

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

**BACKGROUND**

On May 4, 2007, the Bureau of Exceptional Education and Student Services received a formal state complaint from [REDACTED], the parent of a student with disabilities. The complainant alleged that the Orange County School District had 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 Orange County School District followed the Individuals with Disabilities Education Act (IDEA) 2004 requirements regarding providing the student with a free appropriate public education (FAPE) in the least restrictive environment (LRE), specifically when determining the student's placement in a self-contained class during the 2006-07 school year.**
- ISSUE 2: Whether the student's individual educational plan (IEP) for the 2006-07 school year contained a statement of the classroom accommodations, modifications, or supports for school personnel to be provided to enable the student to be involved in and make progress in the general education curriculum.**
- ISSUE 3: Whether the Orange County School District provided the student with academic instruction in the exceptional student education (ESE) and general education classrooms as specified on the student's 2006-07 IEP.**
- ISSUE 4: Whether the Orange County School District provided the student with the occupational therapy (OT) sessions as specified on the IEP during the 2006-07 school year.**
- ISSUE 5: Whether the Orange County School District implemented the student's IEP, specifically regarding daily communication and school work sent home.**
- ISSUE 6: Whether the Orange County School District considered specific educational supports for the student in the regular education classroom, specifically a one-to-one aide.**

Letters dated May 8, 2007, notified the complainant and the district of the Bureau's receipt of the complaint. The 60-day timeline for the completion of the inquiry began on May 4, 2007, with an anticipated completion date of July 3, 2007.

Ms. Harriet Brown, Exceptional Student Education (ESE) Policy and Procedures Director, Orange County School District, submitted the documentation on behalf of Ms. Anna D. Diaz, Associate Superintendent of ESE, Orange County School District. The complainant also submitted documentation. In addition, both parties provided information via telephone interviews.

As part of the inquiry process, relevant portions of the student's records were reviewed. The educational records indicated that the student (date of birth: [REDACTED] [REDACTED] [REDACTED]) was a [REDACTED] student who had been determined to be eligible for special programs for students identified as educable mentally handicapped (EMH), and language impaired (LI).

**ISSUE 1: Whether the Orange County School District followed the IDEA 2004 requirements regarding providing the student with a free appropriate public education (FAPE) in the least restrictive environment (LRE), specifically when determining the student's placement in a self-contained class during the 2006-07 school year.**

The complaint letter stated that the student had been "classified as trainable mentally handicapped [TMH]" before a reevaluation that indicated eligibility for EMH instead. The parent requested placement in a general education [REDACTED] class with accommodations, and was reportedly told "that was not an option."

The following legal provisions apply to this issue:

Section 300.114(a) of Title 34 of the Code of Federal Regulations (Title 34) states "(2) Each public agency must ensure that - (i) To the maximum extent appropriate, children with disabilities...are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children 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."

Section 300.116 of Title 34 states "(a) The placement decision - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options...(b) The child's placement - (1) Is determined at least annually; (2) Is based on the child's IEP; and (3) Is as close as possible to the child's home; (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled; (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum."

The corresponding state requirements are found in Section 1003.57 of the Florida Statutes (F.S.), and State Board of Education Rule 6A-03028 of the Florida Administrative Code (F.A.C.).

## CONCLUSIONS

1. The Orange County School District followed the IDEA 2004 requirements regarding providing the student with a FAPE in the LRE, specifically when determining the student's placement in a self-contained class during the 2006-07 school year.
2. These requirements were also followed when determining the student's placement in a resource room later in the 2006-07 school year.

## CORRECTIVE ACTION

None.

**ISSUE 2: Whether the student's individual educational plan (IEP) for the 2006-07 school year contained a statement of the classroom accommodations, modifications, or supports for school personnel to be provided to enable the student to be involved in and make progress in the general education curriculum.**

The following legal provisions apply to this issue:

Section 300.323(d) of Title 34 states, "...Each public agency must ensure that -...(1) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and (2) Each teacher and provider...is informed of- (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP."

The corresponding state requirements are in Section 1003.57, F.S., and State Board of Education Rule 6A-03028, F.A.C.

## CONCLUSION

The student's IEP for the 2006-07 school year contained a statement of the classroom accommodations, modifications or supports for school personnel beginning September 1, 2006, when the student's IEP team increased time in the general education classroom.

## CORRECTIVE ACTION

None.

