

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL081720)
Report Issued on October 15, 2020**

INTRODUCTION

On August 17, 2020, the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging violations by the Clark County School District (CCSD) in a student's special education program. The allegations in the Complaint were that CCSD failed to implement the student's Individualized Education Program (IEP) in the 2019/2020 school year, specifically with regard to providing the student a one-to-one aide on the bus on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM); sending the student's iPad home on Fridays (or at the end of a week in a short week) during Extended School Year (ESY) 2019; and providing the student access to an augmentative communication device at the beginning of the 2019/2020 school year. The Parent also alleged that the CCSD allowed the student's speech therapist to unilaterally make a decision regarding the provision of the related service of speech therapy to the student in a group rather than an individual setting thereby denying the Parent of input concerning that aspect of a Free Appropriate Public Education (FAPE) to the child as required by the IDEA, 34 C.F.R. §300.324.

In addition to the alleged student-specific violation of the IDEA with regard to the provision of speech therapy to the student, the Complaint characterized the allegation as also being systemic. The Complainant was informed that the Nevada Department of Education (NDE) did not have jurisdiction over the allegation of systemic noncompliance in the absence of sufficient facts that supported this statement of systemic noncompliance as required under the IDEA, 34 C.F.R. §300.153(b)(2), and the NAC, §388.318(4)(b).

Pursuant to the Individuals with Disabilities Education Act (IDEA), 34 C.F.R. 300.152(a)(2), and the Nevada Administrative Code (NAC) §388.512(5)(b), the Parent availed herself of the opportunity to submit additional information about the allegations in the Complaint and in the course of the interview, the Parent indicated there was no need to investigate sending the student's iPad home during the ESY, given it was not within the one-year time limitation for Complaints. Accordingly, this allegation was determined to be withdrawn and was not investigated. 34 C.F.R. §300.153(c); NAC §388.318(2)(b).

The Parent expressed concern in the interview that the issue of the failure to implement the student's IEP with regard to the provision of a one-to-one aide on the school bus did not include the requirement in the student's IEP that the CCSD "make sure" the student was on the school bus with a driver and aide and the alleged systemic issue with regard to the CCSD's provision of speech therapy. The Parent was informed of the process to request an amendment to the State Complaint and provided time to do so, but decided not to file an amendment on these bases.

In the August 21, 2020 issue letter to the CCSD, the NDE requested additional documents and information in order to investigate the State Complaint. The documents and information were

required to be received by the NDE no later than September 10, 2020 in order to timely investigate the Complaint. The CCSD was notified in that same correspondence that if the CCSD disputed the allegations of noncompliance in the Complaint, the submitted documents and information must include a denial of the alleged noncompliance; a brief statement of the factual basis for the denial; and specifically reference the documentation provided to the NDE that factually supported the denial and that a failure to do so by September 10, 2020 or an extended timeline authorized by the NDE, would be considered a concession of noncompliance for purposes of this State Complaint.

The CCSD did timely respond and dispute the allegation of noncompliance in the Complaint with regard to providing the student access to an augmentative communication device at the beginning of the 2019/2020 school year (Issue One(b)) and specifically referenced the documents relevant to that denial. The CCSD did **not** dispute the allegations of noncompliance with regard to:

1. Providing a one-to-one aide on the school bus on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM) (Issue One (a)); or
2. Complying with the IDEA and the NAC, Chapter 388, with respect to the Parent's participation in the IEP meetings conducted to develop the student's IEP(s) from August 17, 2019 with regard to the specific nature of the related service of speech therapy; specifically, whether the provision of speech therapy to the student needed to be in a group or one-to-one.

Therefore, consistent with the notices explicitly provided to the CCSD, the failure of the CCSD to dispute the allegations in Issue One(a) and Issue Two was determined to be a concession of noncompliance for purposes of this Complaint and that concession is noted in the Conclusions of Law. Any documents and information provided in the CCSD's response relevant to Issues One(a) and Issue Two were reviewed and considered in the development of background facts and the determination of any corrective action.

The State Complaint, including all attachments, and all documents and information submitted by the CCSD and the Parent were reviewed and considered in their entirety in the investigation of this Complaint. 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 from August 17, 2019, one year prior to the receipt of the Complaint, 34 C.F.R. §300.153(c); NAC §388.318(1)(b):

Issue One:

Whether the CCSD complied with the IDEA and NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect in the 2019/2020 school year, specifically with regard to:

- a. Providing a one-to-one aide on the school bus on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM); and
- b. Providing the student access to an augmentative communication device at the beginning of the 2019/2020 school year.

