

**CLARK COUNTY SCHOOL DISTRICT  
COMPLAINT INVESTIGATION  
(#CL042523)**

**Report Issued on June 16, 2023**

**INTRODUCTION**

On April 25, 2023, the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging violations by Clark County School District (CCSD) of the Individuals with Disabilities Education Act (IDEA) law and regulations, 20 U.S.C. §1400 et seq., 34 C.F.R. Part 300, and Chapter 388 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC).

The allegations in the Complaint were that: on March 20, 2023, the student's Parents<sup>1</sup> requested an evaluation by CCSD, pursuant to cited sections in the IDEA and NAC, to determine if the student is a student with a disability; on April 14, 2023, CCSD declined to conduct the evaluation by providing written notice consistent with 34 C.F.R. §300.503; thereby, in part, denying the student a Free Appropriate Public Education due to the refusal to provide the student with the necessary supportive services to ensure the student's academic success. In the Parent's request for the evaluation of the student, the Parent expressed concern that CCSD had not considered having the student evaluated by the school psychologist and requested assessments in all category areas of disability, including a psychoeducational evaluation in seven developmental domains in accordance with evaluation procedures in 34 C.F.R. §§300.304 to 300.111, inclusive, and NAC 388.340 and 388.420.

The Parent's proposed resolution was that CCSD be directed to provide an Independent Educational Evaluation (IEE) and assessments be administered to the student in all category areas of disability, including a psychoeducational evaluation as referenced above.

NDE's jurisdiction through the special education complaint process is limited to the investigation of State Complaints alleging a violation of the requirements of Part B of the IDEA and NRS/NAC, Chapters 388. Therefore, with regard to alleged noncompliance of other laws cited in the State Complaint, the Parent was informed that NDE does not have jurisdiction. For the Parent's further information, since the Parent specifically alleged discrimination under Section 504 of the Rehabilitation Act (Section 504) in the description of the nature of the problem of the student in the Complaint, the Parent was informed of the grievance processes at the Federal and local level with regard to the complaints of discrimination. Given the extensive facts and arguments included in the Complaint, the Parent was also informed that while NDE would consider the facts and arguments in the investigation of the alleged violation, the determination in the State Complaint process would be based on whether CCSD complied with IDEA and NRS/NAC, Chapters 388 with regard to the alleged refusal to conduct an initial evaluation of the student in response to the Parent's written request.

The allegation in the Complaint that is under the jurisdiction of NDE to investigate through the special education complaint process raises the following issue for investigation:

**Issue:**

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<sup>1</sup> While the State Complaint indicated both of the student's Parents referred the student for evaluation, the Complaint was filed by one Parent. Hereinafter, Parent will be used throughout the Report.

Whether CCSD complied with IDEA and NAC, Chapter 388, with regard to its refusal to conduct an initial evaluation of the student in response to the Parent’s written request on March 20, 2023, specifically whether CCSD followed procedures and applied required standards under IDEA and NAC and reached a determination that was reasonably supported by the student-specific data.

In the May 1, 2023 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; reference to the provided documentation that factually supported the denial; and that a failure to do so by May 23, 2023, or an extended timeline authorized by NDE, would be considered a concession of noncompliance for purposes of this State Complaint. CCSD did timely provide a well-organized response; denied the alleged noncompliance; and provided the requisite statement of the factual basis and documentation.

The Parent’s Complaint, including the enclosed documents and information, and CCSD’s denial of all claims and all documents submitted by CCSD in response to the issue in the Complaint were reviewed in their entirety in this investigation. The Findings of Fact cite the source(s) of the information determined necessary to resolve the issues in this Complaint.

## **FINDINGS OF FACT**

1. The student has been enrolled in the CCSD since the 2021/2022 school year.
2. By correspondence dated March 20, 2023, the student’s Parent submitted a request to CCSD for a comprehensive evaluation of the student in all areas to identify any suspected disability that might impede the student’s learning. The Parent was concerned that the student’s behavior makes it difficult for the student to focus on one task; and, being, pulled in different directions, the student is not able to independently complete the task at hand. (March 20, 2023 Parent Request for Evaluation)
3. In the March 20, 2023 referral of the student for evaluation, the Parent reported:
  - Being informed that the student’s behaviors have led to problems in finishing school work and, because the student is distracted by seemingly unimportant details or sounds in the room, the student misses key information in class;
  - Speaking briefly to the Vice Principal of the student’s school regarding the student’s learning and inattentiveness with regard to home and school work; and
  - Being concerned that CCSD had not considered that the student be evaluated by the school psychologist; and, even though the student’s teacher expressed concerns with the student’s language arts skills and, as of March 8, 2023, stated the student was not progressing and had a 65.17 (“D”) in language arts, the teacher had not provided any academic strategies or solutions to help the student with off-task behaviors that impede the student’s learning. (March 20, 2023 Parent Request for Evaluation)