**ISSUE 3: Whether the Orange County School District provided the student with academic instruction in the exceptional student education (ESE) and general education classrooms as specified on the student's 2006-07 IEP.**

The complainant alleged that the student had regressed academically and that the student had to go to the adaptive physical education (PE) class with classmates in addition to the regular PE. In

addition, the complainant stated that this time could have been used productively to teach the student academics.

The following legal provisions apply to this issue:

Section 300.320(a) of Title 34 states that the IEP must include: “(2)(i) A statement of measurable annual goals, including academic and functional goals designed to - (A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child’s other educational needs that result from the child’s disability.”

The corresponding state requirements are found in Section 1003.57, F.S., and State Board of Education Rule 6A-03028, F.A.C.

## **CONCLUSION**

The Orange County School District provided the student with academic instruction in the ESE and general education classrooms as specified on the student's 2006-07 IEP.

## **CORRECTIVE ACTION**

None.

## **RECOMMENDATION**

The district may consider reconvening the student’s IEP team to address the parent’s concerns about academic instruction and student schedule.

### **ISSUE 4: Whether the Orange County School District provided the student with the occupational therapy (OT) sessions as specified on the IEP during the 2006-07 school year.**

The complainant stated that ■■■ had been informed that the student had missed 16 sessions of OT due to staffing problems and that all of the missed OT would be made up during extended school year (ESY). The complaint letter stated, “OT has resumed, but the loss of 16 weeks of services has negatively impacted [the student's] progress.” In addition, the complainant stated that ■■■ was told by the ESE teacher and the general education teacher that the student cannot write.

The following legal provisions apply to this issue:

Section 300.34(a) of Title 34 states; “Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy...”

Section 300.320(a) of Title 34 states that the IEP must include, “(4) A statement of the special education and related services and supplementary aids and services, 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 for the child- (i) To advance appropriately toward attaining the annual goals....”

The corresponding state requirements are found in Section 1003.57, F.S., and State Board of Education Rule 6A-03028, F.A.C.

## **CONCLUSION**

The Orange County School District did not provide the student with the occupational therapy (OT) sessions as specified on the IEP during the 2006-07 school year. The district has offered to provide compensatory services for the missed sessions during ESY.

## **CORRECTIVE ACTION**

No later than September 7, 2007, the Orange County School District shall provide the Bureau with documentation to verify the provision of the seventeen 30-minute OT sessions to compensate for the student’s missed services.

## **ISSUE 5: Whether the Orange County School District implemented the student’s IEP, specifically regarding daily communication and school work sent home.**

The complaint letter stated that “there has not been daily communication or work sent home. Moreover, when [the student] does bring work home, it’s usually blank - to show [the parents] that [the student] can’t do it. The general education teacher told [REDACTED], who brings [the student] to school, that [REDACTED] was instructed to let [the student] work independently.”

The following legal provisions apply to this issue:

Section 300.320(a)(3) of Title 34 states that the IEP must include, “A description of - (i) How the child’s progress toward meeting the annual goals...will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.”

The corresponding state requirements are found in Section 1003.57, F.S., and State Board of Education Rule 6A-03028, F.A.C.

## **CONCLUSIONS**

1. The Orange County School District implemented the student’s IEP, specifically regarding daily communication and school work sent home.
2. Some of the work samples sent home were blank, providing no guidance for the parent to work with the student.

## **CORRECTIVE ACTION**

None.

## **RECOMMENDATION**

The student's IEP team including teachers may want to review the supports this child might need to be successful with the general education curriculum.

### **ISSUE 6: Whether the Orange County School District considered specific educational supports for the student in the regular education classroom, specifically a one-to-one aide.**

The complainant stated that [REDACTED] "will be requesting specific educational supports and services on [the student's] IEP that will help [the student] be successful in the general education classroom. These supports will likely only be possible with the use of a 1:1. [The complainant has] communicated this need to the principal, as well as the staff at [REDACTED]. The staff said no. [The complainant is] awaiting the principal's response."

The following legal provisions apply to this issue:

Section 300.320(a)(4) of Title 34 - See Issue 4.

The corresponding state requirements are contained in Section 1003.57, F.S., and State Board of Education Rule 6A-6.03028, F.A.C.

## **CONCLUSION**

The parent requested a one-on-one aide outside of the IEP team meeting process and did not put the request in writing.

## **CORRECTIVE ACTION**

None.

## **RECOMMENDATION**

The parent may resubmit this request at an IEP team meeting and/or in writing to the Orange County School District.