

COMPLAINT INVESTIGATION
LYON COUNTY SCHOOL DISTRICT
(#LY101117)
Report Issued on December 8, 2017

INTRODUCTION

On October 11, 2017, the Nevada Superintendent of Public Instruction received a Complaint dated September 29, 2017 from a Parent alleging violations in the special education program of a student with a disability enrolled in the Lyon County School District (LCSD). The Parent alleged violations of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 et seq.; 34 C.F.R. Part 300, or Chapter 388 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC) with regard to the LCSD Director of Special Education obstructing the Parent's email communication on September 15, 2016 and September 29, 2017 with the student's IEP Team and the LCSD's failure to implement the student's Individualized Education Program (IEP), specifically with regard to completing homework that required a written summary; providing books in audio format; and, while providing information on what standard was taught, not providing information on how the student was doing on the standard related to the student's "MAPS" goals.

The IDEA and the NAC, Chapter 388, require that a Complaint must allege a violation that occurred not more than one year prior to the date that the Complaint was received. (34 C.F.R. §300.153(c); NAC §388.318(1)(b)) Therefore, the allegation with regard to the Parent's communication on September 15, 2016 was not within the mandatory time limitation of the complaint process and was not accepted for investigation by the Nevada Department of Education (NDE). The Parent was also informed that while the allegation regarding the Parent's email communication on September 29, 2017 with the LCSD Director of Special Education was accepted for investigation as it related to a violation of the IDEA and/or NAC, Chapter 388, the NDE did not have jurisdiction over a local educational agency's general communication policy between a parent and school personnel.

The Parent's allegations regarding the LCSD's failure to implement the student's IEP provided sufficient information to be accepted for investigation. However, given the absence of dates in the Complaint supporting the allegation, the NDE's October 18, 2017 communication to the Parent on the statement of issues requested that the Parent submit any documentation that supported the LCSD's failure to implement the IEP on any date during the time period of this Complaint. The Parent did not respond to the request for additional information or to the statement of issues for investigation. Therefore, this investigation of the Parent's allegations of noncompliance was reliant on reasonable interpretation of the minimal facts in the Complaint relative to the October 18, 2017 statement of issues.

The Complaint and all documents submitted by the LCSD in response to the NDE's request for additional information relevant to the issues in the Complaint were reviewed in their entirety in

this investigation. The Complaint Investigator also received, collected and reviewed additional information as needed during the investigation. The Findings of Fact cite the source of the information determined necessary to resolve the issues in this Complaint.

COMPLAINT ISSUES

The allegations in the Complaint under the jurisdiction of the NDE to investigate through the special education complaint process, as clarified through the investigation, raise the following issues for investigation:

Issue One: If the Parent's written communications on September 27, 2017 and September 29, 2017 with the LCSD Director of Special Education were a request to reconvene the student's IEP Team to review and revise, as appropriate, the student's IEP, whether the LCSD complied with the IDEA and the NAC, Chapter 388, and either provided a Prior Written Notice (PWN) or convened the student's IEP Team.

Issue Two: Whether the LCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect from October 11, 2016 to September 29, 2017, specifically:

- a. Measuring and reporting the student's progress on the Measurement of Academic Progress (MAP) goal(s);
- b. The completion of homework with a written summary; and
- c. Providing books in audio format.

FINDINGS OF FACT

General

1. The student was enrolled in the LCSD during the time period of this Complaint. The 2016/2017 school year ended on May 26, 2017 and the 2017/2018 school year commenced on August 31, 2017. (2016/2017 Special Services School Calendar, 2017/2018 School Calendar, IEPs)
2. The student had an October 13, 2015 annual IEP scheduled to be in effect until October 13, 2016. The LCSD developed and implemented an October 13, 2016 IEP. However, the Parent filed a Due Process Complaint on November 18, 2016 contesting this IEP. In the resultant February 21, 2017 hearing decision, the Hearing Officer determined the completed October 13, 2016 IEP was procedurally improper and ordered the LCSD to implement the student's October 13, 2015 IEP, with the exception of specifically described modifications, until such time as a new IEP could be developed with Parent participation. (The modifications relevant to this Complaint are noted in the pertinent Finding of Fact.) The Hearing Officer's decision was upheld by the State Review Officer on appeal. A new IEP was developed for the student on April 26, 2017 and was to be implemented on that same day. (October 13, 2015, October 13, 2016 and April 26, 2017

