

**Report of Inquiry  
Bureau Resolution Determination  
Conducted by the Bureau of Exceptional Education and Student Services  
Involving the Orange County School District**

**BACKGROUND**

On January 16, 2009, the Bureau of Exceptional Education and Student Services (Bureau) received a state complaint letter from ■, attorney, on behalf ■, alleging that the Orange County School District had violated federal and state laws relating to the education of students with disabilities. Written authorization and consent for release of information for the attorney to communicate with Bureau staff was received from the student's parent on January 21, 2009, via telephone and facsimile respectively. Specifically, the complainants' allegations involved the following issues:

**ISSUE 1: Whether the Orange County School District implemented the student's individual educational plan (IEP), specifically relating to the provision of wheelchair accessible transportation in a climate controlled atmosphere with an aide or monitor, during the 2008-09 school year**

**ISSUE 2: Whether the Orange County School District's policies and procedures regarding the provision of transportation with an aide or bus monitor violate federal and state regulations related to exceptional student education (ESE)**

The 60-day timeline for completion of the inquiry began on January 21, 2009, with an anticipated completion date of March 22, 2009. The district was asked to submit relevant documents and information to the Bureau. The district's documentation was submitted by Ms. Harriet Brown, Esquire, Director of Exceptional Student Education (ESE) Policy and Procedures, on behalf of Ms. Anna Diaz, Associate Superintendent, ESE and Multilingual Services, Orange County School District. In addition, both parties provided information via telephone interviews.

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: ■) was in grade ■ and determined eligible for special programs for students with orthopedic impairments (OI) and language impairments (LI), and receiving occupational therapy (OT) and physical therapy (PT) as related services.

**ISSUE 1: Whether the Orange County School District implemented the student's individual educational plan (IEP), specifically relating to the provision of wheelchair accessible transportation in a climate controlled atmosphere with an aide or monitor, during the 2008-09 school year**

**LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.320, Title 34, Code of Federal Regulations (34 CFR 300.320), requires that an IEP must include, "(a)(4) A statement of the special education and related services and

supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child-(i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section...”

Section 300.323 of Title 34 states, “(c)(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP...”

The corresponding state requirement is found in State Board of Education Rule 6A-6.03028, Florida Administrative Code (F.A.C.)

## **CONCLUSIONS**

1. The district was not able to provide wheelchair accessible transportation in a climate controlled atmosphere with an aide or monitor on October 30, 2008, and January 7, 2009, during the time of the regular school bus run.
2. The parents elected to transport the student to school on those days.
3. The issue in question did not result in a significant lapse of services for the student, although concerns are noted in the district’s established policies and procedures related to special transportation with an aide or monitor (see Issue 2).

## **CORRECTIVE ACTION**

None.

**ISSUE 2: Whether the Orange County School District’s policies and procedures regarding the provision of transportation with an aide or bus monitor violate federal and state regulations related to exceptional student education (ESE)**

## **LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION**

Section 300.201 of Title 34 requires that, “The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §§ 300.101 through 300.163, and §§ 300.165 through 300.174.”

The corresponding state requirement is found in Section 1003.57, Florida Statutes (F.S.)

## **CONCLUSIONS**

1. The Orange County School District's written policies and procedures regarding the provision of transportation with an aide or bus monitor reference the use of substitute bus attendants, although they also state that the district's transportation services will not pick up the student without a bus attendant or substitute bus attendant present on the bus.
2. Additional procedures and practices described by district staff include alternative transportation options (i.e., second bus run later in the day; reimbursement to parents for transporting the student) to be employed in the event a substitute bus aide or monitor is not available.
3. As written, the district's policies and procedures regarding the provision of transportation with an aide or bus monitor violate federal and state regulations related to exceptional student education with regard to implementing students' IEPs when special transportation is required, to the extent that they allow for a lack of substitute attendants and, therefore, transportation not being provided.
4. As implemented, however, with the additional options of a second bus run or reimbursement to parents for transporting their students, the district's practices are not in violation of federal and state regulations with regard to implementing students' IEPs.
5. The limited availability of staff to serve as substitute bus aides or monitors may result in the use of the alternative transportation options, causing the student to miss a portion of the school day.

## **CORRECTIVE ACTION**

The Orange County School District shall ensure that its policies and procedures regarding special transportation are designed to ensure full implementation of the IEPs of students with disabilities who require the services of an aide or monitor on the bus. The results of its review of policies and procedures related to special transportation, including any revisions and a description of how they ensure full implementation of IEPs, shall be provided to the Bureau by June 30, 2009.