

**CLARK COUNTY SCHOOL DISTRICT  
COMPLAINT INVESTIGATION  
(#CL081623)**

**Report Issued on October 6, 2023**

**INTRODUCTION**

On August 16, 2023, the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging a violation 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 allegation in the Complaint was that the student re-enrolled in CCSD with an expired IEP and CCSD refused to develop an interim IEP with updated goals and objectives aligned with kindergarten, thus denying the student a Free Appropriate Public Education. The facts supporting the allegation indicated that the student was unilaterally withdrawn from CCSD in February 2023 by CCSD and, upon re-enrolling the student and requesting general education kindergarten with pull-out resources, the Parent was required to revoke the student's right to special education services for the student to have access to general education kindergarten.

The Parent's proposed resolution was to place the student in a general education kindergarten at a local elementary school within the radius of the student's residence.

The allegation within the jurisdiction of NDE through the State Complaint process raises the following issue for investigation through the date of the State Complaint, August 16, 2023:

**Issue:**

Whether CCSD complied with the requirements of IDEA and NAC, Chapter 388, to provide the eligible student with a disability a Free Appropriate Public Education, specifically with regard to having an IEP in effect for the student at the commencement of the 2023/2024 school year upon the student's reenrollment in CCSD.

In the August 25, 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 September 12, 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 is a student with a disability and was enrolled in CCSD in the 2022/2023 school year as a preschool student with a disability in CCSD's early childhood program. The student's IEP in effect in the 2022/2023 school year was an April 1, 2022 IEP with the anticipated duration of services to March 31, 2023. The anticipated date for the student's three-year reevaluation was April 28, 2023. The student's placement was in a self-contained placement with no percentage of time in the regular education environment. (Student's April 1, 2022 IEP)
2. The student's last day of attendance in the 2022/2023 school year was February 23, 2023. When the student was not in school by March 1, 2023, the student's teacher did a "wellness check" and the student's Parent informed CCSD on March 3, 2023 that the student would no longer be in CCSD's early childhood program as the student was now in an all-day preschool program. The student's teacher informed the Parent to contact the school main office and they could tell the Parent the procedures for withdrawing the student. (Student Enrollment History, General Student Enrollment Information March 3, 2023 Email Communications)
3. As of March 20, 2023, multiple attendance letters were issued to the Parent and the student's Parent had still not withdrawn the student. The student was administratively "unenrolled" by CCSD on March 23, 2023 based on the Parent's March 3, 2023 notification of withdrawal. (Confidential Status Record, March 20, 2023 Email Correspondence, March 23, 2023 Email Notification of Involuntary Withdrawal, Teacher Contact Log)
4. On June 6, 2023, the student's Parent filled out an application for online registration of the student in CCSD for the 2023/2024 school year. The instructions for online registration included the documents required to complete the registration. However, the Parent did not upload the required documents to the online application and the registration was not completed at that time. (Online Registration Summary – June 6, 2023, Student Registration Information – Documents Required for Registration)
5. The first day of school for students in the CCSD 2023/2024 school year was August 7, 2023. (CCSD 2023/2024 School Calendar for Students)
6. On August 4, 2023, the Friday before the first day of school, after not receiving any information regarding the student's school of attendance for the 2023/2024 school year, the Parent contacted CCSD and informed CCSD that the Parent wanted the student to return to school. (Email Correspondence, State Complaint, CCSD 2023/2024 School Calendar for Students)
7. On August 9, 2022, the student's Parent informed CCSD personnel that the Parent wanted the student to be placed in general education. In response, CCSD personnel told the Parent to go to the student's named attendance zone school and talk to the special education instructional facilitator to revoke services as the student's eligibility was still current. (CCSD Case Management Print Out)
8. On August 10, 2023, the student's Parent attempted to enroll the student at the student's attendance zone school, but was unable to do so because the student's registration had not been completed. On August 11, 2023, the student's Parent submitted another online registration application with the required documents and completed the registration process that same day. (State Complaint, Online Registration Summary – August 11, 2023, Confidential Status Record, CCSD Enrollment Checklist)