IEPs, February 21, 2017 Hearing Officer and April 7, 2017 State Review Officer Decisions)

3. The student's placement in all of the IEPs in effect during the time period of this Complaint designated the student's placement in regular class and special education (e.g. resource) combination. The percentage of time the student was to spend in the regular education environment was 83% of the student's school day in the October 13, 2016 and April 26, 2017 IEPs and 82% in the October 13, 2015 IEP. The student's October 13, 2015 and October 13, 2016 IEPs did not provide extended school year for the student. The student's April 26, 2017 IEP provided extended school year in the goal areas of reading, writing and math. (October 13, 2015, October 13, 2016 and April 26, 2017 IEPs, February 21, 2017 Hearing Officer Decision)

September 27, 2017 and September 29, 2017 Communications

4. The Parent contacted the LCSD in an email communication on September 27, 2017. This communication resulted in a string of emails between the Parent and the LCSD on September 29, 2017. In relevant part:
 - a. On September 27, 2017, the Parent sent an email communication collectively to named LCSD members of the student's IEP Team; the LCSD Director of Special Education; and the Center for Self-Determination. The subject line for the email was: "IEP violation." The Parent expressed her concern in the email that the student was to have audiobooks and a word processor per the Hearing Officer's request and this was being denied. In addition, the Parent indicated she was being sent what the student was being taught, but not a document on how the student did on the standard. The Parent asked that these matters be corrected. The Parent also requested a written notice in advance of the upcoming IEP meeting on what would be changing in the IEP and any supporting documentation to help her prepare for the meeting. With regard to the document on the student's developmental history, the Parent informed the LCSD that it had not changed and the Parent was not in a position to complete the document. (September 27, 2017 Email from the Parent to the LCSD, September 20, 2017 Notification of Meeting)
 - b. On September 29, 2017, the LCSD Director of Special Education responded to the Parent's email communication. The Director informed the Parent that the student's general education and special education teachers stated that the student was using a word processor and had access to audiobooks and that the special education teacher was working to access more books. Restating what was in the student's IEP, the Director indicated that she did not see in the student's IEP that the LCSD was to provide how the student was doing on the standards. The Director also informed the Parent that the LCSD was not proposing to make any changes to the IEP at the upcoming IEP meeting, but would be discussing eligibility, per the Parent's request, and discussing the results of the two additional assessments for assistive technology and physical therapy. The Director provided a copy of the notice for the October 18, 2017 IEP meeting; assured the Parent that a new notice would be provided if there needed to be any additions; that the Parent would be provided the testing

results before the meeting; and that the Director would obtain the developmental history previously provided by the Parent. (September 29, 2017 Email from the LCSD to the Parent, September 20, 2017 Notification of Meeting)

- c. On September 29, 2017, the Parent responded by email communication to the Director's email with the same subject line, "IEP violation." The Parent expressed her disagreement with some of the things the Director said, such as the Director speaking for the entire team and that a parent is not allowed to receive information on how a child is doing in meeting the standards being taught. The Parent questioned why there is no homework support because the student is expected to do handwritten summaries and read paperback books, when this was not recommended, and the student's disability affected receptive language which caused difficulties at home with homework. (September 29, 2017 Email from the Parent to the LCSD)
- d. On September 29, 2017, the Director responded to the Parent that she believed the teachers communicated with the Parent on a weekly basis per the IEP, but since the Parent included the Director in the allegation of IEP violations, it made sense that the response would come from the Director and helped to eliminate multiple emails and confusion. The Director informed the Parent that the Parent's concerns could be discussed at the meeting on October 18, 2017 with the IEP Team to "make sure we are all on the same page." (September 29, 2017 Email from the LCSD to the Parent)

Implementation

Measuring and Reporting Progress on MAP Goals

5. The Parent's allegation in this Complaint with regard to the student's MAP IEP goals was that the LCSD failed to monitor the student's progress and she did not receive information on how the student measured on the goal standard. The Parent's proposed resolution was to receive a written explanation on how the student did on meeting the standard taught. (Complaint)
6. The MAP is a national assessment tool used to measure progress in different curriculums. (February 21, 2017 Hearing Officer's Decision, Finding of Fact #19)
7. Relevant to the time period of this Complaint, the student was administered the MAP assessments in reading and math in Fall 2016, Winter 2017, Spring 2017, and Fall 2017. The MAP assessments for reading and math are not always administered on the same dates. (MAP Student Progress Reports and Student Goal Setting Worksheets, Response of the LCSD)
8. The student's October 13, 2015 IEP included an annual goal on the improvement of the student's reading skills and an annual goal on the improvement of math skills and both goals included the MAP assessments as one of three methods of measurement. (October 13, 2015 IEP)

