

**SCHOOL DISTRICT
COMPLAINT INVESTIGATION
(#SD041426)**

Report Issued on June 10, 2026

INTRODUCTION

On April 14, 2026, the Nevada Superintendent of Public Instruction received a State Complaint from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA) or a provision of Chapter 388 of the Nevada Revised Statutes (NRS) or the Nevada Administrative Code (NAC) by School District (SD) in a student's special education program.

The allegations in the State Complaint were that on approximately March 9, 2026, SD failed to provide the student a Free Appropriate Public Education, IDEA §300.17; failed to implement the current IEP and placement, IDEA §300.323; and changed placement and removed adult assistance (aide) without an IEP meeting, IDEA §300.327 and NAC §388.302. The Parent's proposed resolutions were to determine if a systemic investigation is necessary in regard to the district's practices making a change of placement without involving parents; provide compensatory education for missed learning opportunities by enrolling and covering the cost of attending Lindamood-Bell to close the reading gap; and host a timely IEP Team meeting.

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

Issue:

If the removal of the student on or about March 9, 2026 from a general education placement 80% of the time, with full-time adult assistance, to a self-contained classroom 100% of the time, without full-time adult assistance, was a change of placement for the student, whether SD complied with the requirements of IDEA and NAC, Chapter 388, specifically whether the student's Parent was a member of the group that made the educational placement decision and SD provided the Parent a Prior Written Notice.

In the April 20, 2026 Issue Letter to SD, SD was notified that if SD 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 11, 2026 or an extended timeline authorized by NDE, would be considered a concession of noncompliance for purposes of this State Complaint. At SD's request, NDE granted a brief extension to May 18, 2026 for SD to submit the response and requested documentation. The extension did not require an extension of the 60-day timeline for the submittal of the final Report and SD timely submitted a response by May 18, 2026. SD denied the allegation of noncompliance but conceded that there was one day, March 4, 2026, that the student's paraprofessional was absent and no substitute could be obtained. SD provided a brief statement of the factual basis for the denial, with reference to the provided documentation. SD proposed a resolution

of 30 hours of Lindamood-Bell instruction to be provided by SD trained staff as compensatory education for the failure to provide the adult support on the one day at issue in this State Complaint and missed instruction in general education.

The Parent's State Complaint, including attachments; the Parent's additional submission; SD's denial of all claims; all documents submitted by SD in response to the State Complaint; and requested supplemental information from SD 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

General

1. The student is a student with a disability who was enrolled in SD in the 2025/2026 school year. (State Complaint, Student IEP, SD Response)

IEP

2. The student's December 4, 2025 annual IEP was in effect in March 2026. The student's Parent agreed with the components of the IEP. (IEP)
3. Relevant to this State Complaint, the student's December 4, 2025 IEP required the provision of specially designed instruction in the areas of math, social/emotional, and reading, each at the frequency of 30 minutes four times a week in the location of special education. (The location of special education for these services was a self-contained classroom.) The student also had a supplementary aid/service of additional adult support, until no longer needed, daily with the location of services of schoolwide. (Both SD and the Parent agree that this is a one-to-one paraprofessional.) The student's IEP also included two related services in the location of the therapy room: occupational therapy for 120 minutes per month and speech/language for 160 minutes per month. (IEP, Paraprofessional Schedule, State Complaint, SD Response, Supplemental Information)
4. The student's designated placement in the December 4, 2025 IEP was in a regular class and special education class (e.g. resource) combination. The student was to spend 80% of the school day in the regular education environment. The justification for placement involving removal from the regular education environment was that the student's reading, math, social emotional, speech language and occupational therapy goals and objectives can best be met in the special education environment/therapy room where the student will benefit from more individualized and small group instruction from teachers and therapists specially trained to meet the student's individual needs. (IEP)

Change of Placement?

5. SD concedes that the student's supplementary aid/service of additional adult support in the student's December 4, 2025 IEP of a one-to-one paraprofessional was not provided on March 4, 2026 due to the paraprofessional's absence. (SD Response, State Complaint, Texts, Review of the Record)
6. No documentation was provided in the course of this investigation that supported the allegation that on March 4, 2026 the student was removed from the required 80% general education

environment to a self-contained class for the school day. On the contrary, a text message from the student's general education teacher to the Parent regarding March 4, 2026 confirmed the student's continued participation in general education on that school day. However, without the assigned aide, the student was reliant on the help of other students in math and, at least in the reading class, the student "didn't do much." (SD Response, Texts, SD Faculty and Staff Directory, Review of the Record)

7. While outside the scope of this State Complaint, SD also conceded that the student's paraprofessional was reassigned to the self-contained classroom during NAA testing between March 30, 2026 to April 15, 2026, eight days total for a duration of three hours each day. The student remained with the paraprofessional in the self-contained class for that time period. (SD Response)
8. On March 26, 2026, the student's Progress Report on the student's behavior goal was that the student does better in the self-contained classroom as the work given is at the student's level and the smaller teacher to teacher ratio is more efficient. On that same day, SD sent a notice to the Parent to schedule an IEP Team meeting to revise the student's IEP and the description of the proposal was to change the student's placement. A subsequent IEP Team meeting notice was provided to the student's Parent on April 21, 2026. As of May 18, 2026, the IEP Team meeting had not taken place. (Meeting Notice, Progress Report, SD Response)

CONCLUSIONS OF LAW

Change in Placement?