## **Student Performance**

4. In the 2021/2022 school year, the student earned the overall grade of two, which represents “meets” on the grade scale, and earned an Exceptional Progress on successful learner behaviors. On the Essential Skills Assessment, the student recognized 52 of 52 letters and 26 of 26 letter sounds. (2021/2022 Student Report Card)

5. By December 16, 2022, the end of the first semester for the 2022/2023 school year, the student earned the following overall grades in the first semester of the 2022/2023 school year: D grade in language; A grade in mathematics, with work above grade level; B grade in reading, with reading comprehension at grade level and oral fluency level above grade level; A grade in social studies; A grade in speaking and listening; C grade in writing; A grade in science; and A grade in health. In special subjects the student earned a satisfactory progress grade in all subjects with the exception of exceptional progress in music. In “successful learner” behaviors, the student earned a satisfactory progress grade in all areas and an exceptional progress in completing and returning homework on time. (2022/2023 Student Report Card, 2022/2023 School Calendar for Students)
6. On March 8, 2023, the student’s teacher provided the Parent a report of the student’s unsatisfactory progress in language, specifically the student was not progressing academically in language with a score of “65.17% D”. The student had one late/missing assignment and the student’s current grade could be improved by submitting late assignments and practicing writing in a journal at home using correct punctuation. (March 8, 2023 Teacher’s Report of Student Unsatisfactory Performance)
7. The student’s March 8, 2023 progress report provided the following overall percentage and earned grade for each of the following subjects: reading at 86.70% - B; speaking and listening at 100.00% - A; language at 65.17% - D; writing at 71.75% - C; mathematics at 89.90% - B; science at 91.50% - A; social studies at 91.50% - A; physical education at 75.00% - satisfactory; and health at 100.00% - A.
8. The student’s progress grade in language on April 13, 2023 was a C grade, as compared to the first semester grade of D, and, in mathematics, a B grade as compared to an A grade. (March 8, 2023 Student Progress Report, April 13, 2023 Report Card -Progress Grades)
9. The student’s overall score on the English/language arts Star Reading Test administered April 12, 2023 was 935. The scale is 600 – 1400 with the student’s score of 935 resulting in a placement at level four placement, at or above benchmarks. The student’s score is higher than 90% of the students in the grade level and is comparable to a student in the next grade level in the ninth month of the school year. The student’s domain scores in the three areas of literature, informational text, and language are in the “secure” area of 80 - 100% percent mastery, with scores ranging from 82% to 94%. (Student’s Renaissance Star Family Report – Test Date of April 12, 2023)
10. Measures of Academic Progress (MAP) tests are given to students three to four times a year and are used to help determine where a student is performing in relation to “common core” and state standards and results in data that can be compared to national norms. The student’s MAP reading and mathematics scores fall into the high average to above average range, indicating excellent progress and no concerns for the student’s achievement in reading/language arts or mathematics:
  - In the area of mathematics: The student’s overall score was 174 on a range of 100-350. The student was in the 67 percentile in the winter of 2023, meaning the student scored better than 67% of grade peers. From fall of 2022 to the winter of 2023, the student’s growth was in the 66 percentile, meaning the student made more progress than 66% of grade peers.
  - In the area of reading/language arts: The student’s overall score was 174 on a range of 100-320. The student was in the 77th percentile in the winter of 2023, meaning the student scored better than 77% of grade peers. From fall of 2022 to the winter of 2023, the student’s growth was in the 61st percentile, meaning the student made more progress than 61% of grade peers. (Student MAP Test Results)
11. The student’s fall and winter 2023 Student Literacy Performance Plan (SLPP) assessment resulted in a score of “not at-risk.” The student’s strengths are: asking and answering questions about key

details in a text; identifying the main topic and retelling key details of a text; and comparing and contrasting the most important points presented by two texts on the same topic. The student's spring assessment did not result in a score; however, the student's strengths were identified as working well independently and in a group; reading very quickly; retaining information from the story; and being able to write complete sentences with a focus on the topic being written about. (Student Literacy Performance Plan)

