

CLARK COUNTY SCHOOL DISTRICT
COMPLAINT INVESTIGATION
(#CL041026)

Report Issued on June 5, 2026

INTRODUCTION

On April 10, 2026, the Nevada Superintendent of Public Instruction received a State Complaint from a Parent alleging violations by Clark County School District (CCSD) of the Individuals with Disabilities Education Act (IDEA) or a provision of Chapter 388 of the Nevada Revised Statutes (NRS) or Nevada Administrative Code (NAC) in the special education evaluation of a student.

The allegation in the State Complaint was that CCSD conducted an evaluation of the student without obtaining the required informed written parental consent. Specifically, the Parent alleged that CCSD broadened the scope of the student's initial evaluation beyond the autism diagnosis provided by the student's physician to conduct assessment(s) relating to whether the student met eligibility criteria under the disability category of emotional disturbance. The date of the alleged violation was April 15, 2025, prior to the Multidisciplinary Team meeting on May 20, 2025. No proposed resolution was included in the State Complaint. However, a proposed resolution is only required at the time of filing if the complainant knew or had one available at the time the State Complaint was filed.

The supplement filed by Parent along with the State Complaint included citations regarding parental participation, individualized education programs, and assertions that predetermination "may" have occurred during the development of the student's initial IEP. Upon receipt of the State Complaint, NDE notified the Parent that pursuant to IDEA, a State Complaint must include both a statement that there has been a specific violation and the facts on which the statement is based as it relates to the problem. 34 C.F.R. §300.153; NAC §388.318(1)(b). NDE explained that the State Complaint did not clearly allege a specific violation regarding predetermination or provide sufficient supporting facts to permit investigation of that issue through the State Complaint process. Accordingly, NDE did not accept jurisdiction over assertions regarding predetermination.

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

Issue:

In the conduct of an initial evaluation of the student between April 15, 2025 and May 20, 2025, whether CCSD complied with IDEA and Chapter 388 of NRS/NAC in obtaining informed written consent, specifically before the conduct of an assessment(s) to determine if the student may be a student with emotional disturbance.

In the April 14, 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 12, 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 12, 2026 timeline; denied the allegation of noncompliance; and provided the factual basis for the denial, with reference to the provided documentation. CCSD also stated that, while it denied the allegation in the State Complaint, if the NDE determined an alleged violation had occurred, CCSD's proposed resolution was to convene an IEP Team meeting, with a specifically described purpose, after receipt of the authorized Independent Educational Evaluation.

The Parent's State Complaint, including attachments, and CCSD's response and supporting documentation 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

1. The student was enrolled in CCSD in the 2025/2026 school year. (State Complaint, CCSD Response)
2. On April 7, 2025, CCSD met with the Parent¹ to discuss the student's increased behavioral issues. At that meeting, Parent provided an outside evaluation diagnosing the student with autism spectrum disorder and recommending further evaluation to determine if the student qualified for other behavioral and/or emotional diagnosis. (Status Log, March 3, 2025 Evaluation Report)
3. On April 8, 2025, CCSD met with the student's mother to discuss further evaluation and provided a Prior Written Notice (PWN) and Request for Consent to Evaluate the student (Consent for Evaluation). At the meeting, CCSD informed the mother that if the Team saw an additional eligibility in the course of the evaluation that the mother would be contacted to open the scope. (April 8, 2025 PWN and Consent for Evaluation, Status Log)
4. The proposed action in the April 8, 2026 PWN was to evaluate and identify the student's special education needs. The reasons for the proposed action were academic and behavior concerns and parent and teacher concerns. While it was noted in the rejection of other options that the Team and the Parent suspected autism spectrum disorder, there were no limitations included in the PWN on the evaluation and identification of the student. (April 8, 2025 PWN and Consent for Evaluation)
5. The student's mother provided written consent for the evaluation on April 8, 2025. (April 8, 2025 PWN and Consent for Evaluation)
6. The April 8, 2025 signed Consent for Evaluation indicated that the student had been referred for evaluation based on concerns in the following areas: "academic assessment; cognitive assessment; adaptive assessment; autism spectrum rating scale; speech language/communication assessment; and health assessment for suspected autism spectrum disorder." An adaptive assessment was included in the described assessment area of social and emotional condition/adaptive skills/behavior in the Consent for Evaluation and indicated the methods, both formal and informal. The methods were non-exhaustive, but included the Behavior Assessment System for Children-II. (Consent for Evaluation, May 20, 2025 Multidisciplinary Team Report)

¹ While this State Complaint was filed by one of the student's parents, both parents took part in the facts related to this case, the term "Parent" will be used to denote the involvement of both parents, and when more appropriate to a specific fact, the term "mother" or "father" will be used to specify actions undertaken by one of student's parents.