In accordance with IDEA, 34 C.F.R. §300.116, and NAC §388.245(6), in determining the educational placement of a student with a disability, each public agency must ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and is made in conformity with the least restrictive environment. The requirements of least restrictive environment include that, to the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled; and special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. §300.114; NAC §388.245.

Any change in the placement of a student with a disability must be based upon the student's current IEP; the initial evaluation or most recent reevaluation of the student, as applicable; and information relating to the current educational performance of the student. NAC §§388.245(6), 388.255; 34 C.F.R. §300.116. Procedurally, a parent must be provided a Prior Written Notice a reasonable time before the public agency proposes or refuses to initiate or change the educational placement of the student. 34 C.F.R. §300.503(a), and NAC §388.300(8).

Here, the student's designated placement in the December 4, 2025 IEP was in a regular class and special education class combination. The student was to spend 80% of the school day in the regular education environment. (Finding of Fact (FOF) #4) The student's December 4, 2025 IEP required the provision of specially designed instruction in the areas of math, social/emotional and reading, each at the frequency of 30 minutes four times a week in the location of special education, and two related services, occupational

therapy and speech/language for total amount of 280 minutes per month. The student also had a supplementary aid/service of additional adult support, until no longer needed daily, in the location of services schoolwide. At issue in this State Complaint is whether the failure to provide the student's adult support of a one-to-one paraprofessional on March 4, 2026, a date close in time to the alleged occurrence of "approximately" March 9, 2026, constituted a change of placement. (FOF #3)

Citing to other Federal Circuit Court of Appeals cases, including *Concerned Parents & Citizens for Continuing Educ. at Malcolm X (PS 79) v. New York City Bd. of Educ.*, 629 F.2d 751 (2d Cir. 1980), the Ninth Circuit Court of Appeals¹ has determined the meaning of "educational placement" under IDEA: "Based on Supreme Court case law, Congress's express intent in the statute, the agency's implementing regulations, and sister circuits' decisions, we hold that "educational placement" means the general educational program of the student. More specifically we conclude that under the IDEA a change in educational placement relates to whether the student is moved from one type of program -- i.e., regular class -- to another type -- i.e., home instruction." *N.D. et al. v. State of Hawaii Department of Education*, 600 F.3d 1104; 54 IDELR 111 (9th Cir. 2010).

In this case, SD did not change the student's designated placement in the December 4, 2025 IEP of a regular class and special education class combination on March 4, 2026. However, SD did fail to implement the adult support in the student's IEP on that day. (FOFs #5, #6) 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 are provided in conformity with a student's IEP. 34 C.F.R. §§300.17(d), 300.101; 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). SD did not do so on March 4, 2026.

The Removals During NAA Testing

While not an occurrence "on or about March 9, 2026," and therefore outside the scope of this State Complaint, SD did concede in response to this State Complaint that the student's current placement was not implemented between March 30, 2026 to April 15, 2026² for eight days with a duration of three hours each day. When the student's paraprofessional was reassigned to the self-contained classroom during NAA testing, the student remained with the paraprofessional in the self-contained class for that time period and that resulted in a removal from the student's current placement. (FOF #7) SD is commended for this voluntary acknowledgment and the inclusion of these days in the proposed resolution of compensatory education, particularly since it was outside the scope of this investigation.

In addition to its general education supervision responsibility,³ the State Complaint Investigation Team determined that these removals from the student's current placement should also be addressed for purposes of thoroughness and to, hopefully, avoid a persistent controversy.

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

² Given this State Complaint was filed on April 14, 2026, the conceded removal on April 15, 2026 could not have contributed to the basis of the Parent's perceived change of placement. However, since this day was included in SD's conceded days of removal and proposed resolution, as appropriate, it is included in the discussion.

³As part of its general education supervision system, a State Education Agency is required to exercise due diligence when made aware of an area of concern; that is, a credible allegation of potential implementation or compliance issues with IDEA, including those that come from dispute resolution systems. 20 U.S.C. §§ 1412(a)(11) and 1435(a)(10); 34 C.F.R. §§300.149 and 303.120. "Questions and Answers on Monitoring, Technical Assistance, and Enforcement, 123 LRP 22123 (OSEP QA 23-01, July 24, 2023. This memorandum is publicly available at: <https://sites.ed.gov/idea/idea-files/guidance-on-state-general-supervision-responsibilities-under-parts-b-and-c-of-the-idea-july-24-2023/> .

