

**5 COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL082218)**

**Report Issued on October 19, 2018**

**INTRODUCTION**

On August 22, 2018 the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.; the IDEA regulations, 34 C.F.R. Part 300; Chapter 388 of the Nevada Revised Statutes; and the Nevada Administrative Code (NAC), alleging that the Clark County School District (CCSD) failed to provide an assistive technology device for the home use of a home schooled student with a disability thus denying the student a free appropriate public education (FAPE). The Parent's proposed resolution to the Complaint requested that the student be permitted to bring a communication device home. CCSD provided a Response to the Parent's Complaint and denied any violation of FAPE.

The Parent's Complaint as well as all documentation provided by CCSD in response to the complaint were reviewed and considered in their entirety in this investigation. The Findings of Fact cite the source(s) of the information deemed necessary to resolve the issues in this Complaint.

**COMPLAINT ISSUE**

The allegations in the Complaint that are under the jurisdiction of the Nevada Department of Education (NDE) to investigate through the special education complaint process raise the following issue for investigation:

**Issue:**

Whether CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, to provide a FAPE for the student, who is home schooled, regarding the student's access to an assistive technology device for at-home use.

**FINDINGS OF FACT**

1. The student, born 6/27/2007, is eligible for special education services pursuant to IDEA and NAC, Chapter 388, under the category of Autism Spectrum Disorder. (4/16/2018 Individualized Education Program (IEP))

2. The student is and was enrolled as a home school student by parental choice in the 2017-2018 school year for fifth grade and the 2018-2019 school year for sixth grade. (4/16/2018 Service Plan For Parentally Enrolled Children With Disabilities In Private/Home School (Service Plan); 4/16/2018 IEP)
3. An IEP Team meeting was conducted to develop an annual IEP on 4/16/2018. The IEP Supplementary Aids section indicates:

"Assistive technology is to be within hands reach of [student] at all times for communication. 4/16/2018-4/15/2018. Throughout School Day. Self Contained Classroom."

An assistive technology device is referenced in the following IEP Measurable Annual Goals:

"FUNCTIONAL LIFE SKILLS: By annual review [student] will (given [their<sup>1</sup>] communication device), point to the following survival signs: 1) exit 2) boy's restroom 3) girl's restroom 4) stop sign 5) red traffic light (stop) 6) green traffic light (go) 7) yellow traffic light (slow down/caution) 8) crosswalk 9) poison 10) no (universal sign for "no") achieving a criteria of 80% accuracy as measured by observation and documentation as implemented by the Speech Language Pathologist (SLP).

FUNCTIONAL COMMUNICATION: By annual review, [student] will expand use of [their] communication device to identify [themselves] (e.g., name, address, phone number) request objects and/or activities (e.g., ordering from a menu), and greet adults/peers achieving a criteria of 80% accuracy as measured by observation and documentation as implemented by the Speech Language Pathologist (SLP)." (4/16/2018 IEP)

4. At the 4/16/2018 IEP team meeting, Parent indicated her election to continue student's enrollment as a home school student and a Service Plan was developed. The Service Plan states:

"I have met with the IEP team and participated in the development of an IEP, which describes a Free and Appropriate Public Education for my child. However, I am electing to enroll my child at/in Home School (home school or name of private school). I understand that the Clark County School District does not have any obligation to provide a Free and Appropriate Public Education to children parentally placed in private or home school programs.

[Parent signature]."

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<sup>1</sup> The plural pronouns "they" and "their" and "themselves" are utilized throughout the Report in place of gendered pronouns to augment the anonymity of the student.

The following services were identified in a Service Plan:

"Speech/Language– direct. 4/16/2018-4/15/2019. 120 mpm. Speech Room/Sped.

Occupational Therapy- direct. 4/16/2018-4/15/2019. 60 mpm. School Campus."