12. The student's worksheets in easy/CBM Math from August 14, 2022 to April 12, 2023 show the student's progressive improvement from seven out of 16 in August 2022 to 12 out of 16 in April 2023. The student's easy/CBM scores for passage reading fluency showed the student progressed from a score of approximately 84 in winter of 2022 to an upward trend by March 30, 2023 with a resulting score of 113 by April 27, 2023. (Student's Worksheets: Easy/CBM Math – Math Numbers Operations and Algebra, EasyCBM – Student Passage Reading Fluency)

### **CCSD Response to Request for Evaluation**

13. On March 23, 2023, a CCSD special education facilitator responded to the Parent's request for evaluation and indicated CCSD would like to meet in person regarding the Parent's concerns. The facilitator proposed a date and times and informed the Parent that if those times did not work for the Parent to let CCSD know the Parent's availability to enable CCSD to schedule something that would work for the Parent. (May 23, 2023 Email Communication)
14. On March 27, 2023, CCSD psychological services contacted the student's Parent and informed the Parent that, pursuant to district procedures, the Multidisciplinary Team needed to meet to review the data and determine the next best steps for the student. A Prior Written Notice of the CCSD's proposal to meet to address the Parent's request for a special education evaluation; notice of meeting arrangements; and a copy of Special Education Rights of Parents and Children were attached to the email communication. (March 27, 2023 Email Communication and Attachments, CCSD Student Service Division Manual)
15. In the Parent's response to CCSD's March 24, 2023 and March 27, 2023 request for the Parent to attend the Multidisciplinary Team meeting, the Parent reiterated previously posed questions and informed CCSD that the Parent disagreed with the request for the Parent's attendance and challenged the "pre-Multidisciplinary Team" meeting as unlawful, unnecessary and unorthodox. The Parent indicated in another communication that the Parent would attend the Multidisciplinary Team meeting after the student's Multidisciplinary Team Report was completed. (March 24, 2023, March 27, 2023 Parent Letters, March 27, 2023 Parent Email Communication, April 5, 2023 Parent Letter and Email Communication)
16. On March 30, 2023, CCSD notified the student's Parent that the Multidisciplinary Team meeting would take place March 31, 2023 and informed the Parent that Team members would be available to answer all of the Parent's questions and review the Parent's concerns. CCSD informed the Parent that at the meeting the Team would gain insights from the student's teacher; consider current formal/informal data; formally determine disability suspicion and need to evaluate; and next steps for the student. The Parent was once again invited to attend and, that if the Parent would like to participate but needed to reschedule, CCSD would be happy to reschedule the meeting. A Prior Written Notice of the CCSD's proposal; notice of meeting arrangements; and a copy of Special Education Rights of Parents and Children were attached to the email communication. (March 30, 2023 CCSD Email Communication and Attachments)

17. On April 4, 2023, CCSD responded to the Parent's previously posed questions and notified the Parent that the Multidisciplinary Team meeting was being rescheduled to April 14, 2023 and that the Parent's participation at the meeting was valuable to team decision-making. A Prior Written Notice of the CCSD's proposal to meet to address the Parent's request for a special education evaluation and notice of meeting arrangements were attached to the email communication and provided again on April 13, 2023. (April 4, 2023 Parent Letter, April 4, 2023 CCSD Email Communication and Attachments, April 13, 2023 Parental Notice of District Proposal and Proposed Meeting Arrangements)
18. The Multidisciplinary Team meeting was conducted on April 14, 2023 to review student data and consider the Parent's request to conduct a comprehensive evaluation of the student to identify any suspected disability that might impede the student's learning. The student's Parent was again invited to the meeting, but refused to attend due to various stated reasons, including that the Parent was not under any obligation to commit to attend this pre-meeting; a pre-meeting was not required; and the Parent believed CCSD's intentions were to delay the timelines of the evaluation process. (Complaint, April 13, 2023 Parental Notice of District Proposal and Proposed Meeting Arrangements, April 14, 2023 Prior Written Notice)