7. While, on the face of it, the areas of consent were ambiguously stated, CCSD conceded that the Parent's April 8, 2025 consent to conduct the initial evaluation of the student was to evaluate the student to determine eligibility for special education services under the autism spectrum disorder category and that the Parent's provided written consent for the evaluation was within that scope. (CCSD Response)
8. On April 15, 2025, the student's mother met with the CCSD school psychologist to discuss the evaluation of the student. It was CCSD's understanding that the student's mother verbally consented to expanding the scope of the evaluation to include consideration of emotional disturbance, in addition to autism spectrum disorder. After the meeting, the mother indicated that she would not have consented to an evaluation for emotional disturbance; that she felt pressured; and thought the additional presented evaluation forms were for autism. CCSD proceeded with the evaluation consistent with an expanded scope and the additional assessments were completed on that basis. (CCSD Response, Email and Text Correspondence, Status Log)
9. The student's mother completed the rating scales on the Behavior Assessment System for Children on April 22, 2025 and the student was interviewed on that same day using the BASC-3 Self Report of Personality. The Behavior Assessment System for Children yields composite scores for internalizing and externalizing problems and reflects the overall level of problem behavior and include adaptive skills and school problems. The student's teacher completed the rating scale on April 28, 2025.

According to the test publisher, the BASC is designed to provide a complete picture of a child's behavior by applying a triangulation method for gathering information with the stated benefits of differentiating between hyperactivity and attention problems; identifying behavior problems as required by IDEA; and for developing FBAs, BIPs, and IEPs. On the basis of these assessments results, the school psychologist used the BASC-3 Emotional Disturbance Qualification scales (EDQs). The EDQs are one of the BASC-3 rating scales and combine existing BASC-3 clinical and adaptive scales, grouped specifically to align with the constructs of emotional disturbance, as defined by IDEA. (May 20, 2025 Multidisciplinary Team Report, Publisher Website - BASC-3 and EDQs Overview)

10. The student's mother also completed the Behavior Evaluation Scale, Home Version, on April 22, 2025 and the student's teacher completed the School Version Scale. The Behavior Evaluation Scale, 5th Edition, Long Home Version and School Version (Scale) is an assessment designed to document those behaviors most indicative of emotional disturbance and the behavior problems that exceed the norm in the home environment. The Scale was intentionally designed to be commensurate with the most commonly used definition of serious emotional disturbance for purposes of identification. (May 20, 2025 Multidisciplinary Team Report, Publisher Website)
11. On May 20, 2025, the student's eligibility team, including the student's Parent, determined the student was eligible for special education under the category of emotional disturbance, and not eligible for special education services under the category of autism. The student's Parent disagreed with both eligibility determinations. (May 20, 2025 Eligibility Team Report)
12. The student's initial IEP was developed on May 20, 2025 and included the student's eligibility category of emotional disturbance. The student's Parent agreed with the components of the May 20, 2025 IEP and provided written consent to the initial provision of special education and related services. (IEP, Parental Consent for Initial Provision of Special Education and Related Services)

CONCLUSIONS OF LAW

On April 7, 2025, CCSD and the Parent met to discuss the student's increased behavior problems at school and to discuss evaluating the student under the IDEA. (Finding of Fact (FOF) #2). Preparing to evaluate any student to determine if the student may be a student with a disability in need of special education and related services raises two overarching procedural safeguards under the IDEA and NAC: the provision of a PWN to the Parent of the proposal to initiate the evaluation of the student; and obtaining parental consent for the conduct of the evaluation. 34 C.F.R. §§300.300, 300.503; NAC § 388.300.

Both IDEA and NAC require that informed written consent be obtained from the parent of a student before conducting an initial evaluation. 34 C.F.R. §300.300; NAC §388.300. In relevant part, "consent" means that: (a) The parent has been fully informed of all information relevant to the activity for which consent is sought; (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and (c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. 34 C.F.R. §300.9.

A PWN also serves an important substantive purpose. *Union School District v. B. Smith*, 15 F.3d 1519; 20 IDELR 987, 990 (9th Cir. 1994).² Within a reasonable time before a district proposes to initiate an evaluation of a child, a PWN must be sent to the parents. 34 C.F.R. §300.503; NAC 388.300. The PWN must include all areas of assessment the district is proposing, but does not require every test that will be administered to be listed. *Letter to Sutler*, 18 IDELR 307 (OSEP August 29, 1991).³

In this case, CCSD did provide the student's Parent a PWN and requested and obtained parental consent on April 8, 2025 that included the areas of assessment and the non-exhaustive methods of assessment. The issuance of a PWN is not at issue in this case. (FOFs #3 - #6) The sole issue in this State Complaint is whether CCSD obtained informed written parental before the conduct of an assessment(s) to determine if the student may be a student with emotional disturbance.