Issue Two:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, with respect to the Parent's participation in the IEP meetings conducted to develop the student's IEP(s) from August 17, 2019 with regard to the specific nature of the related service of speech/language therapy; specifically, whether the provision of speech/language therapy to the student needed to be in a group or one-to-one.

FINDINGS OF FACT

1. The student was enrolled in the CCSD for the 2019/2020 school year. The 2019/2020 school year commenced August 12, 2019 and ended May 20, 2020. (Student Period Attendance Detail, 2019/2020 CCSD School Calendar for Students)
2. The student attended a different school for the 2018/2019 ESY than the school attended in the 2018/2019 school year. The student then enrolled in another new school in the CCSD for 2019/2020, the school year at issue in this Complaint. (Student Enrollment History)
3. The student had a December 4, 2017 annual IEP that was revised in part on August 8, 2018. The CCSD confirmed that, notwithstanding the ending dates in the revised August 8, 2018 IEP for the included services to June 4, 2018, this December 4, 2017 IEP was the IEP in effect at the commencement of the 2019/2020 school year. The CCSD did attempt to conduct an IEP meeting on August 6, 2018 and August 8, 2018 per a court order and conducted four IEP meetings thereafter on May 22, 2019, September 20, 2019, October 8, 2019 and October 23, 2019. On October 23, 2019, the student's annual IEP was developed and subsequently reviewed and revised on January 27, 2020. (The absence of an annual IEP between June 4, 2018 and October 23, 2019 was not raised as an allegation of noncompliance in this Complaint and was not within the scope of this investigation.) (December 4, 2017, October 23, 2019, January 27, 2020 IEPs, Complaint, IEP Meeting Notices, Response to the Complaint, CCSD's Response for Additional Information, Confidential Status Record)
4. Relevant to this Complaint, the student's December 4, 2017 IEP included:
 - a. The supplementary aids and services that staff will make sure student is on a school bus with a driver and a bus aide every day school to home.
 - b. The supplementary aid and service that staff will allow and help the student use an augmentative communication device throughout the school day when the student is communicating, with the location of services on the school campus. A second

- supplementary aid and service that the student's teacher will send the student's iPad home on Fridays or at the end of a week if it is a short week.
- c. The related service of direct "speech/language" 15 minutes per week in the location of the special education room/speech room with the beginning and ending dates of September 14, 2017 to June 4, 2018.
5. Relevant to this Complaint, the student's October 23, 2019 and January 27, 2020 IEPs included:
 - a. The supplementary aids and services that staff will make sure student is on a school bus with a driver and a bus aide every day school to home; and the student is to be provided one-to-one adult assistance/aide (classroom staff and related services staff) in all school settings with the frequency of services as daily and across all school settings and the location of services as on the school campus.
 - b. The supplementary aid and service that staff will allow and help the student use an augmentative communication device throughout the school day, with the location of services on the school campus. Both IEPs have another supplementary aid and service that the student will utilize the student's personal iPad for assistive technology when available on school campus and the student's teacher will send the student's iPad home on Fridays or at the end of a week if it is a short week;
 - c. The related service of direct "speech/language" 30 minutes per week in the location of the special education room/speech room and 15 minutes per week during ESY in the same location. (October 23, 2019 and January 27, 2020 IEPs)
 6. The student is a predominantly non-verbal communicator. As of January 27, 2020, the student was working toward utilizing an augmentative communication device (e.g., iPad/Proloquo2Go) to communicate basic needs/wants and also utilized the iPad with LAMP communication application that was initially used in private speech therapy. (October 23, 2019 and January 27, 2020 IEPs, Assistive Technology Services Assessment Report)
 7. The student was loaned an iPad with Proloquo by the CCSD at least by November 12, 2018. On May 1, 2019, the Parent signed an agreement that while the iPad could begin to go home, it was required to travel back and forth to school and was not for home use only. The student did not have the iPad at school on August 14, 2019 and the Parent was asked to send the iPad to school. On August 29, 2019, the speech/language pathologist noted the student did not have the iPad at school again and on that same day an iPad was signed out for the student and delivered to the student's teacher. A new iPad was sent home on September 11, 2019, but the student did have the iPad at school by September 12, 2019. On September 19, 2019, the CCSD requested the Parent send the student's charger for the iPad to school and on September 26, 2019 the communication device was switched out and again delivered to the teacher (Speech Language Pathologist SmartLogbook, Student's Daily Activity Chart, Assistive Technology Services CCSD Sign out Sheet, Complaint, CCSD Response to the Complaint)
 8. The Parent's allegation with regard to the student's access to the augmentative communication device was that the iPad was not sent to the student's school or home by

