

**CLARK COUNTY SCHOOL DISTRICT
COMPLAINT INVESTIGATION
(#CL040826)**

Report Issued on June 3, 2026

INTRODUCTION

On April 8, 2026, the Nevada Superintendent of Public Instruction received a State Complaint from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA) and Nevada Revised Statutes (NRS) or Nevada Administrative Code (NAC), Chapters 388, by Clark County School District (CCSD). The allegation in the State Complaint was that CCSD denied the student a Free Appropriate Public Education by refusing the Parent's request on February 6, 2026 for an evaluation of the student for special education and related services after the Parent was informed of an ADHD diagnosis. This requested evaluation was allegedly preceded by a prior request for evaluation two years ago. The proposed resolution was for the conduct of a full Independent Educational Evaluation in specifically designated areas.

Based on the allegations of noncompliance, the specific allegation within the jurisdiction of NDE through the State Complaint process raised the following issue for investigation:

Issue:

If the student was suspected of being a student with a disability, whether CCSD complied with IDEA and Chapter 388 of NRS/NAC in the conduct of an initial evaluation to determine if a student qualified as a student with a disability upon the Parent's request for an evaluation on February 6, 2026.

NDE's jurisdiction in the State Complaint process is limited to allegations of a violation of the requirements of IDEA and/or Chapter 388 of NRS or NAC for special education programs that occurred **no more than one year prior** to the date of receipt. 34 C.F.R. §300.153; NAC §388.318. Therefore, the Parent was informed that while the issue was accepted as to the request for an evaluation on February 6, 2026, the allegation that another request was made two years ago was not accepted since the allegation was outside the time limitation for a State Complaint.

In the April 13, 2026 Issue Letter to CCSD, 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; specific reference to the provided documentation that factually supported the denial; and that a failure to do so by May 5, 2026 would be considered a concession of noncompliance for purposes of this State Complaint. CCSD provided the electronic and hard copy response prior to the May 5, 2026 timeline; denied all the allegations of noncompliance; and provided the factual basis for the denial, with reference to the provided documentation. CCSD also stated that while it denied the allegations in the State Complaint, if NDE determined an alleged violation occurred, CCSD proposed resolution was to provide the Parent with an Independent Educational Evaluation under specifically stated conditions.

The Parent's State Complaint, including attachments, and CCSD's denial of all claims and all documents submitted by CCSD in response to the issue in the State 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 issues in this Complaint.

FINDINGS OF FACT

1. The student was enrolled in CCSD in the 2025/2026 school year as a general education student. Classes began for students on August 11, 2025. (State Complaint, Student Period Attendance Detail, CCSD 2025/2026 School Calendar)
2. The student was referred to occupational therapy by a physician and received private occupational therapy during the relevant time period of this State Complaint. The diagnosis was “other disorders of psychological development” and other “feeding difficulties.” (Occupational Therapy Daily Notes, State Complaint, Email Correspondence)
3. As of December 8, 2025, the student was earning a math grade of 57.9% (F). At that time the student was missing all or most of the math instruction twice a week due to the private occupational therapy sessions provided during the math block. (As of December 9, 2025, the school reported that the student had 17 morning absences and 11 tardies averaging about an hour each after instruction begun.) The school asked the student’s Parent if there is a possibility for the student’s therapy to be scheduled at a different time of day on or on the weekend so that the student did not miss instructional time. (Teacher Contact Log, December 9, 2025 Email Correspondence)
4. On December 8, 2025, the student’s Parent informed CCSD that the Parents shared the school’s concern about the impact of the instructional time the student misses due to the occupational therapy and were trying to see if the student’s therapy times could be adjusted or reduced during the school year. However, the Parents were unable to do so during the relevant time period of this State Complaint. The Parent formally requested that the student’s need for a Section 504 plan be revisited. The student’s Parent explained that while the student does not exhibit the stereotypical ADHD behaviors, the student struggles with executive function, attention regulation, and processing under time constraints and those challenges meaningfully affected the student’s learning and academic performance. (December 8, 2025 Correspondence)
5. CCSD contacted the student’s Parent on two occasions after the Parent’s request for a Section 504 plan inquiring as to the Parent’s specific Section 504 questions or concerns or supports the student needed to access content. There is no record that the student’s Parent responded to these inquires prior to the Section 504 meeting. (December 9, 2025 and December 10, 2025 Email Correspondence, Review of the Record)
6. On January 21, 2026, the student’s Parents, the student, occupational therapist, counselor, the student’s teacher and an administrator met to discuss possible Section 504 eligibility. At that time, the team determined the student did not qualify based on MAPs testing as well as grades. The student’s Parent then requested an evaluation for an IEP. (Teacher Contact Log)
7. On January 29, 2026 the CCSD school psychologist called the Parent to discuss the Parent’s concerns relative to the request for an evaluation for an IEP and left a message when there was no answer. (Confidential Status Record)
8. On February 4, 2026, the CCSD school psychologist met with the team to discuss the student’s progress, MAPS and classroom data, attendance and the Parent’s concerns. On February 6, 2026,

