

**WASHOE COUNTY SCHOOL DISTRICT
COMPLAINT INVESTIGATION
(#WA021026)**

Report Issued on April 10, 2026

INTRODUCTION

On February 10, 2026, Nevada Department of Education (NDE) received a State Complaint from a Parent alleging violations of the Individuals with Disabilities Education Act (IDEA); a provision of the Nevada Revised Statutes (NRS); or the Nevada Administrative Code (NAC), Chapter 388, by Washoe County School District (WCSD) in the student's special education program.

The numerous allegations in the State Complaint, in summary form, were that WCSD: failed to conduct and document a Functional Behavioral Assessment and decisions were made without the required assessment-based foundation; denied a Free Appropriate Public Education through unsupported behavioral determinations; failed to develop an enforceable Individualized Education Program (IEP); improperly removed/alterd the home-support materials accommodation in the student's IEP; conducted an invalid Manifestation Determination Review; denied meaningful parent participation; failed to provide Prior Written Notices after receipt of Parent's written input prior to the January 9, 2026 IEP Team meeting and when removing the accommodation of assignment materials for home support from the November 10, 2025 IEP; and failed to implement the student's IEP as written.

The Parent's proposed resolution included specific corrective actions that "focused on ensuring the student's IEP is written and implemented in a manner that is clear, objective, enforceable, and consistent with IDEA requirements."

The Parent's State Complaint included several allegations outside the jurisdiction of the State Complaint process, including the absence of the facts on which the allegation was based as it related to the problem. 34 C.F.R. §300.153; NAC §388.318. The Parent was notified of the basis for the absence of jurisdiction of these allegations and informed of alternative available processes to pursue resolution of these allegations, if desired. Based on the allegations of noncompliance, the specific allegations within the jurisdiction of NDE through the State Complaint process raised the following issues for investigation:

Issue One:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the development of the student's November 10, 2025 IEP, specifically whether the IEP Team considered the results of the initial or most recent evaluation of the student in the area of behavior.

Issue Two:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the implementation of the student's November 10, 2025 IEP between December 1, 2025 and January 9, 2026, specifically with regard to the individualized communication accommodations of: proactive communications regarding missing assignments; individualized updates; timely notice when assignments could be completed for credit; paper packet of assignments; and materials for home support (with instructions and required materials).

Issue Three:

At the January 9, 2026 IEP Team and Manifestation Determination Review meeting(s), whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the review and consideration of the information in the parent's Parent Input Packet in making the Manifestation Determination and determining the accommodations for the student in the student's IEP.

Issue Four:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 to provide the parent a Prior Written Notice within a reasonable time before the removal/alternation of the accommodation of assignment materials for home support in the November 10, 2025 IEP and refusal to include the parent's proposed accommodations in the student's January 9, 2026 IEP.

In the February 18, 2026 issue letter to WCSD, WCSD was notified that if it 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 documentation that factually supported the denial, and that failure to provide these by March 11, 2026 would be considered a concession of noncompliance for purposes of this State Complaint.

WCSD did respond timely with the required information/documentation and denied the alleged noncompliance for Issues One, Three, and Four in their entirety. With regard to Issue Two, providing an example, WCSD asserted that the named accommodations in the student's IEPs were implemented but that documentation of the implementation was not collected. Accordingly, WCSD asserted that the student's overall grade was not impacted and that, if there was a finding, that it should be considered a minor procedural violation rather than a material implementation failure. WCSD response included that the student's Parent was offered compensatory services to address the implementation allegation, but the Parent did not respond to the offer.

The State Complaint and WCSD's response, including all documents submitted, 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 is a student with a disability who was enrolled in WCSD during the relevant time period of this State Complaint. (Student IEPs, Student Attendance)
2. At issue in this State Complaint are the student's November 10, 2025 and January 9, 2026 IEPs in effect in the 2025/2026 school year. The November 10, 2025 IEP is a revision to the November 4, 2025 annual IEP. (IEPs)
3. The student's Parent and WCSD engaged in numerous written communications at both the school and district level during the relevant time period of this State Complaint. WCSD repeatedly made offers to accommodate the Parent's concerns and responded to the extensive email correspondence from the Parent. (Email Correspondence)

4. While WCSD did not exercise the opportunity to, at its discretion, provide a proposal to resolve this State Complaint in its response, WCSD did make a settlement offer to the Parent outside of formal dispute resolution in the amount of 50 hours of tutoring services in the areas of executive functioning and task completion skill to remedy the allegation of non-implementation of accommodations. The Offer was for the services to be provided by a qualified certified provider of the Parent's choice to be completed by January 8, 2027. (Settlement Offer, WCSD Response)