the ESY school after the end of the ESY, causing the student not to have access to it at the beginning of the 2019/2020 school year. The CCSD disputed this alleged noncompliance and provided documentation that the student's communication device was delivered to the student's teacher on August 29, 2019. There is no documentation that the Parent notified the CCSD prior to or at the commencement of the 2019/2020 school year that the iPad had not been returned to the Parent by the ESY school. (Complaint, CCSD Response to the Complaint, Assistive Technology Services CCSD Sign out Sheet, Review of the record)

9. It is uncontested that the student was provided school transportation by the CCSD with a driver on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM). However, the CCSD did not provide the requested written documentation on the provision of a one-to-one aide on the school bus on those dates. (Driver Daily Reports, Complaint, Response to the Complaint)
10. The Parent did not allege a denial of the opportunity to participate in the scheduled IEP meetings conducted in the 2019/2020 school year after August 17, 2019. At an IEP meeting on October 8, 2019, the Parent requested the frequency of the student's speech therapy services continue at direct 30 minutes per week during the school year and 15 minutes per week during ESY and the student's IEP Team agreed. (Speech Language Pathologist SmartLogbook, Confidential Status Record)
11. Prior to the closure of school due to the Covid-19 pandemic, there were 23 sessions of direct speech/language therapy provided to the student. The Parent declined teletherapy participation after the school closure. All of these direct speech/language therapy sessions were one-to-one, except for three sessions with two students and two sessions with three students. (SLP Service Log Reports from August 22, 2019 to March 10, 2020, March 26, 2020 Email Communication)
12. The student show "clear progress toward goals" in all of the sessions of direct one-to-one speech/language therapy and in all of the five direct sessions with another one or two students. (SLP Service Log Reports from August 22, 2019 to March 10, 2020)
13. On February 13, 2020 the Parent emailed the CCSD and informed the CCSD that the student was getting speech therapy in groups rather than one-to-one. The Parent informed CCSD that she and her husband were unaware of this as it had never been discussed at an IEP meeting and they understood that direct services meant one-to-one services. (Complaint, February 13, 2020 Email Communication)
14. On February 18, 2020, a CCSD speech/language pathologist responded to the Parent's February 13, 2020 email communication as follows: "Direct services mean that the SLP is working directly with the student, as opposed to consult services...Group size for therapy sessions is not an IEP team decision and it is up to the service provider to determine based on the individual needs of each student..." (February 18, 2020 Email Communication)
15. The student demonstrated progress from December 20, 2019 to May 20, 2020 based on the student's Quarterly Progress Reports as follows:

- a. The student's use of the iPad and the communication device were referenced in the Goals/Outcomes of functional communication and functional reading. (There was another goal in the area of physical education that included carrying the iPad.)
 - i. Functional Communication: The student went from unsatisfactory to satisfactory in the areas of operational competence and linguistic competence. Both, however, were noted in the comments as a "work in progress;" that is, the student was still working to increase this competence.
 - ii. Functional Reading: The student remained at an unsatisfactory level from the first to the third quarter. It was noted however, that the comment did not reference the iPad/communication device but rather commented on the student's progress identifying pictures.

16. The Parent did not provide any information during the course of this investigation to counter the CCSD's reports of the student's educational progress in the areas of speech/language and functional communication and reading. (Complaint, Review of the Record)

CONCLUSIONS OF LAW

Issue One:

Whether the CCSD complied with the IDEA and NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect in the 2019/2020 school year, specifically with regard to:

- a. Providing a one-to-one aide on the school bus on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM); and
- b. Providing the student access to an augmentative communication device at the beginning of the 2019/2020 school year.

The requirements of the provision of a FAPE to students with disabilities under the IDEA and the NAC, Chapter 388, necessitate that special education and related services and supplemental aids and services are provided in conformity with an IEP. NAC §388.281(6)(g); 34 C.F.R. §§300.17(d) and 300.101.

