

**COMPLAINT INVESTIGATION  
WASHOE COUNTY SCHOOL DISTRICT  
(#WA052021)  
Report Issued on July 14, 2021**

**INTRODUCTION**

On May 20, 2021, the Nevada Superintendent of Public Instruction received a State Complaint dated May 13, 2021, from a Parent alleging violations by Washoe County School District (WCSD) in a student's special education program. The allegations in the Complaint were that WCSD violated the Individuals with Disabilities Education Act (IDEA) and Nevada Administrative Code (NAC), Chapter 388, by failing to provide the student's education record upon the Parent's request, specifically the student's medical record including doctors' orders, and failed to follow the current doctors' orders dated May 5, 2021 and May 12, 2021 by maintaining inconsistent diagnoses in the medical records in the student's education record. The Parent's proposed resolutions were to provide the Parent(s) all of the student's medical records in the education record, remove inaccurate medical descriptions, and update the student's medical file with the current doctors' orders.

The Parent was informed that NDE does have jurisdiction over the allegation regarding the denial of access to the medical records in the student's education record, but neither has jurisdiction over the allegation that the diagnostic information in the student's record is inaccurate nor the authority to order an amendment of a student's education records through the state complaint process. The Parent was informed that there is a local process for a parent who believes that information in the education record of their child that are collected, maintained, or used under the IDEA is inaccurate or misleading, 34 C.F.R. §300.618, and was referred to WCSD for information on how to request an amendment of inaccurate or misleading information in the student's education records.

In the June 2, 2021 issue letter to WCSD, NDE requested additional documents and information in order to investigate the State Complaint. WCSD was notified in that same correspondence that if WCSD 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 NDE that factually supported the denial and that a failure to do so by June 16, 2021 or an extended timeline authorized by NDE, would be considered a concession of noncompliance for purposes of this State Complaint. WCSD did timely respond and dispute the allegations of noncompliance in the Complaint in their entirety and specifically referenced the documents relevant to that denial. In a June 17, 2021 email, NDE requested additional information from WCSD regarding the timing of an IEP meeting originally scheduled for April 20, 2021, and referenced in Parent's State Complaint. WCSD provided the additional information on June 22, 2021.

The date of the Parent's request for access to the student's education records was not provided in the State Complaint and NDE received no response to a telephone message from the NDE's independent investigator for that information. Thereafter, in the June 2, 2021 issue letter to the Parent, NDE requested that the Parent provide a copy of the request for access submitted through the WCSD website to NDE by June 16, 2021. Although the Parent did not provide information related to the timing of the Parent's request for education records, the information provided by WCSD included the sought-after documents that specified, down to the minute, the timing of the Parent's request for access to the student's education records.

The Parent's State Complaint, WCSD's denial of all claims, and all documents submitted by WCSD in

response to the issues in the Complaint 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.

## **COMPLAINT ISSUE**

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

### **Issue:**

Whether WCSD complied with the requirements of the IDEA and NAC, Chapter 388, with regard to permitting the Parent to inspect and review the medical records and doctors' orders in the student's education record without unnecessary delay and in no case more than 45 days after the request was made in May 2021 through the WCSD website.

## **FINDINGS OF FACT**

### **General**

1. The student is a student with disabilities enrolled in WCSD. (Complaint, WCSD Response)
2. Classes at the student's school commenced August 18, 2020, and the school year ended on June 9, 2021. (School Calendar)
3. On April 16, 2021, the WCSD nurse at the student's school ("Nurse") responded to an emergency call at 9:00 a.m. indicating that the student was unresponsive on the school bus, and found the student breathing, with airway clear and color pink. The bus driver indicated the student had eaten a granola bar with peanuts and the student was allergic to peanuts. The Nurse called the student's mother and informed her that the student was non-responsive and had eaten a peanut bar. The student's mother indicated to the Nurse that the student "isn't allergic to peanuts, who told you that?" "Where did you get that info?" (School Nurse Documentation for Student, 4/16/2021 09:50 a.m.)
4. On April 20, 2021, the Parent made an oral request for the student's education records to the student's teacher, who passed on that request to the Nurse. (School Nurse Documentation for Student, 4/20/2021 10:51 a.m.)
5. On the same day as the Parent's oral request for the student's education records, the Nurse and the Parent had a phone conversation in which the Nurse informed the Parent that the Nurse would email the information needed for Parent to get the student's records. (School Nurse Documentation for Student 4/20/2021 10:51 a.m.)
6. At 11:03 a.m. on April 20, 2021, the Nurse emailed the Parent a link to make a records request through Scrib Order, the WCSD's online document system. (Nurse Email to Parent, 4/20/2021 11:03 a.m.)
7. Two days later, the Parent used the link to request the student's records, received as Order #C6H3A56YW, at 12:21 p.m. on April 22, 2021. (Scribe Order - "Process Orders")

