

**CLARK COUNTY SCHOOL DISTRICT
COMPLAINT INVESTIGATION
(#CL022224)**

Report Issued on April 17, 2024

INTRODUCTION

On February 21, 2024, the Nevada Superintendent of Public Instruction received a Complaint from a Parent alleging a violation by Clark County School District (CCSD) of the Individuals with Disabilities Education Act (IDEA) law and regulations, 20 U.S.C. §1400 et seq., 34 C.F.R. Part 300, and Chapter 388 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC).

The allegation in the State Complaint was that the student did not receive special education and related services in the student's designated program in CCSD from September 1, 2023 through January 16, 2024 after CCSD combined multiple classes due to the departure of several aides and teachers. The Parent further alleged that during this time period: children were placed on the case load of other teachers in the school to mislead parents on the number of students in a specific classroom; different staff filled in throughout the day in the absence of an assigned teacher; and, as a result of the number of the students in the class, the student did not have access to the kindergarten curriculum or have the opportunity to receive services in a safe environment, resulting in the student's elopement.

The Parent's proposed resolution to address these allegations was for CCSD to provide compensatory services to be provided by a licensed special education teacher for 460 hours of missed instruction and for all missed related services during the applicable time period; to comply with NAC §388.150 for all classrooms; and to stop the practice of placing students on other teachers' caseloads when the student has never attended their class.

The allegation within the jurisdiction of NDE through the State Complaint process raises the following issue for investigation:

Issue:

Whether CCSD complied with IDEA and NAC, Chapter 388, in the implementation of the special education and related services in the student's IEP from September 1, 2023 through January 16, 2024 in a class that did not exceed the maximum allowable number of students and maximum allowable number of cases per teacher as required by NAC §388.150.

In the February 29, 2024 correspondence from Nevada Department of Education (NDE) regarding the issues in this State Complaint, CCSD was notified that if CCSD disputed the allegations of noncompliance in the State Complaint, the submitted documents and information must include a denial of the alleged noncompliance; a brief statement of the factual basis for the denial; reference to the provided documentation that factually supported the denial; and that a failure to do so by February 7, 2024, or an extended timeline authorized by NDE, would be considered a concession of noncompliance for purposes of the State Complaint. CCSD did timely provide a response; denied the alleged noncompliance in that the student was not enrolled in CCSD during the relevant time period of this State Complaint; and provided the statement of the factual basis for the denial and referenced documents.

The student's Parent was provided an opportunity to provide additional written input with regard to the issue in the State Complaint as well as an opportunity to provide any further information or clarification about the issue orally, but elected not to do so. (February 29, 2024 Issue Letter, Review of the Record)

The State Complaint and CCSD's denial of all claims and all documents submitted in response to the issue in the Complaint were reviewed in their entirety in this investigation. The Findings of Fact cite the source(s) of the information determined necessary to resolve the issue in this Complaint.

FINDINGS OF FACT

General

1. The student is a student with a disability who was enrolled in CCSD in the 2023/2024 school year and attended school from August 7, 2023 to August 31, 2023, a period of 19 school days. The student did not attend school again in CCSD until January 16, 2024, when the student attended a different school than the one previously attended. (State Complaint, CCSD Response, Student Period Attendance Detail, CCSD 2023/2024 School Calendar for Students)

August 2023

2. The student had an April 21, 2023 annual IEP in effect at the commencement of the 2023/2024 school year. This IEP was revised on January 3, 2024, prior to the student's return to school in CCSD. (IEPs)
3. During the attendance period of August 7, 2023 to August 31, 2023, the student was placed in a self-contained program, pre-kindergarten, with 23% of the school day in the regular education environment. (IEPs)
4. The student's Parent withdrew the student from school August 31, 2023 for the stated reason of concerns regarding the student's safety as a result of a combined classroom; revolving staff; and the Parent's perceived lack of cooperation from staff when concerns were expressed. The Parent also wanted the student to be in a less restrictive environment. (State Complaint, Confidential Status Record, January 3, 2024 IEP)