One-to-One Aide

The student's IEPs during the time period at issue in this Complaint provided the supplementary aid/service that staff would make sure the student was on a school bus with a driver and a bus aide every day school to home. (Finding of Fact (FOF) #4, FOF #5) The student was provided school transportation by the CCSD with a driver on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM). (FOF #9) While the CCSD did provide documentation in that regard, the CCSD did not provide the requested written documentation on the provision of a one-to-one aide on the school bus on those dates.

(FOF #9) As noted previously, the CCSD did not dispute the allegations of noncompliance with regard to the provision of a one-to-one aide on the school bus on the specified dates and, therefore, as set out in the Introduction to this Report, the CCSD is determined to have conceded this allegation by its failure to deny the alleged noncompliance; include a brief statement of the factual basis for the denial; and specifically reference the documentation provided to the NDE that factually supported the denial.

Augmentative Communication Device

The student's IEP in effect at the commencement of the school year required staff to allow and help the student use the student's augmentative communication device when the student was communicating throughout the school on the school campus. (FOFs #4, #6) This supplementary aid presumes the student's access to the augmentative communication device (iPad) and it is that access that is at issue in this Complaint.

Commencing with the student's December 4, 2017 IEP, the student's iPad was sent home at the end of the school week. (FOF #4) However, the iPad was required to travel back and forth to school for use at school. (FOFs #4, #5, #7) The Parent's allegation with regard to the student's access to the augmentative communication device was that the iPad was not sent to the student's school or home by the ESY school after the end of the ESY, causing the student not to have access to the device at the beginning of the 2019/2020 school year. (FOF #8)

The CCSD disputed this alleged noncompliance and provided documentation that the student's augmentative communication device was delivered to the student's teacher as of August 29, 2019 (FOF #7). The delivery of the iPad on that date still leaves a gap of approximately 13 school days from the commencement of the 2019/2020 school year on August 12, 2019 to August 29, 2019 that the student did not have access to the iPad at school. However, the situation in this case is not that simple given the iPad traveled between school and home. The resultant noncompliance appears to be based on a lack of communication between the CCSD and the Parent on the existence of an assigned iPad during that time period. (FOFs #7, #8)

Documentation was provided that the student did not have the student's iPad at school on August 14, 2019 and the CCSD reminded the Parent in writing on August 29, 2019 to send the iPad to school. It appears that August 29, 2019 was the first day the Parent and the CCSD communicated with regard to the missing iPad. That same day, the CCSD provided an iPad to the student. (FOFs #7, #8)

The requirements of the provision of a FAPE to students with disabilities under the IDEA and the NAC, Chapter 388, necessitate that special education and related services and supplemental aids and services are provided in conformity with an IEP that is in effect at the commencement of the school year. (NAC §388.281(6)(g), 34 C.F.R. §§300.17(d), 300.101, 300.323(a)) In this case, for approximately 13 school days at the commencement of the 2019/2020 school year, the student did not have access to the augmentative communication device for the staff to allow and help the student use the device when communicating throughout the school as required under the IDEA and the NAC.

In this case, there are mitigating factors relevant to the noncompliance. Specifically, the assigned iPad travelled between school and home; there was no evidence that the CCSD was notified prior to or at the commencement of the school year that the iPad had not been returned to the Parent by the ESY school, including after being asked to send the student's iPad to school on August 14, 2019 (FOFs #7, #8), and the circumstance of the student's enrollment in a new school in the CCSD for the 2019/2020 school year. (FOF #2) These mitigating factors will be considered in the ordered corrective action.

Therefore, the CCSD failed to comply with the IDEA and NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect in the 2019/2020 school year, specifically with regard to providing a one-to-one aide on the school bus on August 21, 2019 (AM); August 22, 2019 (AM); February 18, 2020 (PM); February 19, 2020 (PM); and February 20, 2020 (PM); and providing the student access to an augmentative communication device at the beginning of the 2019/2020 school year for approximately 13 school days.

Issue Two:

Whether the CCSD complied with the IDEA and the NAC, Chapter 388, with respect to the Parent's participation in the IEP meetings conducted to develop the student's IEP(s) from August 17, 2019 with regard to the specific nature of the related service of speech therapy; specifically, whether the provision of speech therapy to the student needed to be in a group or one-to-one.