8. In the State Complaint, the Parent makes specific reference to Order #C6H3A56YW, confirming the Parent was able to sign into the WCSD records request system and make the request for records received by WCSD on April 22, 2021. (State Complaint)
9. On April 23, 2021, the Scribe Order system completed the record request and created a PDF of student's records in the Parent's name. (Scribe Order - "Process Orders")
10. WCSD completed the Parent's request within 24 hours and sent the Parent a "student application approved" email containing a link to view the student's records, at 10:48 a.m., April 23, 2021. (Scribe Order - "Process Orders")
11. At the time of this investigation, the Parent had not yet utilized the link that would have enabled the Parent to download the PDF containing the student's education records. (Scribe Order "Process Orders")
12. Both the Parent and WCSD agree that an IEP meeting originally scheduled for 12:00 p.m., April 22, 2021 ("IEP Meeting"), was cancelled, and that an IEP revision, without a meeting, took place with the written agreement of the Parent on May 14, 2021. (Parent's 5/12/2021 email to WCSD & Student's 5/14/2021 IEP)

## **Education Records**

NAC §388.287(1) requires parents of a student with a disability be allowed to inspect and review any education records relating to their child which are collected, maintained, or used by a public agency. The public agency must comply with such request without unnecessary delay and in any event: (a) before an IEP meeting or any hearing relating to the identification, evaluation or placement of the student or the provision of a Free Appropriate Public Education to the student or related resolution session; and (b) not later than 45 days after the request has been made. (See also 34 C.F.R. §300.613.)

Neither the IDEA nor the NAC require an educational agency to provide parents copies of requested education records. 34 C.F.R. §300.613. Rather, the parents have the right to inspect and review the education records relating to their child and a request for copies must be specifically made if, without the copies, any meaningful review of the records is impractical. NAC §388.287. In this case, the Parent requested access to the student's education records only. (FOFs #4, #7)

Here, it is undisputed that the Parent was notified of the mechanism for requesting the student's education record on the same day the Parent made the oral request for access and two days prior to the IEP Meeting. (FOFs #5-6) The Parent did not however request access to the student's education records through the WCSD's online document system until after cancellation of the IEP Meeting, and after the time the IEP Meeting was originally scheduled to take place (FOFs #7, #12). Because the IEP Meeting was cancelled, and Parent did not make the electronic request for access to the student's education records until after cancellation of the IEP Meeting (and after it was initially scheduled to begin), WCSD did not violate NAC §388.287(1) and IDEA, 34 C.F.R. §300.613(a), requirements that an educational agency must provide access to a student's records before an IEP meeting.

This does not end the inquiry. NAC §388.287(1) also requires the public agency to provide parents of a student with a disability access to inspect and review any education records relating to their child which are collected, maintained, or used by a public agency without unnecessary delay and not later than 45 days after

the request has been made. (See also 34 C.F.R. §3388.287(1).) In this case, the Parent made an electronic request for the student's education records on April 22, 2021, and received a link to view the requested records on April 23, 2021, the next day. (FOFs #7, #10) At the time of this investigation, the Parent had not yet utilized the link to view the requested education records. (FOF #11) The Parent's State Complaint referenced the electronic order number created when the Parent originally requested the student's records, confirming that the Parent was able to sign into the WCSD records request system, and had access, therefore, to view the student's education records through the link provided by WCSD. (FOFs #8, #11) In this case, by sending a link to the Parent that contained the requested access to the student's education records (FOF #10), WCSD fulfilled its statutorily required duty to provide the Parent timely access to inspect and review the education records relating to the student. NAC §388.287; 34 C.F.R. §300.613.

*Therefore, WCSD complied with the IDEA and NAC, Chapter 388 with regard to timely providing the Parent the opportunity to inspect and review all of the student's education records upon request.*