9. The student's disputed October 13, 2016 IEP included the student's Fall 2016 MAP assessment results in reading and math and maintained the measurement of the MAP assessment in the student's reading goal and the student's math goal. The goals were written to include the Fall 2016 MAP assessment score as the current score and, as the standard, the score the student would attain by the end of the year as measured by the Spring MAP assessment. The Parent did not participate in the development of this IEP, but was provided a copy of the IEP on October 17, 2016. (October 13, 2016 IEP, February 21 Hearing Officer's Decision, Finding of Fact #14)
10. The February 21, 2017 Hearing Officer's decision ordering the implementation of the October 13, 2015 IEP until the student's IEP was revised did not impact the student's October 13, 2015 reading and math goals with MAP as a method of measurement. The Spring 2017 MAP assessment would have been the first MAP assessment after the effective date of the Hearing Officer's decision. (February 21, 2017 Hearing Officer's Decision and Order)
11. The April 26, 2017 IEP included the student's Spring 2017 MAP assessment results in reading and math and maintained the measurement of the MAP assessment in one of the student's reading goals and one of the student's math goals. The goals were written to include the Spring 2017 MAP assessment score and, as the standard, the score the student would attain by the end of the year as measured by the Spring MAP assessment (2018). The Parent participated in the development of this IEP and was provided a copy of the IEP on that same day. (April 26, 2017 IEP)
12. All of the IEPs in effect during the time period of this Complaint specified that the method for reporting the student's progress toward meeting annual goals was through specialized Progress Reports and the LCSD report card on a quarterly basis. The Parent did not contest receiving the quarterly report cards or the Progress Reports in this Complaint. (Complaint, October 13, 2015, October 13, 2016 and April 26, 2017 IEPs)
13. The LCSD administered MAP assessments three times a year during the time period of this Complaint: Fall, Winter, and Spring. The student's MAP assessment results were as follows:
 - a. Fall 2016, the student's math score was 203 and reading score was 202;
 - b. Winter 2017, the student's math score was 203 and reading score was 203;
 - c. Spring 2017, the student's math score was 210 and reading score was 210. The student's reading score of 210 was one point higher than the goal standard to be achieved in the student's October 13, 2016 IEP and four points higher than the grade level goal for students in the same grade. The student's math score of 210 was four points lower than the grade level goal for students in the same grade; and
 - d. Fall 2017, the student's math score was 216 and reading score was 210. The testing window for the Fall 2017 MAP assessment was until December 2017. The student was administered the Language Arts assessment on September 27, 2017 and the MAP math assessment on October 4, 2017. (MAP Growth- Student Progress Reports, November 16, 2017 LCSD Email Response, MAP data, April 26, 2017 IEP November 17, 2017 LCSD Response, October 10, 2016 IEP)

14. The student's October 13, 2016 IEP was in effect two days after the commencement of the time period of this Complaint. The LCSD issued Progress Reports as follows in the 2016/2017 school year commencing January 2017:
 - a. A January 17, 2017 Progress Report was issued approximately three months after the implementation of the disputed October 16, 2016 IEP. The Progress Report included comments on the progress of the student toward meeting the annual reading and math goals and goal status. Although the measurement in the student's IEP for these goals was the Spring MAP assessments that had not yet occurred, the Progress Report indicated in overall comments that the student was currently working on completing the reading MAP assessment at the time of the Report and included a MAP math score. The Progress Report contains an apparent error since the available Fall 2016 MAP math score was 203, not the reported 202. The student's disputed October 13, 2016 IEP provided to the Parent included the accurate MAP assessment scores in math and reading for the Fall 2016 MAP assessments.
 - b. The March 31, 2017 Progress Report spanned the time period during which both the October 13, 2016 and the October 13, 2015 IEPs were in effect as ordered by the Hearing Officer's February 21, 2017 decision. This Progress Report included comments on the progress of the student toward meeting the annual reading and math goals and goal status and reported the student's MAP scores for math and reading. The Progress Report contains an apparent error since the student's available Winter 2017 score in reading was 203, not the reported 201. Based on the numerical score only, the Progress Report reflects the Spring 2017 MAP score for math. The Spring 2017 reading assessment was administered to the student after the issuance of this Progress Report, in April 2017. (October 16, 2016, January 17, 2017 and March 31, 2017 Progress Reports, November 17, 2017 LCSD Response, October 13, 2016 and April 26, 2017 IEPs, Response of the LCSD, Review of the Record, and February 21, 2017 Hearing Officer's Decision, Finding of Fact #14)
15. The student's April 26, 2017 IEP was in effect for only one month of the 2016/2017 school year. Three months after the effective date of the April 26, 2017 IEP would have been October 2017, after the date of the Parent's Complaint. (2016/2017 Special Services School Calendar, 2017/2018 School Calendar)