November 10, 2025 IEP - Development

5. The most recent Multidisciplinary Psycho-Educational evaluation of the student was October 25, 2023 with the anticipated reevaluation date of October 26, 2026. A comprehensive evaluation was completed April 2023 by a psychiatrist that included looking at the student's mental health needs with a recommendation on a likely generalized anxiety disorder. The relevant recommendations in the area of behavior were reported concerns with organization and work follow through. The assessment results of the Multidisciplinary Psycho-Educational evaluation were included in the student's November 4, 2026 and November 10, 2025 IEPs. (October 25, 2023 Multidisciplinary Psycho-educational Team Report, November 10, 2025 IEP)
6. In the area of social/emotional/behavioral, WCSD also conducted the assessment of observation and reviewed the student's progress based on data collection on November 4, 2025. Both the student's November 4, 2025 and November 10, 2025 IEPs included these same assessment results. (November 4, 2026, November 10, 2025 IEPs)
7. Based on observation and data collection on November 4, 2025, the following assessment results were reported:
 - a. Behaviors continue to interfere with the student's progress and involvement in the general education curriculum including incorrect responding to offers of support and accommodation, incorrect responding to corrective feedback, prompting and support from adults and peers, incorrect responding when instructed to terminate preferred activities or attend non-preferred activities and incorrect responding in general education social situations which require acceptance of or ignoring other's behavior.
 - b. Behaviors such as staring blankly at teachers when they are speaking to the student and expect an answer; making disrespectful comments; and remaining seated or on the computer when instructed to pack up and leave the classroom. Leaving the self-monitor forms in classrooms prevent the student from accessing help, support and accommodations and interfere with the student's progress in the general education curriculum. When the student engages in these behaviors the student is missing tier one instruction, guided practice, and time in class to complete work with assistance.
 - c. Based on an October 2023 speech/language assessment, the student is knowledgeable/aware of what is expected in various social situations, though the student may or may not consistently demonstrate this knowledge in situations as they occur naturally. The student's deficit of generalizing skills to the general education setting contribute to behaviors such as aggression toward other students, refusal to engage in group activities, and reacting negatively to offers of assistance. School-based consequences of some of these behaviors can be reinforcing of the unwanted behavior by allowing escape from non-preferred settings and activities. These consequences also prevent access to the general education curriculum, specially designed instruction, and are not compatible with accessing reinforcement for appropriate behaviors. It was recommended that the team may need to be more creative with the school-based consequences, should striking of other students continue to occur, to limit the reinforcing effects of out-of-school and in-school

- suspensions and set the expectation that school work, appropriate peer interactions, and appropriate interactions with adults is a continued expectation.
- d. The self-monitoring and check system is not working for the student. Most likely the student requires a reinforcement system more aligned with a function of escape, such as a point system which could give the student free time with preferred activities.
 - e. The review of data included the student's absences and tardies and two out-of-school and two in-school suspensions. The student's absence rate of 15.38 was considered chronically absent. Data was collected from various teachers on the student's behavior. (November 10, 2025 IEP, October 25, 2023 Speech and Language Report)
8. Deficits in social/emotional/behavior skills impact the student's involvement and progress in the general education curriculum because the student struggles with appropriate school social skills. The student has difficulty with self-regulating emotions and self-managing functional academic behaviors. This impacts the student's ability to complete schoolwork, build positive peer relationships and participate in small/whole group activities. (November 10, 2025 IEP)
 9. The student's IEP Team determined that the student's behavior impeded the student's learning or the learning of others and indicated positive behavioral strategies, supports and interventions or other strategies, supports and interventions to address that behavior was addressed in the IEP. (November 10, 2025 IEP)
 10. In the statement of parent educational concerns submitted in advance of the November 4, 2025 IEP and repeated in the November 10, 2025 IEP, the student's Parents expressed concern regarding the student declining to use accommodations. In addition, the Parent raised concerns prior to the meeting for consideration by the IEP Team in the following areas: clarity and constancy of accommodations; late work and time management; organization and work submission; transition and emotional regulation; push-in/pull-out supports; accountability and communication; scheduling and student study team placement; transition planning. No parental concerns were provided to the IEP Team on the need for additional assessments in the areas of behavior. (November 4, 2025, November 10, 2025 IEPs)
 11. The student's Parent agreed with the components of the November 4, 2025 IEP. The November 10, 2025 IEP Team meeting was convened for a revision for clerical purposes to add an accommodation agreed upon at the November 4, 2025 meeting. Both IEPs included the same four annual goals that included seeking and accepting assistance, self-management skills in the area of classroom expectations for organization, behavior, and work completion, social awareness and interpersonal skills. (November 4, 2025, November 10, 2025 IEPs)
 12. After the time period of this State Complaint, on February 17, 2025, the student's Parent formally requested the conduct of a Functional Behavioral Assessment and the development of a Behavior Intervention Plan. WCSD responded February 20, 2025 and proposed to conduct the assessment and provided the Parent a Prior Written Notice and request for written consent. (February 20, 2026 Prior Written Notice, February 20, 2026 Nevada Consent for Evaluation)