### **CCSD Refusal to Conduct Initial Evaluation**

19. At the April 14, 2023 Multidisciplinary Team meeting, the CCSD members in attendance (CCSD representative, general education teacher, special education teacher, and school psychologist) reviewed the eligibility categories in NAC relative to the available student data, and all agreed that, based on the data, there was no suspicion of disability and no need for individualized services were evidenced at that point in time. (April 14, 2023 Prior Written Notice)
20. CCSD's refusal to conduct an initial comprehensive evaluation of the student to determine whether the student is a student with a disability in response to the Parent's request was based on the following:
  - The student exhibits behaviors<sup>2</sup> consistent with the student's grade peers; finishes and turns in school work; and the student's current grades range from A to C, the average to above average range, with a C grade in language arts (i.e., progressing well in grammar/mechanics). The student's reading and math MAP data indicate above average growth and performance;
  - Based on the teacher's observations, the student's social, emotional, and behavioral skills are at grade level;
  - The following evaluation procedures, assessments, records or reports were utilized by CCSD as a basis for the refused action: the MAP scores, oral reading fluency of 108 word per minute, STAR reading scores, writing. Spelling and math work samples/assessments reveal grade level skills, and the teacher's observations of grade level social, emotional, and behavioral skills.
  - Other factors affecting performance were: the student's MAP scores indicate high average skills in English, language arts, reading, and math:
  - Student's grades are in the average to above average range as follows: health – A; language - C; math – B; physical education – S; reading – B; science – A; social studies – A; speaking

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<sup>2</sup> It was noted that there were behavioral incidents reported on three school days in the 2022/2023 school year involving the student. However, in all of the behavioral incidents, the student was the victim of behavior initiated by another student and one of the incidents was determined to be non-intentional/non-malicious. (Student Behavior Detail Report: March 9, 2023, March 22, 2023, February 28, 2023)

and listening - A; and writing – C. (April 14, 2023 Prior Written Notice, April 14, 2023 Student Services Referral Form, Confidential Status Record, Various Student Work Sheets)

21. The observations of the teacher of the student reported to the Multidisciplinary Team at the April 14, 2023 meeting included: multiple work samples of the student revealed grade level spelling skills; excellent handwriting; good progress toward mastering grammar/capitalization/punctuation skills; and grade level math skills. With regard to the student’s social, emotional and behavioral skills, the student is turning work in on time; works well in a team and by self; exhibits average focus; pays attention; answers questions on topic; has good eye contact and reciprocity in conversation; is very friendly; has friends, especially one other student; transitions similarly to peers and no impulsivity has been observed. Overall, the student’s social, emotional, and behavioral skills are consistent with typical peers and grade level expectations. (Confidential Status Record)
22. As another option to conducting an evaluation of the student, the CCSD Multidisciplinary Team considered the option of Response to Intervention<sup>3</sup> academic and/or behavioral services at Tier II or Tier III, but rejected the option since the student is currently participating 100% in Tier I, core instruction in general education, and is responding “extremely well to Tier I reading, writing and math core instruction in the general education environment.” “Since [ ]<sup>4</sup> academic and behavioral skills are on grade level, [ ] has not needed nor has [ ] participated in any target interventions.” (April 14, 2023 Prior Written Notice, April 14, 2023 Student Services Referral Form)
23. On April 14, 2023, CCSD provided the Parent a Prior Written Notice of CCSD’s refusal to conduct a comprehensive evaluation of the student as requested by the Parent. The Prior Written Notice included a statement that: “Parents/guardians or legally recognized adult students have the right to seek resolution of disagreements by initiating an impartial due process hearing and/or formal mediation.” In addition to the Prior Written Notice, a referral form, a copy of Special Education Rights of Parents and Children and some student data were attached to the email communication to the Parent. The Parent indicates the written notice was consistent with the IDEA requirements for a Prior Written Notice, 34 C.F.R. §300.503. (April 14, 2023 Prior Written Notice, Complaint, April 14, 2023 Parent Email Communication with Attachments, Complaint)

## CONCLUSIONS OF LAW

“We believe that an SEA, in resolving a complaint challenging the appropriateness of a child's educational program or services or the provision of FAPE, should not only determine whether the public agency has followed the required procedures to reach that determination, but also whether the public agency has reached a decision that is consistent with the requirements in Part B of the Act in light of the individual child's abilities and needs. Thus, the SEA may need to review the evaluation data in the child's record, or

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<sup>3</sup> CCSD has a districtwide framework for a Multi-Tiered System of Support and the Response to Intervention is described as a comprehensive framework that is aligned with Nevada Academic Content Standards and allows for early identification and support for at-risk students academically or behaviorally.