The 4/16/2018 Service Plan is silent as to assistive technology. (4/16/2018 Service Plan)

5. Student is assigned to receive speech language services 30 minutes per week at a CCSD school. Log of services provided is silent as to provision of at-home assistive technology. (Service Log Report 8/22/2017-8/21/2018)
6. Parent asserts that in previous school years, the student was permitted use of a district-owned assistive technology device for use during speech language services and was allowed to bring this device home for at-home use. Parent further asserts, that subsequent to student's fifth grade year, CCSD advised Parent that as student transitioned to middle school for the student's sixth grade year, the assistive technology device would be available for speech language services but could not be taken home for at-home use. (8/22/2018 Special Education State Complaint (Parent Complaint))
7. CCSD asserts that the assistive technology device is being made available for student's speech language services at the public school where services are being provided consistent with district policy on the use of district-owned technology devices. (9/11/2018 CCSD Response to Special Education State Complaint (CCSD Response))
8. CCSD provides special education services to students with disabilities who have been placed in a private school or in a home school program by their parents through a Service Plan. The IEP team meets annually to develop an IEP for each parentally-placed private/home school student and the service plan for that student is provided consistent with that IEP. (CCSD Special Education Procedures Manual)
9. The CCSD Technical Support Document for Private/Home School Services Charter School Services For Students With Disabilities (CCSD Tech Support Document) provides guidelines for Multidisciplinary Teams and IEP teams in addressing situations where students with disabilities attend private schools or are home schooled. The CCSD Tech Support Document outlines private/home school students' with disabilities eligibility for special education and related services. The CCSD Tech Support Document indicates CCSD property and equipment are made available for student use at the public school nearest the attending private school or home and are not to be placed, or provided for use in, a private school or home. (CCSD Tech Support Document)

## CONCLUSIONS OF LAW

### Issue One:

Whether CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, to provide a free appropriate public education for the student, who is home schooled, regarding the student's access to an assistive technology device for at-home use.

State Educational Agencies (SEAs) have jurisdiction to investigate special education state complaints regarding parentally placed private school/home school students. 34 C.F.R. §300.140. This investigation is undertaken consistent with said authority.

To an extent consistent with the number of enrolled students, local school districts are to provide for the participation of parentally-placed home school students with disabilities and private schools students with disabilities in the special education programs of the district. NAC §288.219.

Parentally-placed private school students, including home schooled students, do not have an individual right to the special education and related services that the student would receive if they were enrolled in a public school. 34 C.F.R. §300.137. School districts, after consultation with private school officials and parents, decide what services will be provided to parentally-placed private school students with disabilities. 34 C.F.R. §300.134; 34 C.F.R. §300.137. Educational services are provided to these students with disabilities who are parentally placed in private settings, including home school settings, under a service plan, which is developed by the IEP team, including the student's parent. 34 C.F.R. §300.132; 34 C.F.R. §300.320.

IDEA requires that a FAPE must be made available for all eligible students residing in the district. 34 C.F.R. §300.101. However, school districts are not required to provide a FAPE or pay for an educational program provided to a parentally-placed private school student, including a home school student, when a FAPE has been made available to the student. 34 C.F.R. §300.137; 34 C.F.R. §300.148. Consistent with the requirements of the IDEA, a FAPE must be provided to a student who is placed *by the school district* in a private school setting. NAC §388.282 (*emphasis added*).

The uncontested facts underlying this state complaint indicate that the student is a parentally-placed home school student who is receiving special education services, including speech language services under a Service Plan. (Findings of Fact (FOFs) #2, #4, #5) It is uncontested that the student is provided an assistive technology device for use during the speech language services at the public school. (FOF #6, #7)

Consistent with district procedures, an IEP team met to develop an IEP for the student and, upon confirmation by the Parent of her intent to continue home schooling the student, a service plan was developed that is in place to date and that is silent on the issue of assistive technology use in the home. (FOF #3, #4, #8) Existing school district

procedures provide that parentally-placed private/home school students, will be afforded use of district-owned technology at the public school setting to which they are assigned for services. (FOF #9) Consistent with the district's stated policy, the student is provided an assistive technology device for use in the public school setting where speech language services are provided. (FOF #5, #6, #7) Parent's uncontested assertion that the student was previously allowed to use a district-owned assistive technology device at home does not create a right that otherwise does not exist in relevant law or policy/procedure. Furthermore, Parent's signature on the student's existing Service Plan indicates her acknowledgment that the Service Plan did not create an obligation for the CCSD to provide the student a FAPE. (FOF #4) The law requires no more.

*Therefore, CCSD complied with the requirements of the IDEA and the NAC, Chapter 388, with regard to the provision of special education services to the student who is a parentally-placed home school student.*