Implementation of November 10, 2025 IEP

13. From December 1, 2025 to January 9, 2026, there were 18 school days and four full or partial school weeks covering portions of both Term Two and Term Three. Term Two was for a total of 39 school days and Term Three was for a total of 47 school days. Of the school days at issue in this State Complaint, fourteen of the school days were at the end of Term Two and four school days

were at the beginning of Term Three. This brief time period did not align with quarterly reports of the student's progress toward meeting the goals in the November 10, 2025 IEP. The student's overall grades in core subjects representing the entirety of Term One (for comparison), Term Two and Term Three were reported as: English Language Arts from a D grade to a F grade to an A grade; Math from a B grade to a B grade to a D grade; Science from a B grade to a C grade to a B grade; Social studies from a C grade to a C grade to a B grade. (2025/2026 WCSD Balanced Calendar, Progress Reports)

14. The student's attendance was as follows from December 1, 2025 to January 9, 2026: In Term Two, on December 4, 2025 tardy for period one and a school activity took place during period three and four; on December 5 and 8, 2026, the student was suspended for all periods; the student was tardy for two periods on December 11, 2025 and one period on December 15, 2025; on December 16, 2025, Iready testing took place as a school activity over two periods, the student missed instruction for one period and was tardy for another period; on December 17, 2025, the student was tardy for one period; on December 18, 2025 the student had four periods of in-school suspension and was tardy for two periods; in Term Three on January 7, 2026, the student had an unverified absence for one period; and on January 8, 2026, the student was absent the whole school day due to weather.(Student Period Attendance Detail)
15. The student's November 10, 2025 IEP included the following relevant accommodations related to, communications with the Parent, assignments and homework in the location of the regular education setting from November 10, 2025 to November 3, 2026:
 - a. Home communication folder as for planner page (completed at the end of core classes) home notes/other school needs. The frequency of the service was daily in core classes with general education and special education staff support.
 - b. General education or special education staff prompt student to check home communication folder for homework to turn in. The frequency of the service was daily at beginning of all classes that require homework.
 - c. Provide weekly reporting and collaboration with the parent using daily behavior tracking forms. Copy sent to both parents at end of week. The frequency of the service was weekly: general education team and special education team.

Accommodation b was added to the November 10, 2025 IEP and accommodation a was substantively the same as that in the November 4, 2025 IEP, with some additional detail. (November 4, 2025, November 10, 2025 IEPs)

16. Much of the documentation provided by WCSD of the implementation of the reporting of the behavior tracking forms and assignment/homework accommodations in the student's November 10, 2025 IEP was outside the relevant time period of this State Complaint. From December 1, 2025 to January 9, 2026, the student's class schedule included four core classes and two periods of student study teams. The following documentation was provided from December 1, 2025 to January 9, 2026:
 - a. The student's science teacher: the week of January 6, 2026 to January 9, 2026:
 - i. No documentation was provided for the provision of the daily communication folder for January 6-7, 2026, the student was absent January 8 and it was documented as provided on January 9, 2026;
 - ii. Documentation was provided that prompting the student on the home communication folder was not applicable on January 6-7, 2026; the student was absent January 8, 2026 and it was provided January 9, 2026.
 - iii. No documentation was provided on the behavior tracking sheet.
 - b. Undated documentation reported on December 19, 2025 was provided for the student's math teacher over eight days with checks that the behavior tracking sheet was filled out

daily; four days with checks that the home communication folder was implemented and no documentation the prompting of the home communication folder was completed. Additional undated documentation was provided.

- c. The student's social study teacher provided documentation of implementation the week of January 12, 2026, outside the scope of this State Complaint.
- d. The student's English Language Art's teacher provided documentation reported January 6, 2026 with no dates of implementation noted, with a check on one day that that the daily home communication folder was implemented and that the student was prompted to check the home communication folder. Not applicable was provided for the other four days. From December 8, 2025 to December 19, 2025, a period of eight school days, upon consideration of the student's suspension, the teacher prompted the student on the home communication folder either five or six days and the student indicated it was lost (note this accommodation does not require prompting); and the student was prompted to check the folder on seven days. Regarding the weekly behavior communication, it was noted as done. (WCSD Data Collection Reports, Student Schedule))

Prior Written Notice – November 10, 2025 IEP

17. Outside the relevant time period of this State Complaint, the student's November 4, 2024 IEP included an accommodation that the student's Parents would be provided a paper packet of assignment materials on a weekly basis so they can help with work completion at home. When the student's Parent raised the concern with WCSD in January 2026, WCSD indicated that if the Parent believed this was an accommodation the student required, the IEP Team could consider it at the upcoming IEP Team meeting. (November 2024 IEP, January 6, 2026 Email Correspondence)
18. The student's November 4, 2025 IEP included an accommodation of a home communication folder for planner page/home notes/other school needs to be completed daily in all core classes. With some additional detail, this accommodation in the student's November 10, 2025 IEP was substantively the same as that in the November 4, 2025 IEP. (November 4, 2025 IEP, November 10, 2025 IEPs)
19. The student's Parents were not provided a Prior Written Notice after the revision of the student's November 10, 2025 IEP. (WCSD Supplemental Response)