- a. “Tier I supports all students. Emphasis is placed on the delivery of high-quality, standards-based instruction that is differentiated to meet the needs of students.
- b. Tier II supports students who are not responding adequately to Tier I instruction.
- c. Tier III supports students who demonstrate ongoing lack of sufficient progress or growth.” (CCSD Website, CCSD- A Parent’s Guide to Response to Intervention (RTI), CCSD Regulation 6120)

<sup>4</sup> [ ] denotes the redaction of personally identifiable information.

any additional data provided by the parties to the complaint, and the explanation included in the public agency's notice to the parent as to why the agency made the determination regarding the child's educational program or services.” *Discussion in the 2006 IDEA regulations: Federal Register / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations, Page 46601.* Citing the Federal Register, the United States Department of Education, Office of Special Education Programs (OSEP), indicated that: “The 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.” (*OSEP Memorandum 13-08: Dispute Resolution Procedures Under Part B of the Individuals with Disabilities Education Act (Part B)*, 61 IDELR 232 (OSEP July 23, 2013)).<sup>5</sup>

Therefore, to resolve this State Complaint regarding the appropriateness of CCSD’s refusal to conduct an initial evaluation of the student, NDE must determine whether, consistent with IDEA and NAC, Chapter 388, CCSD followed required procedures; applied appropriate standards; and reached a determination reasonably supported by student-specific data.

At the outset, it is important to note that the IDEA does not require that a local educational agency conduct an initial evaluation of all students upon a parent’s request for evaluation to determine whether a student is a student with a disability. A local educational agency is only required to evaluate a student when the agency suspects a student has a disability and is in need of special education and related services. However, if the local educational agency refuses to conduct the evaluation, it must provide the parents with written notice of its refusal, including an explanation of the applicable procedural safeguards and the means to challenge it. *Pasatiempo v. Aizawa*, 103 F.3d 796; 25 IDELR 64 (9th<sup>6</sup> Cir. 1996); *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1119-20, 67 IDELR 227 (9th Cir. 2016).<sup>7</sup>

### **Did CCSD Follow Required Procedures and Apply Required Standards Under IDEA and NAC, Chapter 388?**

Neither the IDEA nor NAC establish the procedure for a local educational agency to determine whether good cause exists to suspect a student is a student with a disability and in need of special education and related services. 34 C.F.R. §§300.8, 300.111; NAC §§388.215, 388.337(1)(a). However, a local educational agency must establish measures to do so. NAC §§388.215. CCSD has chosen to establish a procedure that ensures parent participation and the input of various knowledgeable professionals through a Multidisciplinary Team meeting process. (Finding of Fact (FOF) #14)

Upon the receipt of the Parent’s request for the evaluation of the student to identify any suspected disability that might impede the student’s learning (FOFs #2, #3), CCSD was required to consider the Parent’s request. Upon determining whether it was suspected that the student has a disability and is in need of special education and related services, CCSD was then required to provide the Parent a Prior Written Notice a reasonable time before CCSD’s proposed or refused to initiate the requested evaluation of the student. 34 C.F.R. §300.503(a); NAC §388.300(8). In addition, CCSD was required to provide the Parent a copy of the

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<sup>5</sup> This memorandum is publicly available at:

[https://sites.ed.gov/idea/files/policy\\_speced\\_guid\\_idea\\_memosdcltrs\\_acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf](https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf)

<sup>6</sup> The State of Nevada is in the United States Court of Appeals, Ninth Circuit.

<sup>7</sup> This position was articulated by the United States Department of Education, Office of Special Education Programs early on in *Letter to Anonymous*, 21 IDELR 998 (OSEP, August 29, 1994). Since it is no longer publicly available the following relevant paragraph is provided verbatim: “The Department’s position is that parents may request a Part B evaluation at any time. However, the parents’ request for a Part B evaluation does not automatically trigger the obligation of the LEA to conduct the evaluation. Rather, an LEA must conduct an evaluation without undue delay only if the LEA suspects that the child has a disability and is in need of special education and related services. If the LEA refuses the parents’ request to conduct an evaluation, the LEA must provide the parents with a written prior notice of its refusal, including a full explanation of applicable procedural safeguards and due process rights, as well as an explanation of why the agency is refusing to take the action requested by the parent. See 34 CFR § 300.505(a)(1)-(2). If a parent disagrees with the LEA’s refusal to evaluate the child, the parent may request a due process hearing under 34 CFR §§ 300.506-300.508.”

procedural safeguards available to the Parent upon the Parent's request for evaluation. 34 C.F.R. §300.504; NAC §388.300.