In the conduct of an evaluation of a student to determine whether the student is eligible for special education and related services, it is recognized that NAC §388.387 et seq. provides the areas of required assessments for each of the eligibility categories. (See also the definitions of a child with a disability: 34 C.F.R. §300.8; NAC §388.028 et seq.) However, neither IDEA nor NAC require a consent for an initial evaluation of a student for a suspected disability to limit the scope of the evaluation to a specific suspected disability. On the contrary, pursuant to IDEA, a full and individual initial evaluation must be conducted before the initial provision of special education and related services to a child with a disability and the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent to determine if the child is a child with a disability under the definition of a child with a disability, that includes all categories of disability under the IDEA. 34 C.F.R. §§300.301, 300.304.

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

³ This policy letter from the United States Department of Education, OSEP is no longer publicly available; therefore, the referenced paragraph is cited in full: "According to 34 CFR § 300.504(a)(1), a notice which meets the requirements of 34 CFR § 300.505 must be sent to parents within a reasonable time before a public agency proposes to initiate an evaluation of a child, including a reevaluation which is not for the purpose of meeting the three-year reevaluation requirement at 34 CFR § 300.534. The notice must include the areas of assessment the school district is proposing to include in the reevaluation, but need not indicate every test to be administered. See 34 CFR § 300.505(a)(2) and (4)."

In this case, the proposed action in the April 8, 2025 PWN was to evaluate and identify the student's special education needs due to academic and behavior concerns and parent and teacher concerns. While it was noted in the rejection of other options that both the Team and the Parent suspected autism spectrum disorder, the PWN itself did not limit the scope of the evaluation to an evaluation for autism spectrum disorder. (FOF #4).

That said, CCSRD only asked for written consent from the Parent to conduct the initial evaluation of the student for the sole purpose of evaluating the student to determine eligibility for special education services under the autism spectrum disorder category and the Parent provided written consent for the evaluation within that scope only. (FOFs #5 - #7) By doing so, the conduct of the initial evaluation of the student was limited by this imposed condition.

There are two relevant assessments in this case that were conducted subsequent to April 15, 2025, the date the student's mother met with the CCSRD school psychologist: The Behavior Assessment System for Children and the Behavior Evaluation Scale.

- A. Behavior Assessment System for Children: An adaptive assessment was included in the described assessment area of social and emotional condition/adaptive skills/behavior in the Consent for Evaluation and indicated the method of the Behavior Assessment System for Children-II.⁴ Therefore, on the face of it, the administration of this method of assessment was within the scope of the Parent's consent. (FOFs #4, #6, #9) However, based on the administration of the assessments after the meeting with the school psychologist and the fact that, on the basis of these assessments, the school psychologist used the EDQs that aligns with the definition of emotional disturbance, the State Complaint Investigation Team determined that, in this case, the use of this assessment was for the purpose of determining the student's eligibility under the emotional disturbance category and was, therefore, outside of the scope of the Parent's written consent.
- B. Behavior Evaluation Scale. The student's mother also completed the Behavior Evaluation Scale, Home Version, on April 22, 2025 and the student's teacher completed the School Version Scale. The Behavior Evaluation Scale is an assessment specifically designed to document those behaviors most indicative of emotional disturbance and the behavior problems that exceed the norm in the home environment and is aligned with the definition of serious emotional disturbance for purposes of identification. (FOF #10) This assessment was outside the scope of the Parent's written consent.

In order to conduct assessments for a purpose other than to determine the student's eligibility under the autism spectrum disorder category, CCSRD was required to obtain parental consent, and that parental consent was required to meet the requirements of IDEA, 34 C.F.R. §300.300, and NAC §388.300. As such, even if the student's mother provided verbal consent to conduct additional assessments to determine the student's eligibility under the emotional disturbance category (FOFs #3, #8), that consent by its very nature, did not meet the requirement for written consent.⁵ 34 C.F.R. §300.300; NAC §388.300.

Therefore, CCSRD failed to comply with IDEA and NAC Chapter 388 in obtaining informed written parental consent during the conduct of the student's initial evaluation between April 15, 2025 and May 20, 2025,

⁴ The listed methods on the Consent for Evaluation are non-exhaustive methods; therefore, it is of no consequence that the next version of the BASC was utilized to assess the student.

⁵ Given the absence of the required written consent, it was not necessary for the State Complaint Investigative Team to determine whether the student's mother provided oral consent during the April 15, 2025 in-person meeting, and no inference should be taken otherwise. Similarly, no determination is made as to whether any obtained verbal consent was voluntary and included a description of the activity for which consent was sought that would have fully informed the student's mother of all information relevant to the activity.

specifically before the conduct of an assessment(s) to determine if the student may be a student with emotional disturbance.