Consideration of Parent Input, Prior Written Notice– January 9, 2026 IEP

20. Asserting that parents may participate by" alternative means," the student's Parent notified WCSD that the Parents would be attending the January 9, 2026 IEP Team meeting in writing, rather than attending in real time. (January 4, 2026, January 9, 2026 Email Correspondence)
21. The student's Parent provided extensive written input in advance of the January 9, 2026 IEP and Manifestation Determination Team meeting and conditioned attendance to the meeting on having WCSD's position in advance of the meeting. The Parent asserted that to participate meaningfully that the Parent needed to have WCSD's written explanation of its position on each Parental concern raised and relied, in part, on the right to receive a Prior Written Notice of WCSD's proposals/refusals. (January 4, 2026 Email Correspondence)
22. In several communications, WCSD informed the student's Parent that the IEP Team was absolutely willing to consider the Parent's concerns and attempted to explain that providing the requested Prior Written Notice prior to the IEP Team meeting could be considered unilateral action taken by WCSD outside of the IEP Team process. (Email Correspondence)

23. On the day of the IEP Team meeting, WCSD informed the student's Parent that while the Parent's written input was welcomed that a written packet of information does not take the place of participation at the IEP Team meeting. WCSD offered to cancel the January 9, 2026 IEP Team meeting and offered the services of an NDE IEP Facilitator. (January 9, 2026 Email Correspondence)
24. In addition to the written input in November 2025, the following in summary form were the Parent's statement of educational concerns memorialized in the student's January 9, 2026 IEP: repeated failure to communicate missing assignments when make-up eligible; inconsistent provision of required materials and written instructions for home support; IEP accommodations were altered, weakened or removed without parental agreement, including removal of the home-support packet; the communication accommodation was vague and implemented inconstantly and without case manager oversight; completed assignments remained in the folder unsubmitted; classwork intended for class time was regularly becoming homework; school responses often reframed systemic issues as student and Parent responsibility; repeated documented failures; inconsistent addressing the student's ADHD and autism; general education teachers may not be adequately supported or trained in autism and ADHD practices; and stronger behavioral safeguards and consistent routines are necessary. The contents of the Parent's written input/Parent Input Packet for MDR/IEP Meeting were included in detail over two IEP pages in the January 9, 2026 IEP. (January 9, 2026 IEP)
25. At the January 9, 2026 Manifestation Determination/IEP Team meeting, the student's IEP Team determined that the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability and was a direct result of the failure to implement the student's IEP. The resultant finding was that that the conduct subject to disciplinary action was a manifestation of the student's disability. The student's accommodations were also changed in the January 9, 2026 IEP, including a revision of the home communication folders by the removal of checking the accommodation to check the home communication folder for homework and changing the home communication folder to a daily binder with all classwork to be sent home daily with a section/folder with incomplete assignments to be completed. (January 9, 2026 IEP, January 9, 2026 Manifestation Determination Summary)
26. WCSD provided a Prior Written Notice to the student's Parent on January 15, 2026 with the proposed action to implement the IEP developed for the student on January 9, 2026. The Prior Written Notice included a detailed description of the IEP Team's consideration of the Parent's written input and the proposed or refused actions taken by the IEP Team as a result of the parental input. (January 15, 2026 Nevada Parental Prior Notice, January 15, 2025 Email Correspondence)

CONCLUSIONS OF LAW

Introduction

Parental participation in the IEP creation process is of vital importance under the IDEA. (*Doug C. ex rel. Spencer C. v. State of Hawaii, Dep't of Educ.*, 720 F.3d 1038; 61 IDELR 91 (9th Cir. 2013)) The student's Parent in this case is an active participant in their student's education and is fervent advocate for the student's receipt of a Free Appropriate Public Education, and that is commendable. While the student's Parent and the WCSD have had numerous disagreements in the 2025/2026 school year regarding what constitutes a Free Appropriate Public Education for the student, the documentation is also replete with the

WCSD responsiveness to the concerns of the Parents and efforts to resolve disagreements regarding the student's education, and that is also commendable. (Finding of Fact (FOF) #3) Given a number of the concerns expressed by the Parent regarding the issues in this State Complaint were based on the Parent's misinterpretation of the legal requirements in IDEA, it is the hope of NDE that this Report will serve to clarify those requirements and strengthen, rather than diminish, the WCSD's and the Parent's partnership in the provision of a Free Appropriate Public Education to the student.

Issue One:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the development of the student's November 10, 2025 IEP, specifically whether the IEP Team considered the results of the initial or most recent evaluation of the student in the area of behavior.