In determining whether a “change in educational placement” has occurred, the public agency responsible for educating the child must determine whether the proposed change would substantially or materially alter the child’s educational program. In making such a determination, the effect of the change in location on the following factors must be examined: whether the educational program set out in the child’s IEP has been revised; whether the child will be able to be educated with nondisabled children to the same extent; whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and whether the new placement is the same option on the continuum of alternative placements. If this inquiry leads to a conclusion that a substantial or material change in the child’s educational program has occurred, the public agency must provide prior written notice. . . .” *Letter to Tymeson*, 81 IDELR 23 (OSEP April 7, 2022).⁴

The State Complaint Investigation Team considered that the student was removed from one type of program to another for three hours for eight days between March 30, 2026 and April 15, 2026, *N.D. et al. v. State of Hawaii Department of Education*, and applying the factors in *Letter to Tymeson* to SD’s removal of the student from the general education class to the self-contained class: the removal was not consistent with the educational program in the student’s IEP, diminished the extent to which the student was able to be educated with students without a disability; and was not the same option on the continuum of alternative placements. The dilemma in this case is that while the analysis of the authority on change in the educational placement of a student may lead to a conclusion that indeed the student’s placement was changed, is that conclusion impacted by the facts relating to the removal and the duration, in this case up to eight school days?

In the context of discipline, a change in placement is defined as removals of a student with a disability from the child’s current educational placement of 10 consecutive school days or 10 cumulative school days that constitute a pattern. 34 C.F.R. §300.506. Granted this section does not apply to this case since the removals were not in the context of a disciplinary removal. Nevertheless, in the analysis of change of placement in another context,⁵ the United States Department of Education relied on this duration in the analysis of a temporary versus a long-term exclusion that would constitute a change of placement. Upon consideration of this interpretation of a change of placement under IDEA; the fact that it was not SD’s proposal to change the student’s educational placement at that time; SD’s initiation and adherence to change of placement procedures thereafter (FOF #8); and the temporary duration of the removals, these days of removal also did not constitute a change of placement. However, the State Complaint Investigation Team determined that removing the student from the student’s designated placement did constitute a failure to implement the student’s IEP over a total of eight days, with the inclusion of April 15, 2026

Therefore, because the failure to provide the student’s adult support in the student’s December 4, 2025 IEP on March 4, 2026 did not constitute a change of placement, SD complied with the requirements of IDEA and NAC, Chapter 388 in that regard. However, SD failed to implement this service on March 4, 2026 and, based on SD’s concession in the course of this investigation, failed to implement the student’s designated placement from March 30, 2026 to April 15, 2026.

ORDER OF CORRECTIVE ACTION

In accordance with IDEA, 34 C.F.R. §300.151(b), in resolving a State Complaint in which the State

⁴ This OSEP letter is publicly available at: <https://sites.ed.gov/idea/files/osep-policy-letter-22-03-to-tymeson-04-07-2022.pdf>.

⁵ Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak, 76 IDELR 77 (United States Department of Education, March 12, 2020). This memorandum is publicly available at: <https://sites.ed.gov/idea/files/qa-covid-19-03-12-2020.pdf>.

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) appropriate future provision of services for all children with disabilities.

Upon consideration of SD's concession of the failure to provide the student the service of adult support on March 4, 2026 and the student's removal from the student's designated placement on eight days after March 4, 2026, the State Complaint Investigation Team determined that both a student-specific and a systemic remedy are required in this case. The Parent's proposed resolution and SD's proposed compensatory education offer were considered in the determination of the appropriate Order.

In accordance with NRS §385.175(6), NDE also requests a plan of corrective action (CAP) from SD on SD'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 SD 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 SD'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.

ORDER OF CORRECTIVE ACTION

I. Student-Specific Remedy

Whether the failure to provide the services in a student's IEP is a minor discrepancy or a material failure is relevant to the determination whether a student-specific corrective action is required to address the needs of the student. 34 C.F.R. §300.151(b). This is an individualized determination: "A material failure to implement an IEP occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP..." and the services "...a school provides to a disabled child fall significantly short of the services required by the child's IEP." The student's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided. *Van Duyn v. Baker School District*, 502 F.3d 811, 107 LRP 51958 (9th Cir. 2007).