9. On August 14, 2023, the first school day after the student was registered in CCSD and before the student was enrolled in school, the student's Parent revoked consent for the student's special education services and requested expedited processing in order for the revocation to be effective immediately so the student could begin school as soon as possible. The revocation of consent included a history of events that led to the submission of the revocation and statements such as: "It has come to the point in this long journey that we are backed into a corner to revoke our child's special education services." So, we are caught in a double-standard...And here we are, in order to afford our child a free and appropriate public education that is least restrictive and appropriate for [ ]<sup>1</sup> general education Kindergarten with pull out resources – we must revoke [ ] rights to special education resources all together." (August 14, 2023 Revocation, August 14, 2023 Revocation of Services Email Correspondence)
10. On August 16, 2023, the same day this State Complaint was filed, the student's grandparent contacted CCSD seeking assistance explaining that she and the Parent thought the only way for the student to be admitted to kindergarten was by revoking the student's special education rights and she had been informed by several groups that was incorrect. (August 16, 2023 Email Correspondence)
11. That same day, August 16, 2023, the CCSD executive director of instructional services in the student services division spoke with the student's Parent and concluded that the Parent did not want to revoke services, but wanted the student to have resource support. As a result, the director indicated CCSD was going to work to get the student enrolled and do an interim IEP. (CCSD August 16, 2023 Email Correspondence)

#### **After the Filing of the State Complaint**

12. On August 17, 2023, in response to the Parent's written revocation of consent, CCSD provided the Parent:
  - a. A Prior Written Notice for a change in special education placement and the action to discontinue all special education and related services based on the receipt of a parental request for revocation;
  - b. A copy of the Special Education Rights of Parents and Children that included the meaning of consent that required parents being fully informed of all information about the action and an understanding that consent is voluntary; and
  - c. A letter acknowledging the Parent's revocation of consent for special education and related services; that, while the student was not currently enrolled in CCSD, should the student be re-enrolled in a CCSD school, special education services would no longer be available effective August 17, 2023 and informing the Parent that, on that date, the student would no longer have the protection and rights delineated under IDEA. (August 17, 2023 Prior Written Notice and CCSD Correspondence, Special Education Rights of Parents and Children)
13. On August 18, 2023, CCSD conducted a meeting with the Parent to discuss the next steps to get the student into school. On the next school day, August 21, 2023, the student was enrolled in school and the student's first day of attendance was that same day. The Parent agreed to the conduct of the Interim IEP Team meeting on August 25, 2023. (Confidential Status Record, Student Enrollment History, August 21, 2023 Email Correspondence, General Student Enrollment Information, August 20, 2023 Email Correspondence)

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<sup>1</sup> [ ] denotes the redaction of personally identifiable information.

14. CCSD assigned a special education instructional facilitator to assist with the student's transition to school and the development of a 30-day Interim IEP that would include the collection of data over the 30-day period to develop the student's annual IEP. The facilitator informed the CCSD IEP Team her belief that it was the student's Parent's goal to keep the student in the general education setting as much as possible. (August 22, 2023 Internal Email Correspondence)
  
15. The student's Interim IEP meeting took place on August 25, 2023 with the student's Parent in attendance. The Parent agreed with the components of the Interim IEP, including the student's placement in a regular class and special education class combination with 98% of the school day in the regular education environment. The services in the Interim IEP commenced August 25, 2023 with the anticipated duration of services to September 24, 2023. (August 25, 2023 Interim IEP, Google Meeting Link. August 24, 2023 Email Correspondence, August 25, 2023 Prior Written Notice, Confidential Status Record)
  
16. The student's IEP Team, including the student's Parent, convened again on September 19, 2023 to develop the student's September 19, 2023 annual IEP. The IEP was effective commencing September 19, 2023 with the anticipated duration to September 18, 2024. The Parent agreed with the components of the annual IEP. The student's placement was in a regular class and special class combination with 74% of the school day in the regular education environment. (September 19, 2023 IEP, Confidential Status Record)

## **CONCLUSIONS OF LAW**

In accordance with IDEA and NAC, Chapter 388, CCSD must have an IEP in effect, for each student with a disability within its jurisdiction, NAC §388.281(1); 34 C.F.R. §300.323(a). While this requirement is straightforward, the facts of this case are not since the student was neither registered in CCSD or enrolled in a school at the commencement of the 2023/2024 school year.