Pursuant to the IDEA, 34 C.F.R. §300.501(b) 322(a)(2), and NAC §388.302(1), the parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child. The Parent does not allege a denial of the opportunity to participate in the scheduled IEP meetings conducted in the 2019/2020 school year after August 17, 2019. (FOF #10) This Complaint is with regard to the content of the student's IEP and the opportunity to participate as a member of the IEP Team in the determination of whether the student should receive speech/language therapy on a one-to-one or group basis.

With regard to the content of an IEP, the determination of the specific special education and related services and supplementary aids and services a student requires must be made on an individual basis by the IEP Team. NAC §388.284(1)(c); 34 C.F.R. §300.320(a)(4). The level of specificity required is dependent on such things as the individual student's needs, the service being provided, the particular format used in an IEP, and how the student's day and IEP are structured. "...What is required is that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP. (Discussion of the IDEA regulations: 71 Fed. Reg. pg. 46667 (Aug. 14, 2006))

A clear level of commitment is important: "...Moreover, in enacting the IDEA, Congress was as concerned with parental participation in the enforcement of the IEP as it was in its formation. See *Rowley*, 458 U.S. at 205 (discussing Congress's intent to "giv[e] parents and guardians a large measure of participation at every stage of the administrative process" (emphasis added)). Under the IDEA, parental participation doesn't end when the parent signs the IEP. Parents must be able to use the IEP to monitor and enforce the services that their child is to receive. When a parent is unaware of the services offered to the student -- and, therefore, can't monitor how these services are provided -- a FAPE has been denied, whether or not the parent had ample opportunity to participate in the formulation of the IEP." (*M.C. v. Antelope Valley Union High School District*, 858 F.3d 1189, 117 LRP 21748, (9th Cir. 2017). Amended decision. Cert. denied)¹

In this case, it is uncontested that the student received speech/language therapy. (FOF #11) Given the absence of a requirement that the provision of the direct speech/language therapy to the student was to be one-to-one, it is determined that the speech/language therapy **was** provided in accordance with the student's IEP. However, the Parents mistakenly believed that the provision of direct speech/language therapy meant the student would be receiving the specified speech/language therapy one-to-one and the absence of a clear statement in the student's IEP otherwise resulted in an inconsistent understanding between the Parents and the service provider on the level of the agency's commitment of resources. (FOFs #13, #14) It is that inconsistent understanding of the level of commitment that is at issue in this Complaint.

As noted previously the CCSD did not dispute the allegation of noncompliance with regard to the Parent's participation in the determination of this specific nature of the student's related service of speech/language therapy. Therefore, as set out in the Introduction to this Report, the CCSD is determined to have conceded this allegation by its failure to deny the alleged noncompliance; include a brief statement of the factual basis for the denial; and specifically reference the documentation provided to the NDE that factually supported the denial.

Given the Parent's proposed resolution of compensatory education for the absence of this clear commitment of resources in the student's IEP for speech/language therapy, it is noted that 78% of the time the student was provided the direct one-to-one speech/language therapy the Parent understood the CCSD had committed to in the student's IEP. (FOF #11) Upon an examination of the record of educational progress, the student demonstrated "clear progress toward goals" in all of the one-to-one sessions of direct speech/language therapy, as well as in the five sessions with another one or two students. (FOF #12) In addition, the student demonstrated satisfactory progress by the end of the 2019/2020 school year in the area of functional communication, and the student's Parent did not assert otherwise. (FOFs #15, #16)

It is important to note that the conclusion on this issue regarding the commitment of resources for speech/language therapy is limited to the facts of this case and this student and it is also not a substantive determination that the student requires speech/language therapy to be provided one-to-one. It is the student's IEP Team that must determine the specific nature of the speech/language therapy this student requires in order to be provided a FAPE and that determination has not yet been made by the student's IEP Team. (NAC §388.284(1)(c); 34 C.F.R. §300.320(a)(4))

¹ The State of Nevada is in the United States Court of Appeals, Ninth Circuit.

Therefore, the CCSD failed to comply with the IDEA and the NAC, Chapter 388, with respect to the Parent's participation in the IEP meetings conducted to develop the student's IEP(s) from August 17, 2019 with regard to the specific nature of the related service of speech therapy; specifically, whether the provision of speech therapy to the student needed to be in a group or one-to-one.