Completion of Homework with a Written Summary

16. None of the student's IEPs in effect during the time period of the Complaint included a special education service, supplementary aid and service or related service for the student with regard to the completion of homework with a written summary. The student's October 13, 2016 and April 26, 2017 IEPs did include a short-term objective that when given a grade level story, drama or poem, the student will write a summary of the text as measured by teacher observation. (October 13, 2015, October 13, 2016 and April 26, 2017 IEPs, February 21, 2017 Hearing Officer's Decision)
17. The Parent proposed remedy in the Complaint was for the student to be provided assistive technology support for homework, specifically a laptop. (Complaint)

Provide Audiobooks

18. All of the student's IEPs in effect during the time period of the Complaint included the supplementary aid and service of audiobooks to be provided to the student daily, with the location of services designated as schoolwide. This supplementary aid is retained in the student's current IEP. (October 13, 2015, October 13, 2016, and April 26, 2017 IEPs, November 1, 2017 Data Collection Tool, February 21, 2017 Hearing Officer's Decision)
19. The issue of the implementation of the supplementary aid of audiobooks in the student's October 13, 2016 IEP was not before the Hearing Officer. The Hearing Officer did find factually in the February 21, 2017 hearing decision that audiobooks were available to the student in the regular classroom after the development of the October 13, 2016 IEP. The February 21, 2017 hearing decision was appealed by the LCSD and the issues on appeal included the awarded remedy; however, the accuracy of this Finding of Fact was not in dispute. With regard to the disputed October 13, 2016 IEP and the remedy that the October 13, 2015 IEP would remain in effect until revised, the Hearing Officer ordered that audiobooks be made available to the student within five days of the LCSD's receipt of the decision until modified at an IEP review. (February 21, 2017 Hearing Decision, Finding of Facts #23, #28, Order, Issue 3(h) and April 7, 2017 State Review Officer Decision)
20. In the course of the investigation, the Complaint Investigator requested documentation from the LCSD that the student was provided audiobooks on a daily basis and school wide in accordance with the IEPs in effect during the time period of this Complaint. The LCSD was unable to provide a system of records documenting the implementation of the student's IEPs in this regard during the time period of this Complaint. The LCSD Director of Special Education did provide a photograph of audiobooks available for the student to use in the resource room and indicated that the student's general education classroom also had a bin of audiobooks for the student to use. The student also had access to Bookshare, an online library of digital books in accessible forms, at some point during the time period of this Complaint. However, the LCSD could not access and provide documentation of the student's use of the Bookshare application. (November 12, 2017 LCSD Email, Bookshare Website, November 12, 2017 LCSD Email)
21. In the February 21, 2017 hearing decision, the Hearing Officer accorded the LCSD Director of Special Education a high degree of credibility. (February 21, 2017 Hearing Officer's Decision, Finding of Fact #8)
22. On April 27, 2017, the LCSD provided the Parent the website address, user name and password for the student to access audiobooks at home. (April 27, 2017 LCSD Email to the Parent)
23. The LCSD met with the student's Parent on November 1, 2017 and developed a data collection tool for the student that was reportedly implemented as of November 6, 2017 to document the provision of the student's IEP services. The data collection tool included a supplemental and accommodations checklist on the delivery of services for each day during the school week, including audiobooks. (November 1, 2017 Data Collection Tool, LCSD November 6, 2017 Email)

CONCLUSION OF LAW

Issue One: If the Parent's written communications on September 27, 2017 and September 29, 2017 with the LCSD Director of Special Education were a request to reconvene the student's IEP Team to review and revise, as appropriate, the student's IEP, whether the LCSD complied with the IDEA and the NAC, Chapter 388, and either provided a PWN or convened the student's IEP Team.