In the development, review, and revision of an IEP, the student's IEP Team must consider the results of the initial or most recent evaluation of the student. 34 C.F.R. §300.324; NAC §388.284(2)(a). In this case, the most recent Multidisciplinary Psycho-Educational evaluation of the student was October 25, 2023, with the anticipated reevaluation date of October 26, 2026. The evaluation included the student's mental health needs with a recommendation on a likely generalized anxiety disorder with reported concerns with organization and work follow through. In the area of social/emotional/behavioral, WCSD also conducted the assessment of observation and reviewed the student's progress based on data collection on November 4, 2025. Both the student's November 4, 2025 and November 10, 2025 IEPs included these same assessment results. (FOF #5, #6) The assessment results of the observation and data collection on November 4, 2025 included reported behaviors regarding the student's responses to support and accommodations, instructions, and responses to social situations and the student's deficit of generalizing skills to the general education setting. (FOF #7) The student's Parents did not raise any concerns in the development of the November 4, 2025 and November 10, 2025 IEPs of a need for additional assessments in the areas of behavior. (FOF #10)

The November 10, 2025 IEP Team meeting was convened for a revision for clerical purposes to add an accommodation agreed upon at the November 4, 2025 meeting. (FOF #11) In both the November 4, 2025 and November 10, 2025 IEPs, the student's IEP Team determined that the student's deficits in social/emotional/behavior skills impacted the student's involvement and progress in the general education curriculum because the student struggles with appropriate school social skills and has difficulty with self-regulating emotions and self-managing functional academic behaviors. (FOFs #8, #9)

The student's November 4, 2025 and November 10, 2025 IEPs included the same four annual goals that included seeking and accepting assistance, self-management skills in the area of classroom expectations for organization, behavior, and work completion, social awareness and interpersonal skills and related special education services. The student's Parent agreed with the components of the November 4, 2025 IEP. (FOF #11) Upon consideration of the assessment results and the November 10, 2025 IEP, the State Complaint Investigation Team determined that the student's IEP Team did consider the results of both the 2023 Multidisciplinary evaluation and the November 4, 2025 assessment results in the development of the student's November 10, 2025 IEP.

Therefore, WCSD complied with IDEA and NRS/NAC Chapters 388 in the development of the student's November 10, 2025 IEP, specifically the IEP Team considered the results of the initial or most recent evaluation of the student in the area of behavior.

Issue Two:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the implementation of the student's November 10, 2025 IEP between December 1, 2025 and January 9, 2026, specifically with regard to the individualized communication accommodations of: proactive communications regarding missing assignments; individualized updates; timely notice when assignments could be completed for credit; paper packet of assignments; and materials for home support (with instructions and required materials).

System of Records

The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 76 and 80 are applicable to IDEA. Title 34 C.F.R. §76.731 requires that a State and a subgrantee must keep records to show its compliance with program requirements. "Consistent with the EDGAR provisions cited above, States and public agencies must maintain documentation sufficient to ensure that a public agency provides FAPE to a child with a disability in accordance with the child's IEP. A State determines the form of documentation deemed sufficient to demonstrate whether its public agencies are in compliance with this requirement...." *Letter to Brousaides*, (OSEP, June 9, 2010).¹

Pursuant to NAC §388.215, the State of Nevada has established measures each public agency must take to ensure that every student with a disability in the school district is identified, evaluated and served in the manner appropriate to the unique needs of the student. These measures include the establishment of a system of records that verifies these measures were implemented, including that each student identified as a student with a disability is receiving services appropriate to the student's disability. This requirement for a verifiable system of records is particularly important in the State Complaint process because, unlike due process hearings where testimony is under oath; cross examination of witnesses is available; and there is an opportunity for the Hearing Officer to judge credibility on matters with conflicting evidence, this process is an investigation process. Accordingly, verifiable documentation is required to reach a determination whether the assertions of the public agency should be believed over the assertions of the complainant or vice versa.

Implementation

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).²

It was the Parent's assertion in this case that the individualized communication accommodations in the student's November 10, 2025 IEP of: proactive communications regarding missing assignments; individualized updates; timely notice when assignments could be completed for credit; paper packet of assignments; and materials for home support (with instructions and required materials) were not implemented. However, the student's November 10, 2025 IEP included only the following relevant accommodations:

¹This policy letter is publicly available at: <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2010-2/brousaides060910sea2q2010.pdf>

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

1. Home communication folder as for planner page (completed at the end of core classes) home notes/other school needs. The frequency of the service was daily in core classes with general education and special education staff support.
2. General education or special education staff prompt student to check home communication folder for homework to turn in. The frequency of the service was daily at beginning of all classes that require homework.
3. Provide weekly reporting and collaboration with the parent using daily behavior tracking forms. Copy sent to both parents at end of week. The frequency of the service was weekly: general education team and special education team.³ (FOF #15)

The time period at issue in this State Complaint is for a period of 18 school days, four school weeks. (FOF #13) Consistent with WCSD's Response in this State Complaint, documentation was not provided that these accommodations were implemented as required during this time period. (FOF #16) In the absence of documentation otherwise (NAC §388.215), the State Complaint Investigation Team determined that these accommodations were not provided in conformity with the student's IEP as required. 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)

Therefore, WCSD failed to comply with IDEA and NRS/NAC Chapters 388 in the implementation of the student's November 10, 2025 IEP between December 1, 2025 and January 9, 2026, specifically with regard to individualized communication accommodations.