Order of Corrective Action

Student-Specific Remedy

In order to determine whether the remedy in this case requires the Parent's proposed resolution of compensatory education with regard to speech/language therapy and the augmentative communication device, the student's educational progress, or lack of it, is probative to determine whether the student's lack of access to the augmentative communication device for the first approximate 13 days of school and the student's participation in speech/language therapy in a group of two-three students in five of the 23 speech/language therapy sessions is more than a minor shortfall in the services set forth in the student's IEP:

Van Duyn v. Baker School District, 502 F.3d 811, 107 LRP 51958 (9th Cir. 2007). "There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation failures as denials of a free appropriate public education. ...we clarify that the materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child's reading achievement, that would certainly tend to show that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material...."

"A material failure to implement an IEP occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP..."

While it is determined in this case that the absence of the CCSD's clear commitment of resources for the student's speech/language therapy was inconsistent with the requirements of the IDEA and NRS/NAC, Chapter 388, the student received speech/language therapy in accordance with the student's IEP. Therefore, the lack of clarity in the student's IEP did not result in a failure to implement the student's IEP as written and does not warrant the student-specific remedy of compensatory services as requested by the Parent.

With regard to the CCSD's failure to provide the student access to an augmentative communication device in accordance with the student's IEP for the first approximately 13 days of the 2019/2020 school year, was this a material failure to implement the student's IEP? (*Van Duyn v. Baker School District*, 107 LRP 51958 (9th Cir. 2007)) With regard to the student's educational progress toward the IEP goals referencing the use of the augmentative communication device, the student

demonstrated satisfactory progress by the end of the 2019/2020 school year and the student's Parent did not assert otherwise. (FOFs #15, #16) Given the duration of this noncompliance, the student's educational progress, and the circumstances and nature of the noncompliance (FOFs #7, #8), it is determined that in this case the failure of the CCSD to provide the student access to an augmentative communication device for approximately 13 days at the commencement of the 2019/2020 school year did not result in a material failure to implement the student's IEP that requires a student-specific remedy of compensatory services. However, a systemic remedy is warranted.

Directed Action

While it was determined that the absence of the CCSD's clear commitment of resources with regard to the student's speech/language therapy in the student's IEPs did not constitute a material failure requiring compensatory services, the level of the agency's commitment of resources in the student's IEP must be clear to the student's Parents and other IEP Team members. Therefore, the student's IEP must be reviewed and revised by the student's IEP Team to determine if the student's individual needs require the student to receive direct speech/language therapy one-to-one as requested by the student's Parents in order to receive a FAPE. In addition, a student-specific order is warranted to address the absence of the required one-to-one aide on the school bus on some transportation days and to consider the integrity of the system of the iPad traveling between school and home.

Order: Accordingly, the CCSD is ordered to provide the Parents a meeting notice in accordance with NAC 388.281(8) within 10 school days of the receipt of this Report to schedule an IEP Team meeting to review and revise the student's IEP, as appropriate to address:

1. The specific nature of the related service of speech/language therapy to be provided to the student in order to provide the student a FAPE; specifically, whether the provision of direct speech/language therapy to the student must be one-to-one or may be in a group of students up to a specific number.
2. Whether additional provisions are required in the student's IEP to ensure there is no lapse in the implementation of the supplementary aid and service that staff will make sure the student is on a school bus with a driver and a bus aide every day school to home.
3. Whether additional provisions are required in the student's IEP to ensure the student's iPad and required attachments travel back and forth from school to home.

The student's IEP Team must conduct this ordered review and revision of the student's IEP, as appropriate, within 30 days of the Parent's receipt of the IEP meeting notice and agreement to a date for the conduct of the IEP meeting. Given this review of the student's IEP is after the student's annual IEP meeting and in recognition of the current closure of school buildings in the CCSD due to the Covid-19 pandemic, the CCSD may conduct this IEP meeting in any manner authorized under the IDEA and the NAC, Chapter 388. The CCSD must provide the NDE documentation of the completion of this directed action within 30 days of its completion.

Corrective Action Plan

In accordance with NRS §385.175(6), the NDE requests a systemic plan of corrective action (CAP) from CCSD within 25 school days for the school the student attended in the 2019/2020 school year to address the identified noncompliance of failure to implement the student's IEP and the lack of specificity of the student's IEP with regard to the commitment of speech/language therapy.

The CAP must be approved by the NDE prior to implementation and result in the completion of the plan no later than 90 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.