January 3, 2024 IEP

5. By letter dated October 20, 2023, the student's Parent contacted CCSD and requested the student's IEP Team reconvene to discuss changes in the student's IEP and to discuss the student's placement in order to make sure the student is safe at school. CCSD received the letter on October 31, 2023. (October 20, 2023 Parent Letter, Confidential Status Record)
6. CCSD responded to the Parent's request for an IEP Team meeting on the day the request was received, and a tentative IEP Team meeting date was set for November 13, 2023. At the Parent's request, CCSD moved the IEP Team meeting to an earlier date, November 7, 2023. Due to illness, the Parent subsequently asked to reschedule the November 7, 2023 IEP Team meeting and it was rescheduled to November 29, 2023. (Confidential Status Record)
7. At the November 29, 2023 IEP Team meeting, the student's Parent requested the student be placed in a specific learning disability placement; be provided general education with resource and a one-to-one aide; compensatory education; or, if a change in placement was refused, a one-to-one aide.

Since the student was not enrolled in CCSD at the time of the IEP Team meeting and the student's former teacher was no longer employed at the school the student attended, the IEP Team determined there was insufficient data to make a decision on placement and agreed to schedule observations and testing before making a decision. (Confidential Status Record)

8. The student was evaluated at the prior school on December 1, 2023 and December 12, 2023. On December 15, 2023, the student's IEP Team agreed to reconvene on January 3, 2024. At the January 3, 2024 IEP Team meeting, the student's IEP Team, including the student's Parent, agreed that, based on the data collected, the student would be placed in a "specific learning disability classroom." The student's Parent agreed with the components of the student's January 3, 2024 IEP. (January 3, 2024 IEP, January 4, 2024 Notice of Intent to Implement IEP, Confidential Status Record)
9. From the receipt of the Parent's request for an IEP Team meeting to the development of the student's January 3, 2024 IEP was a period of 31 school days. (CCSD 2023/2024 School Calendar for Students)
10. The student commenced attendance in the determined placement in a self-contained program on January 16, 2024. The student's Parent indicated in the State Complaint that this classroom has staffing levels in alignment with NAC §388.150. (State Complaint, Student Enrollment History)

Student's Class

11. CCSD acknowledged in response to this State Complaint that the student's life skills class was combined with another class of students with disabilities at the school in August 2023 when a substitute teacher was assigned to the student's class. (CCSD Response, State Complaint)

CONCLUSIONS OF LAW

Issue:

Whether CCSD complied with IDEA and NAC, Chapter 388, in the implementation of the special education and related services in the student's IEP from September 1, 2023 through January 16, 2024 in a class that did not exceed the maximum allowable number of students and maximum allowable number of cases per teacher as required by NAC §388.150.

The requirements of the provision of a Free Appropriate Public Education to students with disabilities under IDEA and NAC, Chapter 388, necessitate that special education and related services and supplemental aids and services be made available, and be provided, to a student with a disability in conformity with an IEP. 34 C.F.R. §§300.17(d), 300.101, 300.323(c); NAC §388.281(6)(e); *Capistrano Unified Sch. Dist. v. Wartenberg*, 59 F.3d 884 (9th Cir. 1995); *Van Duyn v. Baker School Dist.*, 502 F.3d 811 (9th Cir. 2007).¹

Fundamental to this State Complaint is the Parent's allegation that the student's class exceeded the maximum allowable number of students and maximum allowable number of cases per teacher as required by NAC §388.150. IDEA Part B does not provide specific teacher-pupil ratios. However, states may establish teacher-pupil ratios so long as a Free Appropriate Public Education is provided for all children.

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

Letter to Fascell, 18 IDELR 218 (OSEP, August 15, 1991).² In the State of Nevada, NAC §388.150 does limit the maximum number of cases per teacher in a unit and the maximum cases per teacher in a unit, with exceptions.