Issue Three:

At the January 9, 2026 IEP Team and Manifestation Determination Review meeting(s), whether WCSD complied with IDEA and NRS/NAC Chapters 388 in the review and consideration of the information in the parent's Parent Input Packet in making the Manifestation Determination and determining the accommodations for the student in the student's IEP.

In the development, review, and revision of an IEP, the IEP Team must consider the concerns of the parents for enhancing the education of their child. 34 C.F.R. §300.324; NAC §388.284(2). Although the formulation of an IEP is "ideally to be achieved by consensus among the interested parties at a properly conducted IEP meeting, sometimes such agreement will not be possible..." *Doe v. Maher*, 793 F.2d 1470; 1985-86 IDELR 557:353 (9th Cir. 1986). cert. granted, in part; *Mrs. S. v. Vashon Island School District*, 37 F.3d 1115: 39 IDELR 154 (9th Cir. 2003). cert denied. While an agency is not required to adopt a parents' recommendations; it is required to provide a prior written notice that includes an explanation of why the agency was not adopting the parents' recommendations and to explain any other options it considered and why it did not adopt those options. *Letter to Faustini*, 32 IDELR 206 (OSEP August 5, 1999)⁴

³ Outside the relevant time period of this State Complaint, the student's November 4, 2024 IEP included an accommodation that the student's Parents would be provided a paper packet of assignment materials on a weekly basis so they could help with work completion at home. (FOF #17)

⁴ Given this letter is not publicly available, this policy guidance set forth in a letter from the United States Department of Education, Office of Special Education Programs is provided in context: "The IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions regarding the (1) child's needs and appropriate goals; (2) extent to which the child will be involved in the general curriculum and participate in the regular education environment and State and district-wide assessments; and (3) services needed to support that involvement and participation and to achieve agreed-upon goals. Parents are considered equal partners with school personnel in making these decisions, and the IEP team must consider the parents'

Involvement of the parents in the “creation process” of the IEP requires the district to include the parents in the IEP meeting, unless the parent affirmatively refuses to attend the IEP meeting. *Shapiro v. Paradise Valley Sch. Dist. No. 69*, 38 IDELR 91; 317 F.3d 1072 (9th Cir. 2003). Further, a school district violates the IDEA if it predetermines the contents of a student’s IEP or placement. School officials must come to an IEP meeting with “an open mind.” *K.D. v. Department of Education, State of Hawaii*, 665 F.3d 1110, 58 IDELR 2 (9th Circuit 2011)

The student’s Parent provided extensive written input in advance of the January 9, 2026 IEP Team meeting. In this case, relying, in part, on the right to receive a Prior Written Notice of WCSD’s proposals/refusals in advance of the IEP Team meeting, the Parent declined to attend the IEP Team meeting when WCSD was unwilling to explain its position on each parental concern raised in advance of the IEP Team meeting. (FOFs #21, #22, #24) While WCSD repeatedly attempted to convince the student’s Parent to attend the IEP Team meeting, 34 C.F.R. §300.322(d), the student’s Parent persisted that the Parents would ‘attend’ the January 9, 2026 IEP Team meeting only in writing, rather than in real time. (FOFs #20, #22, #23)

While certainly it was the Parent’s right to decline to participate in the “creation process” of the student’s January 9, 2026 IEP as a member of the IEP Team, their written input was memorialized in the student’s January 9, 2026 IEP and consideration was reflected in the Manifestation Determination. (FOFs #24, #25) Further, some of the revisions to the student’s accommodations reflected consideration of that advance written input and the Prior Written Notice documented that consideration. (FOFs #25, #26)

Therefore, at the January 9, 2026 IEP Team and Manifestation Determination Review meeting, WCSD complied with IDEA and NRS/NAC Chapters 388 in the review and consideration of the information in the parent’s Parent Input Packet in making the Manifestation Determination and determining the accommodations for the student in the student’s IEP.

Issue Four:

Whether WCSD complied with IDEA and NRS/NAC Chapters 388 to provide the parent a Prior Written Notice within a reasonable time before the removal/alternation of the accommodation of assignment materials for home support in the November 10, 2025 IEP and refusal to include the parent’s proposed accommodations in the student’s January 9, 2026 IEP.

Prior written notice with specific content must be provided to the parents of a child with a disability a reasonable time before a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. §34 C.F.R. §300.503; NAC

concerns and the information that they provide regarding their child in developing, reviewing, and revising IEPs (300.343(c)(2)(iii) and 300.346(a)(1) and (b)).

The IEP team should work toward consensus, but the public agency has ultimate responsibility to ensure that the IEP includes the services that the child needs in order to receive FAPE. It is not appropriate to make IEP decisions based upon a majority "vote." If the team cannot reach consensus, the public agency must provide the parents with prior written notice of the agency's proposals or refusals, or both, regarding the child's educational program, and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

Every effort should be made to resolve differences between parents and school staff through voluntary mediation or some other informal step, without resort to a due process hearing. However, mediation or other informal procedures may not be used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part B.”