the CCSD school psychologist notified the Parent that after talking with the team and considering the student's current progress that the student currently does not show a suspicion of disability and does not warrant an evaluation at this time. (Confidential Status Record, Email Correspondence)

9. CCSD provided the student's Parent a February 6, 2026 Prior Written Notice refusing to conduct the special education evaluation requested due to the Parent's concerns with the student's failing grades in math. CCSD refused to take the proposed action of a special education evaluation because: "Per MDT meeting with teachers, nurse, psych, parent, the team determined that there was no educational or behavioral need to proceed with an evaluation. The team determined that the educational impact did not warrant an evaluation at the time."¹ The contents of the Prior Written Notice included:

- a. The following evaluation procedure(s), assessment(s), record(s) or report(s) were utilized by CCSD as a basis for its refused action: review of school records, MAP scores, teacher/counselor input and Parent input. Consideration was also given to the fact that the student was not being "progress monitored"; the student's grades were average except for math; historically the student had good grades and met standards; and the student had no documented behavioral incidences.
- b. A factor that CCSD considered relevant to its refused action was that the student frequently missed instruction due to occupational therapy appointments. The team emphasized to the student's Parent that the student needed to be in school and in each class to learn, reiterating the absences and tardies the student had due to the occupational therapy appointments being scheduled during instructional time.

The Parent was provided a copy of an Explanation of Procedural Safeguards (rights) as an attachment to the February 6, 2026 Prior Written Notice. (Prior Written Notices, State Complaint)

10. The student's Parent provided the student private math tutoring in the 2025/2026 school year with the purpose to help supplement the student's missed classroom time due to the student's occupational therapy appointments. Up to December 10, 2025, the tutor was working on foundational skills in math with the student, not the instruction during missed classroom time. (State Complaint, Tutor Notes, Email Correspondence, Student Period Attendance Detail)
11. The student did not have a behavior incident of misconduct in the 2025/2026 school year prior to February 1, 2026. (Behavior Detail Reports)
12. The student earned the following overall grades in the content areas for the report card for the second semester in the 2024/2025 school year: C in language; C in math; C in reading; A in social studies; B in speaking and listening; C in writing; A in science; and A in health. The comment on the student's performance at the end of the 2024/2025 school year included: "...This spring, your child performed at the 79th %ile on the MAP Reading Assessment and the 40th %ile on the MAP Math Assessment; students are expected to perform at the 50th %ile or higher. Your child had 32 absences and 24 tardies this year. Attending school on time and consistently next year will help to improve growth in all areas..." (2024/2025 School Calendar, Student Report Cards)
13. The student earned the following scores on the MAP Reading and Math Assessments in winter 2025/2026 that exceeded the goals set: 205 in reading, and 197 in math. In contrast, in winter of 2024/2025, while the student did meet the goal set for reading, the student did not meet the goal set for math. (MAP Assessment Student Profile)

¹ While the facts support the student's Parent was consulted during this determination process, no documentation was provided during the course of the investigation of the date of the Multidisciplinary Team meeting and the Parent's participation at the meeting.