The student is a student with a disability and was enrolled in CCSD in the 2022/2023 school year as a preschool student with a disability in CCSD's early childhood program. (Finding of Fact (FOF) #1) The student's last day of attendance in the 2022/2023 school year was February 23, 2023 when the student's Parent withdrew the student from CCSD's early childhood program to attend an all-day preschool program. (FOFs #2) The student was administratively "unenrolled" by CCSD on March 23, 2023 based on the Parent's March 3, 2023 notification of withdrawal. (FOF #3)

The Parent decided to register the student again for the 2023/2024 school year and attempted to do so on June 6, 2023 through the online registration process. However, the registration was not completed due to the absence of required documents. (FOF #4)

One school day before the first day of school, after not receiving any information regarding the student's school of attendance for the 2023/2024 school year, the Parent contacted CCSD and informed CCSD that the Parent wanted the student to return to school. (FOFs #5, #6) On August 11, 2023, after being informed that the student's registration had not been completed, the student's Parent submitted another online registration application with the required documents and completed the registration process that same day. (FOF #8)

It is at that point that the student would typically have been assigned to a school and have commenced attendance upon enrollment at the school. However, the first school day after the student was registered in CCSD, and before the student was enrolled in school, the student's Parent revoked consent for the student's special education services and requested expedited processing. (FOF #9)

### **Revocation of Consent**

In accordance with IDEA, 34 C.F.R. §300.300(b)(4), and NAC §388.300(5), a parent's right to consent to the initial provision of special education and related services includes the right to, at any time subsequent, to revoke that consent in writing for the continued provision of special education and related services. Upon receipt of that consent, the public agency may not continue to provide special education and related services to the student, but must provide the Parent a Prior Written Notice in accordance with IDEA, 34 C.F.R. §300.503, and NAC §388.300(8) before ceasing the provision of special education and related services.

Prior to registering the student, the Parent informed CCSD personnel that the Parent wanted the student to be placed in general education. In response, CCSD personnel told the Parent to go to the student's named attendance zone school and talk to the special education instructional facilitator to revoke services as the student's eligibility was still current. (FOF #7) While CCSD's response was consistent with the Parent's right to revoke consent to the provision of special education and related services under IDEA and NAC, Chapter 388, given what transpired next it is apparent there was a fundamental miscommunication/misunderstanding between the Parent and CCSD.

Consent under IDEA requires a parent to be fully informed of all information relevant to the activity for which consent is sought, and for the parent to understand that the granting, or in this case revocation, is voluntary on the part of the parent. 34 C.F.R. §300.9. In this case, however, on the face of the Parent's written revocation of consent, the Parent's revocation was neither voluntary nor informed and specifically referenced the student's need for not just general education, but pull-out resources. (FOF #9) Based on CCSD's provision of a Prior Written Notice to the Parent in response to the written revocation of consent, as well as an explanation of the Parent's rights and a letter of explanation, CCSD did not question the validity of the Parent's revocation of consent when processing the Parent's request for the expedited revocation. (FOF #12) However, fortunately, prior to the effective date of the revocation of consent, the misunderstanding/miscommunication between the Parent and CCSD was cleared up (FOF #13) on the same day this State Complaint was filed. Thereafter, CCSD took appropriate action that resulted in the student's enrollment in school; development and implementation of an interim IEP; and later an annual IEP. (FOFs #13 - #16)

This case is an unfortunate confluence of events that resulted in the student missing the first two weeks of school. The result of the inadvertent missteps and miscommunications was understandably frustrating, as well as disconcerting, for the student's Parent. However, given the facts of this case, the State Investigation Team determined that CCSD did not violate the law during the relevant time period of this State Complaint with regard to providing the student a Free Appropriate Public Education.

*Therefore, CCSD complied with the requirements of IDEA and NAC, Chapter 388, to provide the eligible student with a disability a Free Appropriate Public Education in that the student was neither registered in CCSD or enrolled in a school at the commencement of the 2023/2024 school year.*