Issue Two(a) with regard to access to the student's education record prior to the student's January 11, 2019 IEP meeting. As such, the failure of the CCSD to dispute Issue Two(a) is considered a concession of noncompliance with regard to permitting the Parent to inspect and review the assessment results in the student's education records without unnecessary delay and before the student's January 11, 2019 IEP meeting for purposes of this Complaint. Therefore, a fact intensive inquiry with regard to this aspect of the issue was not needed.

Therefore, CCSD did not comply with the requirements of the IDEA and the NAC, Chapter 388 with regard to permitting the Parent to inspect and review the assessment results in the student's education records without unnecessary delay before the student's December 14, 2018 Eligibility Team and January 11, 2019 IEP Team meetings.

Issue Three:

Whether the CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, with regard to the development of the student's March 29, 2019 IEP, specifically whether:

- a. The student's goals were based on the student's present levels of academic achievement, specifically whether the student's IEP Team considered the results of the March 2019 IEE and the student's February 28, 2019 Report Card and Progress Report with regard to the student's academic needs.**
- b. The IEP Team considered the student's need for assistive technology devices and services, including a functional evaluation of the student in the student's customary environment.**

As previously discussed, in the absence of specifically referenced content in the CCSD's response to support the CCSD's general denial in Issue Three with regard to the IEP Team's consideration of the student's Report Card and Progress Report, the CCSD conceded

noncompliance with regard to that aspect of Issue Three for purposes of this Complaint. As such, a fact intensive inquiry with regard to this aspect of Issue Three was not undertaken in the conduct of this investigation and none should be inferred. The discussion below addresses the IEP Team's consideration of the March IEE results and the student's need for assistive technology devices and services at the March 29, 2018 IEP meeting.

IEE

At the Parent's request, the CCSD approved the Parent's request for IEEs in the areas of speech and language functioning and psychoeducational functioning. (FOF #17) The speech/language IEE was received by the CCSD on March 26, 2019. However, as of May 29, 2019, the psychoeducational IEE had not been received by the CCSD. (FOF #19)

In accordance with the IDEA, 34 C.F.R. §300.324, and NAC §388.284(2) in developing each student's IEP, the IEP Team must consider the strengths of the student; the concerns of the parents for enhancing the education of the student; and the results of the initial or most recent evaluation of the student and the academic, developmental, and functional needs of the student. Based on the CCSD's March 29, 2019 Prior Written Notice (Notice to Implement the IEP), only the MTR and IEP Team input were the basis for its proposed/refused actions set forth in the March 26, 2019 IEP. In this case, it is the failure of the student's IEP Team to consider the available March 2019 speech-language IEE that is at issue.

The CCSD did not dispute the failure to consider the IEE, but cited the March 14, 2019 Resolution Agreement that the CCSD would convene the MDT to review the IEE within ten school days of the receipt of each IEE as its rationale. (FOF #18) Ten school days after the receipt of the speech-language IEE would not have been until April 9, 2019. (FOF #19)

The terms of the Resolution Agreement are a complicating, but not determinative, factor in this case. The terms of the Resolution Agreement did not preclude the CCSD from convening the student's MDT to review and discuss the results earlier than the tenth school day of the receipt of the speech-language IEE or the IEP Team from considering the results prior to the tenth school day. Therefore, the CCSD could have complied with both the IDEA, 34 C.F.R. §300.324, and NAC §388.284(2), and the Resolution Agreement since the speech-language IEE was received by and available to the CCSD at the time of the March 29, 2019 IEP meeting. This available IEE was not only the most recent evaluation of the student, it was initiated due to the Parent's concerns in this area of need and would have provided information on the needs of the student for the IEP Team's consideration.

Assistive Technology

In accordance with the IDEA, 34 C.F.R. §300.324(a)(2)(v) and NAC §388.284(1)(d) and (2)(f), the student's IEP Team was required to consider whether the student needed assistive technology devices and services at the March 29, 2019 IEP Team meeting and include a statement in the student's IEP of the assistive technology devices and services necessary for the student to be able to receive a FAPE. Assistive technology services include the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment. (34 C.F.R. §300.6(a), NAC §388.024)

In the consideration of special factors section of the student's March 29, 2019 IEP, the IEP Team determined that the student required assistive technology devices and services. The student's March 29, 2019 IEP included an annual goal in the area of writing and the provision of access to a computer when given writing assignments" (sic) with the location of services in both the resource room and general education. In addition, the student's IEP included the related service of an assessment in assistive technology with the location of services in general education. On April 26, 2019, the Parent received a request to sign a consent for an assistive technology evaluation. (FOFs #27 - #29) As such, the student's IEP Team not only considered the student's need for assistive technology devices and services in the development of the March 29, 2019 IEP, but included an assistive technology device and an assistive technology service in the student's IEP.

Therefore, the CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, in the development of the student's March 29, 2019 IEP with regard to the student's need for assistive technology devices and services, including a functional evaluation of the student; but failed to comply with the requirements of the IDEA and the NAC, Chapter 388, in the development of the student's March 29, 2019 IEP with regard to the IEP Team's consideration of the results of the March 2019 speech-language IEE and the student's February 28, 2019 Report Card and Progress Report.

Issue Four:

Whether the CCSD complied with the requirements of the IDEA and the NAC in the development of the student's March 29, 2019 IEP with regard to the determination to remove the student from the regular educational environment 18% of the school day; specifically, did the CCSD apply the required standard and reach a determination that was reasonably supported by the student-specific data that, due to the nature or severity of the student's disability, the student's education in regular classes with the use of the supplementary aids and services of assistive technology devices could not be achieved satisfactorily.