ORDER OF CORRECTIVE ACTION

In accordance with IDEA, 34 C.F.R. §300.151(b), in resolving a State Complaint in which the State Educational Agency has found a failure to provide appropriate services, the agency, pursuant to its general supervisory authority under IDEA Part B must address: (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; and (2) The appropriate future provision of services for all children with disabilities.

In this case, the unconsented-to assessments are completed and that cannot be undone. Upon consideration that the student's Parent agreed with the components of the May 20, 2025 IEP; provided written consent to the initial provision of special education and related services (FOF #11); and have the right to request a reevaluation of the student to determine whether the student continues to have the determined disability of emotional disturbance (34 C.F.R. §300.303, 300.305; NAC §388.440), the State Complaint Investigation Team determined that a student-specific remedy is not required to address the needs of the student. However, a systemic remedy is required to ensure the appropriate future provision of services for all children with disabilities.

In accordance with NRS §385.175(6), NDE requests a plan of corrective action (CAP) from CCSD on CCSD's plan to implement the ordered actions below, including the timeline. In order to expedite the effective implementation of a final State Complaint decision pursuant to IDEA, 34 C.F.R. §300.152(b)(2), and NAC §388.318(7), NDE has discontinued the CAP approval process. Instead, the Order of Corrective Action describes the specific actions that must be taken by CCSD to remedy the determined noncompliance, including the timeline pre-approved by NDE for compliance with IDEA and Chapter 388 of NRS/NAC. NRS §385.175(6). All ordered actions must be completed on or before the specified approved timeline to comply with the Order of Corrective Action set forth below. However, NDE's monitoring of CCSD's implementation of the Order of Corrective Action, and, if necessary, measures to be taken to ensure compliance pursuant to NRS §388.4354, will include consideration of the agency's CAP, if submitted, since, notwithstanding the specificity of the enforceable Order, the manner by which a public agency elects to implement the Order may vary from one agency to the other.

Systemic Remedy

In response to this State Complaint, CCSD asserted that proceeding with assessments beyond the scope of provided written consent based on verbal consent only was in compliance with IDEA and Chapter 388 of NRS/NAC. Therefore, the State Complaint Investigation Team determined that both a district-wide and school level systemic remedy is required.

1. Not later than the commencement of the 2026/2027 school year, written clarification must be provided to all 2026/2027 school year CCSD school psychologists on the definition of consent under IDEA, 34 C.F.R. §300.09⁶, with an emphasis on the requirement that when parental consent is required under IDEA and NAC, Chapter 388, for the conduct of an initial evaluation or reevaluation it must not only meet the content requirements under 34 C.F.R. §300.300; NAC §388.300, it must be in writing. The ordered written clarification

⁶ CCSD's May 2026 Special Education Procedures Manual, pp. 75-76 is consistent with the IDEA and NAC, including for an initial evaluation: "Under the IDEA Parental Consent must be obtained for initial evaluation, provision of special education and related services, and reevaluation. The District may not conduct new assessments with a student for special education eligibility without parent/guardian consent."

must be prepared with the participation of the Student Services Division, Office of Compliance and Monitoring, and may be provided in the manner determined appropriate by CCSD.

Documentation that includes the written clarification; preparation with the participation of the Student Services Division, Office of Compliance and Monitoring; the names of the CCSD school psychologists at the time the clarification was provided; and written acknowledgment of each CCSD school psychologist's receipt of the clarification must be provided to NDE within 10 business days of the issuance of the clarification.

2. No later than two weeks after the commencement of the 2026/2027 school year, CCSD must conduct a training(s) for the school principal, school psychologist and special education facilitator assigned to the school that the student attended in the 2025/2026 school year who participated in the evaluation of the student and/or the May 20, 2026 Multidisciplinary Team meeting. (If any of these individuals are no longer employed by CCSD, the individuals in those positions at the school for the 2026/2027 school year must attend.) The training may be provided in the manner determined appropriate by CCSD and must include:
 - A summary of the finding of noncompliance in this State Complaint; and
 - When parental consent is required: the definition and requirement for consent under IDEA and NAC; the contents of a PWN to conduct an initial evaluation of a student and request for consent to conduct an initial evaluation of a student; and, if either the parent or CCSD propose to expand the scope of the evaluation set forth in the PWN and written informed parental consent during the course of an evaluation, the required procedural safeguards of a PWN and, if CCSD proposes to expand the scope of an evaluation in response to a parent's parental request or at its initiative, written informed consent.

The documentation of the conduct of the training must be provided to NDE no later than 10 business days after the conduct of the training and include the agenda for the training; verification of the attendance of the required attendees; and CCSD's determination of the attendees' satisfactory completion of the training.