

Report of Inquiry
Bureau Resolution Determination
Conducted by the Bureau of Exceptional Education and Student Services
Involving the Florida Department of Education

BACKGROUND

On June 22, 2007, the Bureau of Exceptional Education and Student Services received a formal complaint letter from Ms. Barbara B. Briggs, Esquire, on behalf of [REDACTED]. [REDACTED] for [REDACTED] child. The complaint alleged that the Florida Department of Education had violated federal and state laws relating to the education of students with disabilities in its interpretation of Rule 6A-6.03012(2)(a)2 and that this interpretation had prevented the student from being determined eligible to receive language therapy. Specifically, the allegation involved the following issue:

- **Whether the Florida Department of Education is acting beyond the scope of authority in interpreting Rule 6A-6.03012(2)(a)2 as one and one half standard deviations below the mean in the *Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students (SP&P)*.**

A letter dated June 27, 2007, notified the complainant and legal representative of the Bureau's receipt of the complaint letter. On July 31, 2007, the Bureau received a written *Authorization for Release* signed by the parent to authorize the release of student information to Legal Aid Society of Palm Beach County, Inc., including Ms. Briggs. The 60-day timeline for the inquiry began on June 22, 2007, with a completion date set for August 21, 2007.

Documentation was submitted by Ms. Barbara B. Briggs, Esquire, Legal Aid Society of Palm Beach County, Inc., Juvenile Advocacy Project, on behalf of the complainant. The educational records that were provided indicated that at the time of the filing of the state complaint, the student (D.O.B. [REDACTED], [REDACTED]) was eligible for the special programs for students with specific learning disabilities (SLD).

ISSUE: Whether the Florida Department of Education is acting beyond the scope of authority in interpreting Rule 6A-6.03012(2)(a)2 as one and one half standard deviations below the mean in the *Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students (SP&P)*.

The following legal provisions apply to this issue:

Section 300.306 of Title 34 of the Code of Federal Regulations states: "(a) General. Upon completion of 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...in accordance with paragraph (b) of this section and the educational needs of the child..."

The corresponding state requirements are found in Rules 6A-6.0331 and 6A-6.03012 of the Florida Administrative Code.

CONCLUSIONS

1. Language therapy may be provided to the student as a related service if the IEP team so determines.
2. The Florida Department of Education acknowledges a misinterpretation of Rule 6A-6.03012(2)(a)2 as one and one half standard deviations below the mean in the *Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students (SP&P)*.

CORRECTIVE ACTIONS

1. By August 20, 2007, the IEP team of the student referenced in this complaint inquiry shall convene, with the appropriate participants and sufficient advance notice to provide an opportunity for the parent to attend that IEP team meeting, to consider the student's need for language therapy as a related service. Documentation related to the meeting, including the notice provided to the parent, shall be provided to the Bureau no later than August 27, 2007.
2. No later than September 28, 2007, the Florida Department of Education will provide revised guidance to all local educational agencies within its jurisdiction regarding Rule 6A-6.03012(2)(a)2 to state that "more than one (1) standard deviation below the mean for the student's chronological age" means any score that is more than one standard deviation below the mean for the student's chronological age.