In accordance with the IDEA, 34 C.F.R. §300.114, to the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled; and special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In the normal course of events, the NDE would investigate an allegation in a State Complaint regarding the appropriateness of a local educational agency's proposal or refusal with regard to the placement of the student or the provision of a FAPE to the student by determining whether the agency followed the required procedures and standards in the IDEA and Nevada law and regulation and whether the agency properly addressed the individual student's abilities and needs. (OSEP Dispute Resolution Procedures Under Part B of the IDEA (7/23/2013), 61 IDELR

30291, citing 71 FR 46601 (8/14/2006)⁶. In conducting the investigation, the NDE would review documentation provided, including evaluation data. It has been established that: “[T]he SEA may find that the public agency has complied with Part B requirements if the evidence clearly demonstrates that the agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child specific data. 71 FR 46601 (August 14, 2006).” Id.

However, in this case, as previously discussed, the failure of the CCSD to dispute Issue Four is considered a concession of noncompliance for purposes of this Complaint. Therefore, a fact intensive inquiry with regard to the appropriateness of the IEP Team’s determination to remove the student from the regular educational environment 18% of the school day is not needed, and none should be inferred.

Therefore, the CCSD failed to comply with the requirements of the IDEA and the NAC in the development of the student’s March 29, 2019 IEP with regard to the determination to remove the student from the regular educational environment 18% of the school day.

ORDER OF CORRECTIVE ACTION

The CCSD is required to take corrective action to address the identified noncompliance with regard to the failure to provide the parent the opportunity to inspect and review the evaluation results in the student’s education records; the IEP Team’s consideration of the speech-language IEE and student’s February 2019 Report Card and Progress Report; and the placement determination in the March 29, 2019 IEP.

Student Specific Action

Placement

As noted previously, the Parent and the CCSD agreed to two Resolution Agreements that resulted in the withdrawal of the Due Process Complaints with the same allegations raised in this State Complaint. The May 13, 2019 Resolution Agreement reached after the filing of this State Complaint requires the CCSD to convene the student’s IEP Team within ten (10) school days to discuss placement in the general education setting. Therefore, it is determined that no further student specific remedy is required as a result of this State Complaint with regard to Issue Four on the placement determination.

IEE and Report Card and Progress Report

While the March 14, 2019 Resolution Agreement requires the CCSD to convene a MDT meeting within ten school days of the receipt of each IEE to review and discuss the results and determine the scope of assessment, the Resolution Agreement did not address the IEP Team’s consideration of each IEE or the consideration of the most recent Report Card and Progress Report available at the time of the March 29, 2019 IEP meeting. Therefore, a student specific

⁶ This memorandum is publicly available at:
<https://www2.ed.gov/policy/speced/guid/idea/memosdcitrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>

remedy is required to address the findings of noncompliance on Issue Three(a) with regard to the IEP Team's consideration of this information.

Inspect and Review Evaluation Results

An individual student remedy is also necessary for the failure of the CCSD to provide the Parent opportunity to inspect and review the evaluation results in the student's education record.

Given the importance of meaningful parental participation under the IDEA and the NAC, Chapter 388, the Investigation Team did consider whether the CCSD's failure to provide the evaluation results to the Parent in a timely manner in advance of the December 14, 2018 Eligibility Team meeting necessitated a substantive remedy of ordering the student's Eligibility Team to reconvene after the Parent was afforded the right to inspect and review the evaluation results in the student's education records. (*Amanda J. v. Clark County School District*, 267 F.3d 877; 103 LRP 33278 (9th Cir. 2001); *M.M. v. Lafayette School District*, 64 IDELR 31; 767 F.3d 842 (9th Cir. 2014)) In this case, upon consideration of the thoroughness of the MDT Report; the absence of cited critical evaluation results missing from the MDT Report, the presence of the speech-language and school psychologist at the MDT and Eligibility Team meeting to interpret the test results; the absence of a dispute regarding the meeting notices and efforts to convince the Parent to attend; and the absence of a dispute that the student is a student with Specific Learning Disabilities, the Investigation Team determined that a student specific remedy of reconvening the Eligibility Team meeting is not required to remedy this finding of procedural noncompliance in this manner and the May 13, 2019 Resolution Agreement already requires the CCSD to convene the student's IEP Team. (However, this determination neither precludes the Parent requesting the review of the student's eligibility determination or the contents of the student's IEP after the inspection and review of the student's education records nor limits any of the requirements and procedural safeguards under the IDEA and Nevada law and regulation in any way.)

Corrective Action Plan

In accordance with NRS §385.175(6), the NDE requests a plan of corrective action (CAP) from CCSD within 10 school days of the commencement of the 2019/2020 school year to address the identified noncompliance requiring corrective action. The CAP must include the timeline and process:

- To provide the Parent an opportunity to timely inspect and review the evaluation results in the student's education records; and
- For the student's IEP Team to consider the speech-language IEE and the student's Report Card and Progress Report available at the time of the March 29, 2019 IEP meeting. (Any other information available at the time of the IEP Team meeting would be subject to the requirements of the IDEA, 34 C.F.R. §300.324, and NAC §388.284(2) and are, therefore, not referenced here.) In the event, the CCSD takes or took action to correct any of the identified noncompliance in this Complaint Report prior to the submission of the CAP, the CCSD may submit documentation of the implementation of the corrective action at the time of submission to satisfy this ordered action.

The CCSD's proposed CAP must also include a systemic corrective action to address the CCSD's response to parents' requests for the inspection and review of evaluation results in their child's education records consistent with the IDEA and Nevada law and regulation.

The CAP must be approved by the NDE prior to implementation and result in the completion of the plan no later than 40 school days after the approval of the CAP. Following the CCSD's implementation of the approved CAP, the CCSD must submit a report to the NDE documenting the implementation of the approved CAP no later than 30 calendar days after implementation.