14. The student earned the following overall grades for the first semester of the 2025/2026 school year that ended on December 19, 2025. The first semester was a period of 89 days: B in language; F in math; C in reading; A in social studies; B in speaking and listening; C in writing; A in science; and A in health. The comment on the student's performance included: "...On the MAP Reading Assessment, your child performed at the 60th percentile in the fall and the 81st percentile in the winter. On the MAP Math Assessment, your child performed at the 44th percentile in the fall and the 64th percentile in the winter. Students are expected to perform at the 50th %ile or higher. Your child had 9 absences and 14 tardies this semester. Attending school on time/consistently next semester will help to improve growth in all areas, especially math..." (2025/2026 School Calendar, Student Report Cards)
15. Commencing August 13, 2025 through February 5, 2026, a period of 107 school days, the student arrived late to school during the morning session on 42 school days. (Student Period Attendance Detail, 2025/2026 School Calendar)

CONCLUSIONS OF LAW

It is well-established that either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if a student is a student with a disability. 34 C.F.R. §300.301(b). Upon the receipt of a parent's request for an initial evaluation to determine if the student is a student with a disability, the local educational agency is required to evaluate a student when the agency suspects a student has a disability and is in need of special education and related services. (Pursuant to NAC §388.337(1), the standard for suspicion is good cause.) If the local educational agency refuses to conduct the evaluation, it must provide the parent with written notice of its refusal, including an explanation of the applicable procedural safeguards and the means to challenge it. *Pasatiempo v. Aizawa*, 103 F.3d 796; 25 IDELR 64 (9th Cir. 1996); *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1119-20, 67 IDELR 227 (9th Cir. 2016).³

"We believe that an SEA, in resolving a complaint challenging the appropriateness of a child's educational program or services or the provision of FAPE, should not only determine whether the public agency has followed the required procedures to reach that determination, but also whether the public agency has reached a decision that is consistent with the requirements in Part B of the Act in light of the individual child's abilities and needs. Thus, the SEA may need to review the evaluation data in the child's record, or any additional data provided by the parties to the complaint, and the explanation included in the public agency's notice to the parent as to why the agency made the determination regarding the child's educational program or services." *Discussion of IDEA regulations*, 71 Fed. Reg., 46540, 46601 (August 14, 2006).

² The State of Nevada is in the United States Court of Appeals, Ninth Circuit.

³ This position was also articulated by the United States Department of Education, Office of Special Education Programs early on in *Letter to Anonymous*, 21 IDELR 998 (OSEP, August 29, 1994). Since it is no longer publicly available the following relevant paragraph is provided verbatim: "The Department's position is that parents may request a Part B evaluation at any time. However, the parents' request for a Part B evaluation does not automatically trigger the obligation of the LEA to conduct the evaluation. Rather, an LEA must conduct an evaluation without undue delay only if the LEA suspects that the child has a disability and is in need of special education and related services. If the LEA refuses the parents' request to conduct an evaluation, the LEA must provide the parents with a written prior notice of its refusal, including a full explanation of applicable procedural safeguards and due process rights, as well as an explanation of why the agency is refusing to take the action requested by the parent. See 34 CFR § 300.505(a)(1)-(2). If a parent disagrees with the LEA's refusal to evaluate the child, the parent may request a due process hearing under 34 CFR §§ 300.506-300.508."

Citing the Federal Register, the United States Department of Education, Office of Special Education Programs (OSEP), indicated that: “The SEA may find that the public agency has complied with Part B requirements if the evidence clearly demonstrates that the agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child-specific data.” (*OSEP Memorandum 13-08: Dispute Resolution Procedures Under Part B of the Individuals with Disabilities Education Act (Part B)*), 61 IDELR 232 (OSEP July 23, 2013).⁴ Therefore, to resolve this State Complaint regarding whether CCSD complied with IDEA and NAC, Chapter 388, in the refusal to conduct the initial evaluation of the student, the NDE must determine whether CCSD followed required procedures; applied appropriate standards; and reached a determination reasonably supported by student-specific data.