Pursuant to the IDEA, 34 C.F.R. §300.324(b)(1), and NAC §388.281(6)(a), each public agency must ensure that the IEP Team reviews a student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and revise it, as appropriate. If the Parent's communications with the LCSD on September 27, 2017 and September 29, 2017 were a request for the IEP Team to review the student's IEP, the LCSD was required to either convene the student's IEP Team to review the student's IEP or provide the Parent with a PWN on its refusal to change the provision of a free appropriate public education to the student pursuant to the IDEA, 34 C.F.R. 300.503, and NAC §388.300.

The Parent's communications with members of the student's IEP Team, the LCSD Director of Special Education and the Center for Self-Determination on September 27, 2017 and September 29, 2017 were regarding the Parent's perceived violations of the student's IEP. While the Parent did also express concerns regarding homework support for the student, an IEP Team meeting for the student was already scheduled for October 18, 2017 and the Director informed the Parent that the Parent's concerns could be discussed at this scheduled IEP Team meeting. (Finding of Fact (FOF) #4) Therefore, it is determined that the Parent's communications on September 27, 2017 and September 29, 2017 with the LCSD were not a request to reconvene the student's IEP Team to review and revise, as appropriate, the student's IEP. As such, the LCSD's responses to these communications did not violate the IDEA or the NAC, Chapter 388. While the Parent did not agree with the designation of the individual to respond to her concerns on behalf of the LCSD, this designation was a matter of local discretion. The NDE has no jurisdiction over such general communication policy.

Therefore, the LCSD complied with the IDEA and the NAC, Chapter 388, in that the Parent's written communications on September 27, 2017 and September 29, 2017 were not a request to reconvene the student's IEP Team. The designation of an individual to respond to the Parent's communications is a matter of local discretion.

Issue Two: Whether the LCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect from October 11, 2016 to September 29, 2017, specifically:

- a. Measuring and reporting the student's progress on the MAP goal(s);
- b. The completion of homework with a written summary; and
- c. Providing books in audio format.

The requirements of the provision of a free appropriate public education to students with disabilities under the IDEA and the NAC, Chapter 388, necessitate that special education and

related services are provided in conformity with an IEP. (NAC §388.281(6)(g), 34 C.F.R. §§300.17(d) and 300.101) Further, the LCSD was required to establish a system of records for the purpose of verifying that each student identified as a student with a disability received services appropriate to the disability pursuant to the NAC §388.215(5).

Three IEPs were in effect for the student during the time period of this Complaint. The student had an October 13, 2015 IEP that was subsequently revised by an October 13, 2016 IEP that was the subject of the Parent's November 18, 2016 Due Process Complaint. The Hearing Officer's February 21, 2017 hearing decision ordered the student's IEP to revert to the student's October 13, 2015 IEP, with some exceptions, until the student's IEP was revised with Parent participation. The student's IEP was revised with Parent participation on April 26, 2017. (FOF #2)

Measuring and Reporting Progress on MAP Goals

In accordance with the IDEA, 34 C.F.R. §300.320(a)(3)(ii), and NAC §388.284(1)(h), a student's IEP must include a description of how the student's progress toward meeting the annual goals will be measured; and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

In this case, the student's IEPs in effect during the time period of this Complaint specified that the method for reporting the student's progress toward meeting annual goals was through specialized Progress Reports and the LCSD report card on a quarterly basis. (FOF #12) Given this issue relates to the student's progress on the IEP MAP goals, it is the quarterly specialized Progress Reports on the student's IEP goals that are the subject of this Complaint. The Parent did not contest receiving the quarterly Progress Reports from the LCSD. Rather, the Parent alleged the LCSD failed to monitor the student's progress on the MAP goals and provide information on how the student measured on the goal standard. (FOFs #5, #12)

The only goals in the student's IEPs that included the measurement of progress using the MAP assessment were the student's reading and math goals; therefore, those are the goals at issue in this Complaint. While the October 13, 2015 IEP did not cite the time period for the administration of the MAP assessment, the Spring MAP assessment was used as the only standard for the achievement of these goals by the end of the year in the October 13, 2016 and April 26, 2017 IEPs. (FOFs #8, #10, #11)