§388.300.300. “The purpose of such advance notice is to provide the parent sufficient time to consider the proposal or refusal and respond prior to implementation of the proposed action, or in response to a refusal to take a requested action. In order for the parent to make his or her decision, she or he must be clear on the action being proposed or refused....” *Letter to Atkins-Lieberman*, 56 IDELR 141 (OSEP August 5, 2010)⁵

In this case, there was a fundamental dispute whether a Prior Written Notice was required to be issued *prior* to the conduct of an IEP Team meeting or *after* a decision was made at an IEP Team meeting. Since this controversy, may persist in the future, it is hereby clarified that a Prior Written Notice must be given to a parent *after* the agency's decision on the proposal or refusal has been made and a reasonable time *before* the local educational agency implements the proposed action. The purpose of a Prior Written Notice is to inform parents of “an agency's **final action** on a proposal or refusal to initiate or change the identification, evaluation, educational placement, or the provision of a Free Appropriate Public Education to a child. (Emphasis added.) *Letter to Helmuth*, 16 IDELR 550 (OSEP 1990)⁶ As such, in the case of the development or revision of a student’s IEP, the Prior Written Notice must be provided to parents after the development/revision of the IEP not before, as the Parent strenuously believed. 34CFR § 300.504(a).

November 10, 2025 IEP

The student’s Parent agreed with the components of the November 4, 2025 IEP and the student’s November 10, 2025 IEP Team meeting was convened for the purpose of a revision for clerical purposes to add an accommodation agreed upon at the November 4, 2025 meeting. (FOFs #11, #18) Consistent with that purpose, a new accommodation was added to the student’s IEP and some additional detail was added to a related accommodation. (FOF #15)⁷ It is uncontested that the student’s Parent was not provided a Prior Written Notice after the revision of the student’s November 10, 2025 IEP as required. (FOF #19) The fact that the revision was relatively minor and the Parent had previously agreed to the proposed additional accommodation did not alter the requirement that a Prior Written Notice was required to be provided the Parent a reasonable time before the agency implemented the proposed/refused action to change the student’s Free Appropriate Public Education. 34 CFR § 300.504(a).

⁵ As indicated, while not all policy letters and policy support documents from OSEP are available publicly, this letter is publicly available at: [Policy Guidance - Individuals with Disabilities Education Act](#)

⁶ *Letter to Helmuth*, 16 IDELR 550 (OSEP January 20, 1990). Given this letter is not publicly available, this policy guidance set forth in a letter from the United States Department of Education, Office of Special Education Programs is provided in context: “The purpose of the written notice required under EHA-B is to inform parents of an agency's final action on a proposal or refusal to initiate or change the identification, evaluation, educational placement, or the provision of a FAPE to a particular child. In general, such notice must be given to parents a reasonable time before the agency implements that action, but after the agency's decision on the proposal or refusal has been made. 34 CFR § 300.504(a). The provisions at 34 CFR § 300.505(a)(2) and (a)(4)---requiring the notice to include a description of the agency's action and the options the agency considered or rejected, as well as other factors relevant to the agency's proposal or refusal---clarify that written notice under EHA-B is notice of a public agency's final decision on a proposal or refusal. Following the receipt of the prior written notice, and before the agency's action would be implemented on the proposal or refusal to initiate or change the identification, evaluation, educational placement, or the provision of a FAPE to a child, a parent or a public educational agency has the right to request an impartial due process hearing "on any of the matters described in 34 CFR § 300.504(a)(1) and (2)." 34 CFR § 300.506(a). Thus, the written notice that constitutes the basis for a parent's hearing request must include the agency's final action, or decision, on the proposal or refusal.”

⁷ The fact that the impetus for the stated allegation regarding the absence of a Prior Written Notice was based on the Parent’s disagreement with the removal of an accommodation before the relevant time period of this State Complaint (FOF #17) does not change this conclusion.

January 9, 2026 IEP

WCSD provided a Prior Written Notice to the student's Parent on January 15, 2026 with the proposed action to implement the IEP developed for the student on January 9, 2026. The Prior Written Notice included a detailed description of the IEP Team's consideration of the Parent's written input and the proposed or refused actions taken by the IEP Team as a result of the parental input. (FOF #26)

Therefore, WCSD complied with IDEA and NRS/NAC Chapters 388 to provide the parent a Prior Written Notice within a reasonable time before the refusal to include the parent's proposed accommodations in the student's January 9, 2026 IEP, but failed to comply with the revision of the accommodation of assignment materials for home support in the November 10, 2025 IEP.

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

In this case, both a student-specific and systemic remedy is required. Both the Parent's proposed resolution for determined noncompliance and WCSD's proposed compensatory education offer prior to the filing of this State Complaint 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 WCSD on WCSD'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 WCSD 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 WCSD'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.

