

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

BACKGROUND

On February 8, 2010, the Bureau of Exceptional Education and Student Services (Bureau) received a state complaint from ■■■, Esquire, on behalf of ■■■, the parent of a student who had been identified as gifted. The complainant alleged that the St. Lucie County School District violated state laws relating to the education of students in gifted education. The complainant also alleged that the St. Lucie County School District violated federal and state laws relating to the education of students with disabilities. Specifically, the complainant's allegations involved the following issues:

ISSUE 1: Whether the St. Lucie County School District developed an educational plan (EP) to address the student's individual needs beyond the general education curriculum during the 2009-10 school year

ISSUE 2: Whether the St. Lucie County School District appropriately implemented the student's EP during the 2009-10 school year

ISSUE 3: Whether the St. Lucie County School District followed the required procedures regarding the evaluation of the student as a student with a disability

The 60-day timeline for the completion of the inquiry began on February 9, 2010, with a completion date of April 9, 2010. The district and the complainant were asked to submit relevant documents and information to the Bureau. Bill Tomlinson, Exceptional Student Education (ESE) Director, St. Lucie County School District, submitted documentation on behalf of the district. The complainant also submitted documentation.

The educational records indicated that at the time of the filing of the state complaint, the student (date of birth: ■■■) was in grade ■■■ and was eligible for the special programs for gifted education. The student had not been determined eligible for ESE services.

ISSUE 1: Whether the St. Lucie County School District developed an educational plan (EP) to address the student's individual needs beyond the general education curriculum during the 2009-10 school year

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

State Board of Education Rule 6A- 6.030191, Florida Administrative Code (F.A.C.), states: "Educational Plans (EPs) are developed for students identified solely as gifted. Parents are partners with schools and school district personnel in developing, reviewing, and revising the educational plan (EP) for their child. Procedures for the development of the EPs for exceptional students who are gifted, including procedures for parental involvement, shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related

Services to Exceptional Students document and shall be consistent with the following requirements... (4) Contents of Educational Plans (EPs). EPs for students who are gifted must include: (a) A statement of the student's present levels of performance which may include, but is not limited to, the student's strengths and interests, the student's needs beyond the general curriculum, results of the student's performance on state and district assessments, and evaluation results; (b) A statement of goals, including benchmarks or short term objectives; (c) A statement of the specially designed instruction to be provided to the student; (d) A statement of how the student's progress toward the goals will be measured and reported to parents; and (e) The projected date for the beginning of services, and the anticipated frequency, location, and duration of those services; (5) Consideration in EP development, review and revision. The EP team shall consider the following: (a) The strengths of the student and needs resulting from the student's giftedness. (b) The results of recent evaluations, including class work and state or district assessments..."

CONCLUSIONS

1. The September 12, 2008, and December 9, 2009, EPs included the required components. However, concerns are noted in the following areas:
 - In place of statements describing the student's needs beyond the general curriculum, both EPs state that the student has needs beyond the general curriculum
 - The goals as written on the December 9, 2009, EP are so broadly stated as not to be measurable or clearly understood by teachers and parents
 - The objectives on the December 9, 2009, EP appear to reflect grade level standards and/or activities within the general curriculum; it is not clear how they reflect the student's needs beyond the general curriculum
2. The St. Lucie County School District did not sufficiently develop the EPs in effect for the 2009-10 school year to address the student's individual needs beyond the general education curriculum.

CORRECTIVE ACTION

The district shall convene the student's EP team, with the appropriate participants and sufficient advance notice to provide an opportunity for the parents to attend, by April 30, 2010, to review and revise the EP as needed to ensure that it clearly reflects the student's needs beyond the general curriculum and that it includes measurable goals. A copy of the EP shall be provided to the Bureau within ten days following the meeting.

ISSUE 2: Whether the St. Lucie County School District appropriately implemented the student's EP during the 2009-10 school year

The complainant asserted that the student did not receive specially designed instruction and that the student's assignments were not challenging enough.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Rule 6A- 6.030191, F.A.C., states: “Educational Plans (EPs) are developed for students identified solely as gifted... (7) EP Implementation. An EP must be in effect before specially designed instruction is provided to an eligible student and is implemented as soon as possible following the EP meeting...”

CONCLUSIONS

1. The district did not provide evidence that the student was provided higher level instruction or differentiated instruction in the areas of reading, math, science and social studies, daily, as required by the EP.
2. The St. Lucie County School District did not appropriately implement the student’s EP during the 2009-10 school year.

CORRECTIVE ACTION

During the EP meeting held in response to the corrective action required in Issue 1, the team shall determine if compensatory services are required to address the time period beginning August 24, 2009, until the time of the meeting, when the student’s EP was not implemented. Verification of the meeting and the team’s determination regarding compensatory services shall be provided to the Bureau within ten days following the meeting. If the team determines that there is no need for compensatory services, a narrative description of the reasons for that decision must be provided. If the team determines that compensatory services are needed, verification of the provision of those services shall be provided to the Bureau on the following dates: June 15, 2010; October 29, 2010; and January 31, 2011.

ISSUE 3: Whether the St. Lucie County School District followed the required procedures regarding the evaluation of the student as a student with a disability

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

Section 300.300, Title 34, Code of Federal Regulations (34 CFR §300.300) states: “Parental consent. (a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under §300.8 must, after providing notice consistent with §§300.503 and 300.504, obtain informed consent, consistent with §300.9, from the parent of the child before conducting the evaluation... (3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent. (ii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation. 34 CFR §300.304(c)(4) requires each public agency to ensure that, “The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and

emotional status, general intelligence, academic performance, communicative status, and motor abilities.”

34 CFR §300.306 of Title 34 states: “(a) General. Upon completing the administration of assessments and other evaluation measures- (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in Section 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent...”

The corresponding state requirement is found in Rule 6A-6.0331, F.A.C.

CONCLUSION

The St. Lucie County School District followed the required procedures regarding evaluation to determine if the student is a student with a disability.

CORRECTIVE ACTION

None