On January 21, 2026, the student’s Parent requested an evaluation of the student for special education. (Finding of Fact (FOF) #6) This request followed CCSD’s determination that the student was not eligible under Section 504. (FOFs #4 - #6) Upon the receipt of the Parent’s request for the evaluation of the student, CCSD was required to consider the Parent’s request. Upon determining whether it was suspected that the student had a disability and was in need of special education and related services, CCSD was then required to provide the Parent a Prior Written Notice a reasonable time before CCSD’s proposed or refused to initiate the requested evaluation of the student; and provide the Parent a copy of the procedural safeguards available to the Parent upon the Parent’s request for the initial evaluation. 34 C.F.R. §§300.503(a), §300.504; NAC §388.300; Discussion of IDEA regulations, 71 Fed. Reg., 46540, 46637 (August 14, 2006)

Neither IDEA nor NAC establish the procedure for a local educational agency to determine whether good cause exists to suspect a student is a student with a disability and in need of special education and related services. 34 C.F.R. §§300.8, 300.111; NAC §§388.215, 388.337(1)(a). In this case, upon receiving the Parent’s request for an initial evaluation for special education due to the Parent’s concerns with the student’s failing grades in math, CCSD chose to establish a procedure that ensured parent participation and the input of various knowledgeable professionals to make that determination. (FOFs #7, #8, #9)

The student’s Parent did not allege CCSD failed to follow required procedures under IDEA and NRS/NAC in refusing to conduct the initial evaluation of the student. Consistently, the State Complaint Investigation Team found that CCSD did follow required procedures upon receiving the Parent’s request for an evaluation by considering the request; providing the Parent a Prior Written Notice a reasonable time before CCSD’s refused to initiate the requested evaluation of the student; and providing the Parent a copy of the procedural safeguards available to the Parent. 34 C.F.R. §§300.503(a), §300.504; NAC §388.300; Discussion of IDEA regulations, 71 Fed. Reg., 46540, 46637 (August 14, 2006). (FOFs #8, #9)

The State Complaint Investigation Team also reviewed the data available to CCSD at the time of the Parent’s request for the conduct of an initial evaluation, as well as the data relied upon by CCSD in refusing to conduct the initial evaluation, to determine if CCSD’s refusal to do so was reasonably supported by the data. In reaching the decision not to conduct the initial evaluation of the student, CCSD reviewed the student’s school records, including the student’s grades, the student’s MAP scores that showed the student met standards; the absence of behavioral incidences; and obtained teacher/counselor input and parent input. The student’s grades were average except in the area of math; therefore, CCSD also considered the factor that the student frequently missed math instruction due to occupational therapy appointments. (FOFs #2, #9, #11 - #14)

The student-specific data in this case is replete with the student’s tardiness as well as absences during both the 2024/2025 and 2025/2026 school years. (FOFs #3, #4, #9, #10, #12, #15) During the relevant time

⁴ This memorandum is publicly available at:

https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf

period of this State Complaint, the student received private occupational therapy twice a week that resulted in the student missing all or most of the math instruction provided at the commencement of the school day. As of December 8, 2025 the student was earning a math grade of 57.9% (F). At that time, the student's school asked the student's Parent if there is a possibility for the student's therapy to be scheduled at a different time of day on or on the weekend so that the student did not miss instructional time.(FOF #3) The student's Parents shared the school's concern about the impact of the instructional time the student missed due to the occupational therapy and attempted to reschedule the student's occupational therapy. However, the Parents were unable to do so during the relevant time period of this State Complaint. (FOF #4)

Upon consideration of the student's missed instruction in the identified area of need, math, and the other data available at the time of the Parent's request for the conduct of an initial evaluation for special education and CCSD's refusal to do so, the State Complaint Investigation Team determined that CCSD's February 6, 2026 refusal to conduct an initial evaluation of the student due to the absence of the existence of suspicion/good cause of the need to evaluate the student pursuant to NAC 388.330 to 388.440 was reasonably supported by the child-specific data.

Therefore, in the absence of documentation evidencing a suspicion that the student may be a student with a disability in need of special education, CCSD's refusal to conduct an initial evaluation to determine if the student qualified as a student with a disability upon the Parent's request for an evaluation on February 6, 2026 was reasonably supported by the student-specific data and CCSD complied with the required procedures and applied required standards under IDEA and NAC, Chapter 388, to reach that determination.⁵

⁵ Nothing in this State Complaint Report precludes the student's Parent or CCSD from accessing the dispute resolution processes available under IDEA and NAC, Chapter 388, as appropriate, or diminishes any obligation in the future to conduct an initial evaluation of the student if suspicion/good cause arises that there is a need to evaluate the student pursuant to NAC 388.330 to 388.440.