Unless an alternative student-specific remedy is otherwise agreed to in writing by WCSD and the Parent⁸, the CAP must provide for student-specific directed action and the systemic remedy and provide the timeline to enable the completion of the actions in accordance with the Order of Corrective Action.

ORDER OF CORRECTIVE ACTION

Student-Specific Remedy

⁸ If WCSD and the Parent agree to an alternative student-specific remedy, that written agreement must be submitted with the CAP and all required documentation in this Order applies to the implementation of the agreed-upon alternative 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.

In this case, the determination of the impact on the student of WCSD's failure to implement the three individualized communication accommodations in the November 10, 2025 IEP is not readily discernible given the absence of documentation on the student's progress toward meeting the related goals in the IEP and the limited information on the student's grades during the relevant period. Upon consideration that the student's IEP Team determined these accommodations were required for the student to receive a Free Appropriate Public Education; the manifestation determination relative to the result of a failure to implement the student's IEP; and that, for Term Two alone, the number of school days at issue in this State Complaint represented almost 36% of the school days (FOFs #13, #25), the State Complaint Investigation Team determined that a student-specific remedy was required.

Upon consideration of the number of school days at issue⁹ and in the absence of sufficient information to calculate an equitable remedy 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, the State Complaint Investigation Team adopts, with some modifications, WCSD's settlement offer in the amount of 50 hours of tutoring services to the student in the areas of executive functioning and task completion skill to remedy the allegation of non-implementation of accommodations as an equitable remedy. The following compensatory education is ordered:

1. No later than January 29, 2027, WCSD must provide the student 50 hours of the compensatory education of tutoring services to the student in the areas of executive functioning and task completion skill to remedy the allegation of non-implementation of accommodations. 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 WCSD's discretion, all or part of the services may be provided by a qualified private provider.

WCSD 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.

⁹ It was noted that the student was not in attendance during this time period for two and one-half days due to suspensions. (FOF #14) WCSD's compensatory education offer presumably also considered these absences due to disciplinary actions.

Documentation of the completion of the student-specific remedy must be provided to NDE within 14 days of its completion.

2. Upon consideration of the discord between the student's Parent and WCSD during the relevant time period of this State Complaint and the absence of the Parent's response to WCSD's prior offer to provide compensatory education (FOF #4):
 - a. If, after this ordered consultation or documented attempts to consult with the student's Parent on the appropriate means to provide this ordered compensatory education, the student's Parent either does not cooperate by making the student available to receive the compensatory services through WCSD's determined means to enable completion by January 29, 2027, or expressly declines/refuses the service, which is their right, at any time after the issuance of this State Complaint Report and prior to the ordered completion date, WCSD is relieved of the Order to provide the student the 50 hours of compensatory education of tutoring services to the student, 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.
 - b. The required WCSD documentation to be provided to NDE in the event WCSD attempts to implement this Order and is unable to do so is confirmation of the consultation with the student's Parent, or of the attempts if the Parent is unwilling to participate; the Parent's receipt of WCSD's written plan to implement the Order; and 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 WCSD's repeated efforts to make the services available to the student and the Parent's response; written notice of the terms of this Order; and after those repeated efforts, documentation of WCSD's notice to the Parent that services will be discontinued on a date specific, unless the student's Parent notifies WCSD in advance of that date that the Parent accepts the ordered compensatory services and will make the student available on the dates in WCSD's action 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 provided by more than three months, the amount of service hours may be reduced proportionally.)

Systemic Remedy

- I. Upon consideration of the record of Prior Written Notices provided to the student's Parents in the 2025/2026 school year, particularly the January 15, 2026 Prior Written Notice with the detailed description of the IEP Team's consideration of the Parent's written input and the proposed or refused actions taken by the IEP Team as a result of the parental input (FOF #26), the State Complaint Investigation Team determined that the following systemic remedy only is required for the absence of the provision of the Prior Written Notice after the November 10, 2025 IEP Team meeting:
 - a. Not later than May 4, 2026, written clarification, in the manner determined appropriate by WCSD, be provided to the school principal and assistant principal in the school that the student attended in the 2025/2026 school year of the requirement for the provision of a Prior Written Notice after the development/revision of each student's IEP, including when revisions are minor in nature and/or reflect the agreement of the parent.

Documentation of the written clarification and written acknowledgment of the receipt of the clarification and prospective implementation must be provided to NDE within 10 business days of the issuance of the clarification.

- II. No later than two weeks after the commencement of the 2026/2027 school year, WCSD must conduct a training(s) for the general education teachers in the school that the student attended in the 2025/2026 school year. The training must include:
- A summary of the finding of noncompliance regarding IEP implementation in this State Complaint; and
 - A training on WCSD's system of records under NAC §388.215 that verifies each student's IEP is implemented as required and the requirement that each service provider collect and, in the manner required, maintain the necessary data to verify the implementation of each student's IEP with fidelity as required.

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; the names of all general education teachers in the school; verification of the attendance of the required attendees; and WCSD's determination of the attendees' satisfactory completion of the training.