The student had an April 21, 2023 annual IEP in effect at the commencement of the 2023/2024 school year. (Finding of Fact (FOF) #2) Prior to the relevant time period of this State Complaint, the student attended school in CCSD from August 7, 2023 to August 31, 2023 and, during that period of attendance, the student's self-contained pre-kindergarten class was combined with another class at the school. (FOFs #3, #11) The student's Parent elected³ to withdraw the student from school on August 31, 2023 and the student did not attend school again in CCSD until January 16, 2024. (FOFs #4, #10)

Upon consideration of the relevant dates, the State Complaint Investigation Team determined it was possible that the Parent intended to allege CCSD failed to implement the special education and related services in the student's IEP during the three weeks the student attended school in CCSD in August 2023. However, that was neither alleged in the State Complaint nor did the Parent notify NDE in the course of the investigation that the stated issue, including the relevant time period, did not reflect the Parent's intended allegation. Therefore, the scope of this investigation was limited to the noticed time period of September 1, 2023 through January 16, 2024⁴ and, accordingly, only documentation relevant to that time period was requested and considered in this investigation.

Given the Parent's withdrawal of the student from school in CCSD and the student's nonattendance from September 1, 2023 through January 15, 2024, CCSD was not required to implement the student's IEP during the relevant time period of this State Complaint when the student was not enrolled in CCSD. However, upon the student's return, CCSD was required to make a Free Appropriate Public Education available to the student once again. 34 C.F.R. §§300.121, 300.323; NAC§388.215.

On October 31, 2023, subsequent to the withdrawal of the student, CCSD received a request from the student's Parent to convene the student's IEP Team to discuss changes in the student's IEP and the student's placement. (FOF #5) CCSD responded to the Parent's request for an IEP meeting that same day and began scheduling the date for the IEP Team meeting with the Parent. (FOF #5) 34 C.F.R. §300.322(a)(2); NAC §388.281(8). There were several delays before the student's IEP Team completed the review and revision of the student's IEP on January 3, 2024. (FOFs #6 - #9) However, upon consideration of the bases for the delays and intervening school holidays, the State Complaint Investigation Team determined CCSD acted

² This letter is not publicly available; therefore, the paragraph is quoted verbatim: "First, [] asked for the Federal regulations or recommendations regarding the size of classes for students with disabilities for four different disability categories. The regulations for Part B of the Individuals with Disabilities Education Act (Part B), formerly cited as the Education of the Handicapped Act, are the Federal regulations that can provide Dr. Rucker with the information he needs. A copy of the Part B regulations is enclosed for his review. Part B requires that each child with a disability who qualified for services under Part B must be provided with a free appropriate public education (FAPE) that meets the child's needs (see 34 CFR §§ 300.300-300.307). Part B further specifies that FAPE must be provided to each child with a disability in the least restrictive environment (LRE) appropriate to meet the needs of the child (see 34 CFR §§ 300.550-300.556). Each child's individual needs are determined when an individualized education program (IEP) is developed for the child (see 34 CFR §§ 300.340-300.349). The Part B regulations do not specify teacher-pupil ratios. States may generally establish teacher-pupil ratios. However, in doing so, they must ensure that FAPE is provided for all children."

³ During the relevant time period of this State Complaint, the student was not of the age subject to compulsory school attendance in the State of Nevada, NRS §392.040. (FOFs #1, #3)

⁴ While January 16, 2024 was included in the time period of the allegation of noncompliance, contrarily, the student's Parent acknowledged that the classroom the student attended commencing January 16, 2024 had staffing levels in alignment with NAC §388.150. (FOF #10) Therefore, it appears that, rather than through January 16, 2024, the allegation of noncompliance was to January 16, 2024.

in a reasonable period of time to review and revise the student's IEP in order to make a Free Appropriate Public Education to the student upon return to CCSD, and the Parent did not allege otherwise. (FOFs #8, #10) 34 C.F.R §300.324(b); NAC §388.281; *Discussion of the IDEA regulations*, 71 Fed. Reg., 12406, 12476-12477, (March 12, 1999).

*Therefore, given the student's Parent withdrew the student from school and the student was no longer enrolled in CCSD, CCSD did not fail to implement the student's IEP from September 1, 2023 through January 16, 2024 in accordance with IDEA and NAC, Chapter 388.*⁵

⁵ As previously stated, whether CCSD complied with IDEA and NAC §388.150 in this regard when the student was enrolled in CCSD in August 2023 was not within NDE's jurisdiction through this State Complaint process and was not part of this investigation. No inference should be taken otherwise.