The MAP is a national assessment tool used to measure progress in different curriculums. (FOF #6) Relevant to the time period of this Complaint, the student was administered the MAP assessments in reading and math in Fall 2016, Winter 2017, Spring 2017, and Fall 2017. (FOF #13) Therefore, the LCSD did comply with the IDEA, 34 C.F.R. §300.320(a)(3)(ii), and NAC §388.284(1)(h), in measuring the student's progress toward meeting the annual MAP goals in the student's IEP. It is the reporting aspect of this issue that was complicated in this case, particularly given the required quarterly reporting period for the student's IEPs did not align with the dates the MAP assessments were administered to the student. (FOFs #13, #14)

Given the student's October 13, 2016 IEP was in effect two days after the commencement of the time period of this Complaint and in the absence of information from the Parent otherwise

(FOF #14), the Complaint Investigator determined that the quarterly Progress Reports from January 2017 until October 11, 2017 were relevant to this Complaint. The LCSD did issue progress reports on the student's IEP on January 17, 2017 and March 31, 2017 (FOF #14) and, as such, the LCSD did report on a quarterly basis. The March 31, 2017 Progress Report was the last Progress Report in the 2016/2017 school year prior to the revision of the student's IEP on April 26, 2017. (FOFs #14, #15) The first quarterly Progress Report for the April 26, 2017 IEP would have been after the date of the Parent's Complaint (FOF #15) and is not within the scope of this investigation.

Both the January 17, 2017 and March 31, 2017 Progress Reports included comments on the progress of the student toward meeting the annual reading and math goals with the MAP assessment standard and the goal status. The Progress Reports also included the student's current MAP assessment score in reading and math. It is of concern to the Complaint Investigator that the Progress Reports did not clearly describe the time period of the cited MAP scores and included an error on the reported score. (FOF #14) This lack of clarity confounds the monitoring of the student's progress toward the MAP goals and may have been the source of the Parent's belief that noncompliance had occurred. Nevertheless, the LCSD did report on the student's progress on the reading and math goals as required by the student's IEPs and provided the correct Fall 2016 and Spring 2017 MAP scores in the student's October 13, 2016 and April 26, 2017 IEPs. (FOFs #9, #10, #11, #14)

As a final matter, it was the Spring MAP assessment for the IEPs in effect during the time period of this Complaint that the LCSD was required to administer to measure the achievement of the student on the reading and math goals. (FOFs #9, #11) The March 31, 2017 Progress Report provided the student's Spring 2017 MAP math score. The Spring 2017 MAP assessment for reading was administered after the issuance of this Progress Report. (FOF #14) However, the MAP reading score was available by the date of the April 26, 2018 IEP meeting. The student's April 26, 2017 IEP included the student's Spring 2017 math and reading MAP assessment results with the scores and an explanation for both. The student's Spring 2017 MAP scores are also included in the student's reading and math goals as the current score. (FOF #11) The Parent participated in the development of this IEP and was provided a copy of the IEP on that same day. Upon consideration of the totality of facts in this case, the LCSD measured and reported information to the Parent on how the student was doing toward meeting the student's reading and math goals that used the MAP score as the measurement standard.

Therefore, the LCSD complied with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect from October 11, 2016 to September 29, 2017 with regard to measuring and reporting the student's progress on the MAP goal(s).

Completion of Homework with a Written Summary

Given that the Parent's proposed remedy with regard to this issue was for the provision of a new support for the student in the completion of homework with a written summary, it was determined that it was the provision of services to the student at issue in this Complaint. The student's October 13, 2016 and April 26, 2017 IEPs did include a short-term objective for the student that when given a grade level story, drama or poem, the student would write a summary of the text as measured by teacher observation. However, none of the student's IEPs

in effect during the time period of the Complaint included a special education service, supplementary aid and service or related service for the student on the completion of homework with a written summary. (FOF #16, #17)

Therefore, given the absence of a requirement in the student's IEP(s) in effect from October 11, 2016 to September 29, 2017 regarding the provision of services for the completion of homework with a written summary, the LCSD complied with the IDEA and the NAC, Chapter 388, in implementing the student's IEPs in this regard.