Compensatory education is designed to provide the educational benefits that likely would have accrued to the student from special education services if they had been supplied in the first place. This is a fact-specific determination. *Parents of Student W. ex rel. Student W. v. Puyallup School Dist.* No. 3, 31 F.3d 1489, 21 IDELR 723 (9th Cir. 1994); *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 2005). In compensatory education awards, there is no obligation to provide a day-for-day compensation for time missed. *Parents of Student W.* This approach for determining compensatory education is considered 'qualitative' in nature, rather than strictly 'quantitative' and requires that a compensatory education award be made not merely by establishing the amount of services which were not provided, but that an analysis be done to establish what may make the student whole for the denial of services.

The State Complaint Investigation Team determined that SD's offer to provide hour-for-hour compensatory education to the student for the failure to provide the adult support on the one day at issue in this State

Complaint, as well as the failure to implement the designated placement in the student's IEP from March 30, 2026 to April 15, 2026, was eminently fair. Further, the proposed resolution is in the area of reading that was identified as problematic on the day the student did not have adult support (FOF #6) and the area and method of instruction is consistent with the Parent's proposed resolution. Therefore, no further analysis was required to ascertain the degree of the discrepancy or the educational benefits that likely would have accrued to the student from special education services if they had been supplied in the first place.

Unless an alternative student-specific remedy is otherwise agreed to in writing by SD and the Parent⁶, NDE adopts and orders SD's proposed compensatory education of 30 hours of Lindamood-Bell instruction to be provided to the student in the area of reading as follows:

1. No later than January 18, 2027, SD must provide the student 30 hours of the compensatory education of Lindamood-Bell instruction. The services must be in addition to the services in the student's IEP in effect at the time; and be provided during school breaks or before or after school. At SD's discretion, all or part of the services may be provided by a qualified private provider rather than SD Lindamood-Bell trained and qualified personnel.
2. No later than the thirty days after the date of this State Complaint Report, SD must contact the student's Parent and offer to provide the 30 hours of compensatory education of Lindamood-Bell instruction to the student. SD must consult with the student's Parent on the appropriate means to provide this ordered compensatory education to meet the student's educational needs and must consider any concerns of the Parent and/or proposals in the development of the compensatory education plan.

Documentation of the completion of the student-specific remedy must be provided to NDE within 10 business days of its completion.

3. If, at any time after the issuance of this State Complaint Report and prior to the ordered completion date for the compensatory education, the Parent expressly declines/refuses the service, which is a Parent's right, or does not cooperate by making the student available to receive the compensatory services through SD's determined means to enable completion by January 18, 2027, SD is relieved of the Order to provide that student the ordered hours of compensatory education, or of the remaining hours, if the services commenced, and thereafter the student's Parent does not make the student available for the provision of the compensatory services or refuses completion of the compensatory services.
4. The required SD documentation to be provided to NDE in the event SD attempts to implement this Order and is unable to do is: documentation of the offer to provide the ordered compensatory education services and the Parent's receipt of the offer; either the Parent's refusal of the services, including the date, or, if the Parent does not make the student available to receive the services during the ordered time period, documentation of SD's repeated efforts to make the services available to the student and the Parent's response; and after those repeated efforts, documentation of SD's notice to the Parent that services will be discontinued on a date specific, unless the student's Parent notifies SD in advance of that date that the Parent accepts the ordered compensatory services and will make the student available as set forth in SD's plan. The documentation must be consistent with IDEA, 34 C.F.R. §300.322(d). (If any delay in the Parent's cooperation/acceptance of the ordered compensatory education services reduces the time period by which the services must be

⁶ If SD and the Parent agree to an alternative student-specific remedy, that written agreement must be submitted to NDE and all required documentation in this Order applies to the implementation of the agreed-upon alternative remedy.

provided by more than three months, the amount of service hours may be reduced proportionally.)

II. Systemic Remedy

While there was no documentation in this case that indicated systemic noncompliance, given the failure to implement this student's IEP, the State Complaint Investigation Team determined that training is required at the school level to ensure the appropriate future provision of services for all students with disabilities.

No later than two weeks after the commencement of the 2026/2027 school year, SD must conduct a training(s) for at least the school principal and the special education teachers in the school that the student attended in the 2025/2026 school year. The training may be provided in the manner determined appropriate by SD and must include:

- A. A summary of the finding of noncompliance in this State Complaint; and the requirement that special education and related services and supplemental aids and services must be provided in conformity with a student's IEP. 34 C.F.R. §§300.17(d), 300.101; NAC §388.281(6)(e). The training must include how a shortage of personnel, such as an absent provider with no substitute or insufficient personnel to cover events, that impacts the implementation of a student with disability's IEP, or students with disabilities' IEPs, is to be addressed to ensure the provision of FAPE to the impacted student(s) notwithstanding the shortage, including the process of escalation to SD-level special education personnel for assistance if necessary.
- B. 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 SD's determination of the attendees' satisfactory completion of the training.