In this case, CCSD timely provided the Parent a Procedural Safeguards Notice upon the Parent's request for the conduct of the initial evaluation of the student (FOFs #2, #14) and repeatedly thereafter. (FOFs #16, #23) CCSD also initiated the determined local measure, the conduct of a Multidisciplinary Team meeting, to consider and determine whether the student is suspected of being a student with disability in need of special education and related services. (FOFs #14, #18) CCSD made multiple documented efforts to provide the Parent an opportunity to participate in the Multidisciplinary Team meeting. The Parent repeatedly declined to participate in the Multidisciplinary Team meeting, as was the Parent's right, and CCSD was unable to convince the Parent otherwise. (FOFs #14 - #18) Upon reaching a determination, it is uncontested that CCSD provided the Parent the requisite Prior Written Notice consistent with IDEA, 34 C.F.R. §300.503. The Prior Written Notice included the Parent's right to challenge CCSD's determination. (FOF #23)

With regard to applying required standards under IDEA and NAC, Chapter 388, in making the determination whether CCSD suspected the student has a disability and is in need of special education and related services, CCSD reviewed the eligibility categories in NAC relative to the available student data. All CCSD members of the Multidisciplinary Team agreed that, based on the data, there was no suspicion of disability and no need for individualized services were evidenced at that point in time. (FOF #19)

Therefore, CCSD complied with the required procedures and applied required standards under IDEA and NAC, Chapter 388, with regard to CCSD's consideration of the Parent's request to conduct the initial evaluation of the student and refusal to conduct the evaluation of the student to determine if the student has a disability and is in need of special education and related services.

### **Reasonably Supported by Student-Specific Data?**

“The appropriateness of a determination regarding a student's eligibility should be assessed in terms of its appropriateness at the time of the child's evaluation and not from the perspective of a later time with the benefit of hindsight.” *L.J. v. Pittsburg Unified Sch. Dist.*, 850 F.3d 996, 68 IDELR 121 (9th Cir. 2016), citing *Adams v. Oregon*, 31 IDELR 130 (9th Cir. 1999). Likewise, in this case, the determination whether CCSD's refusal to conduct the initial evaluation of the student was reasonably supported by the student-specific data will be based on the data available to CCSD at the time of the Parent's request for this evaluation.

The Parent's receipt of the March 8, 2023 report of the student's unsatisfactory progress in language with a current earned score of “65.17% D”, was one of the factors that the Parent cited in requesting the evaluation of the student to determine if the student was a student with a disability in need of special education and related services. (FOFs #3, #6) However, upon the review of the totality of the student-specific data, including the recognition that the grade included consideration of one late/missing assignment, this earned grade in the area of language appears to be an outlier. Except for this grade of D in language in March 2023, the student's earned grades in the 2021/2022 school year and, at that time, in the 2022/2023 school year were all in the average to above average range (FOFs #4, #5, #7). By April 13, 2023, the student's progress grade in language was an improved C grade (FOF #8) and, importantly, the assessments of the student in this and other subject areas reflects:

- a. The student's MAP scores indicate high average skills in English, language arts, reading, and math and no concerns for the student's achievement in reading/language arts or mathematics. (FOF #10)



- b. The student's overall score on the English/language arts Star Reading Test administered April 12, 2023 are at or above benchmarks and comparable to a student in the next grade level in the ninth month of the school year. (FOF #9)
- c. The student's fall and winter 2023 SLPP assessment resulted in a score of "not at-risk." (FOF #11)
- d. The student's worksheets in easy/CBM Math and easy/CBM scores for passage reading fluency showed the student progressed from winter of 2022 to March 30, 2023, with a score reflecting continued progress by April 27, 2023. (Note that April 27, 2023 is after the time period of this investigation). (FOF #12)

Notwithstanding the Parent's concern with regard to the impact of the student's behavior on school work (FOF #3), there was also no documentation provided in the course of the investigation contrary to the teacher's observation that the student's social, emotional, and behavioral skills are consistent with typical peers and grade level expectations. (FOF #21)

Based on a thorough review and consideration of the student-specific data contained in the documents and information provided in the course of this investigation, the Complaint Investigation Team has determined that the CCSD's refusal to conduct an initial evaluation of the student to determine if the student has a disability and is in need of special education and related services is reasonably supported by the student-specific data.

*Therefore, CCSD complied with IDEA and NAC, Chapter 388, with regard to its refusal to conduct an initial evaluation of the student in response to the Parent's written request on March 20, 2023, specifically CCSD followed procedures and applied required standards under IDEA and NAC and reached a determination that is reasonably supported by the child-specific data.<sup>8</sup>*

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<sup>8</sup> This State Complaint determination does not limit the Parent's and/or CCSD's access to other appropriate dispute resolution procedures available under IDEA and NAC, Chapter 388.