Provide Audiobooks

All of the student's IEPs in effect during the time period of the Complaint included the supplementary aid and service of audiobooks to be provided to the student daily, with the location of services schoolwide. This supplementary aid of audiobooks is maintained in the student's current IEP. (FOF #18) With regard to the disputed October 13, 2016 IEP and the remedy that the October 13, 2015 IEP would remain in effect until revised, the Hearing Officer ordered that audiobooks be made available to the student within five days of the LCSD's receipt of the decision until modified at an IEP review. (FOF #19)

The issue of the implementation of the supplementary aid of audiobooks in the student's October 13, 2016 IEP was not before, and decided by, the Hearing Officer. However, in the course of resolving the hearing issues, the Hearing Officer did find that audiobooks were available to the student in the regular classroom after the development of the October 13, 2016 IEP and that Finding of Fact was adopted in this Complaint. (FOF #19) Given that the student's October 13, 2016 IEP required that audiobooks be provided to the student daily and throughout the school, the Hearing Officer's finding on the availability of audiobooks to the student in the location of the general education classroom was not enough to resolve this issue for the applicable hearing time period and, as such, the issue remained within the scope of this investigation. (34 C.F.R. §300.152(c)(2), NAC §388.318)

In the course of the investigation, the Complaint Investigator requested documentation from the LCSD that the student was provided audiobooks on a daily basis and school wide in accordance with the IEPs in effect during the time period of this Complaint. Based on a photograph provided during the course of the investigation, there are audiobooks currently available in the student's resource room. The LCSD Director of Special Education asserts the student had access to these audiobooks and a bin of audiobooks in the general education classroom during the time period of the Complaint and these assertions are credible. In addition, the student had access to Bookshare, an online library of digital books in accessible forms, at some point during the time period of this Complaint. (FOFs #3, #20, #22)

However, except for the approximately two months the Hearing Officer's decision was in effect, the requirement in the student's IEPs was to be provided audiobooks daily and schoolwide, not simply to have access to available audiobooks. The LCSD was unable to produce any documentation recorded at or near in time to the provision of audiobooks to the student (or availability of audiobooks to the student during the approximately two months the Hearing Officer's decision was in effect) that was reflective of a system of records to verify that the student was provided this service determined to be appropriate to the disability. In the absence of the required documentation pursuant to NAC §388.215(5) to demonstrate the

implementation of this requirement in the student's IEPs in effect during the time period of this Complaint, it is determined that the LCSD failed to provide the student the required supplementary aid of audiobooks.

Therefore, the LCSD failed to comply with the IDEA and the NAC, Chapter 388, with regard to implementing the student's IEP(s) in effect from October 11, 2016 to September 29, 2017 with regard to the supplementary aid of books to the student in audio format.

ORDER FOR CORRECTIVE ACTION

The LCSD is required to take corrective action to address the violation found in this Complaint investigation, specifically with regard to the provision of books to the student in audio format. Upon consideration of the degree of the student's access to audiobooks during the time period of this Complaint; the fact that the student's MAP score in reading in Spring 2017 was one point higher than the goal standard to be achieved in the student's October 13, 2016 IEP and four points higher than the grade level goal for students in the same grade; and the provision of extended school year in the goal area of reading in the student's April 26, 2017 IEP (FOFs #3, #13, #18, #19, #20, #21, #22), it is determined that no student specific remedy is required.

However, given the determined absence of a system of records to verify the provision of audiobooks to the student and the retention of this supplementary aid in the student's current IEP (FOF #18), a remedy is required to ensure the LCSD establishes a system of records to verify the provision of audiobooks to the student prospectively in accordance with NAC §388.215(5). The LCSD proactively met with the student's Parent on November 1, 2017 and developed a data collection tool to document the provision of the student's IEP services. The data collection tool included a supplemental and accommodations checklist on the delivery of services for each day during the school week, including audiobooks. It was reportedly implemented as of November 6, 2017 (FOF #23)

On the condition that the NDE receives the documentation ordered below on the implementation of the data collection tool, the NDE approves the LCSD's corrective action plan of the November 1, 2017 data collection tool as the remedy to establish a process and a system of records to verify the implementation of the student's current IEP.

Within 30 days of the receipt of this Report, the LCSD is directed to provide the NDE the student's current IEP and documentation of the implementation of this data collection tool with regard to, at least, the verification of the provision of audiobooks to the student as required by the student's current IEP for the 'snapshot' period of December 11, 2017 to December 22, 2017. The NDE's receipt of a copy of the student's current IEP and documentation of the implementation of the adopted system of records and verification of the provision of the supplementary aid of audiobooks to the student during this 'snapshot' period will satisfy the ordered corrective action plan for this Complaint.