

Report of Inquiry
Bureau Resolution Determination
Conducted by the Bureau of Exceptional Education and Student Services
Involving the Pasco and Pinellas County School Districts

BACKGROUND

The Bureau of Exceptional Education and Student Services received a signed state complaint on July 25, 2007, from [REDACTED] on behalf of [REDACTED] child, a student with a disability. [REDACTED] alleged that the Pasco and the Pinellas County School Districts had violated federal and state laws relating to the education of students with disabilities. Bureau staff provided the districts named in the complaint with an opportunity to respond with a proposal to resolve the complaint issues. The 60-day timeline for the complaint inquiry began on July 25, 2007, with an anticipated completion date of September 23, 2007.

Regarding the Pasco County School District, the complainant disagreed with the district's decision to promote the student to [REDACTED] grade, stating that the student was behind academically. On August 23, 2007, the complainant met with the student's individual educational plan (IEP) team which agreed that the student would be retained in [REDACTED] grade.

The following allegations were investigated by the Bureau:

ISSUE 1: Whether the Pinellas County School District provided the complainant with the opportunity to participate in the review and development of the student's individual educational plans (IEPs) from January 2006 through January 2007.

ISSUE 2: Whether the Pinellas County School District revised the student's individual educational plan (IEP), specifically to address any lack of expected progress toward the academic goals from January 2006 through January 2007.

The educational records that were provided indicated that at the time of the filing of the state complaint, the student (D.O.B. [REDACTED]) was a [REDACTED] grade student who was eligible for the special programs for students who are severely emotionally disturbed (SED). Prior to being a student in the Pasco County School District, the student moved to the Pinellas County School District from the Hillsborough County School District and was placed into a therapeutic foster home on [REDACTED]. The foster parent requested an assignment to a center based program for the safety of the student and the staff. During this time period the biological parent was given supervised and unsupervised visits with the student. The foster parent attended the student's staffing on [REDACTED].

As part of the inquiry process, the Pinellas County School District and the complainant were asked to submit relevant documents and information to the Bureau. Ms. Cindy

Bania, Assistant Superintendent, Exceptional Student Education (ESE), and Ms. Marcia MacKenzie, ESE Compliance Supervisor, Pinellas County School District, submitted the documentation. In addition, the complainant and the district provided information via telephone.

ISSUE 1: Whether the Pinellas County School District provided the complainant with the opportunity to participate in the review and development of the student’s individual educational plans (IEPs) from January 2006 through January 2007.

The complaint stated in the complaint that ■■■ had never been invited to the student’s individual educational plan (IEP) meetings and that ■■■ was not made aware of the student’s progress by the school from January 2006 through January 2007. The complainant indicated that the statement in the November 7, 2006, IEP which stated “the parent was invited to the IEP review but did not attend,” was referring to ■■■, the biological parent.

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

Section 300.322 of Title 34 of the Code of Federal Regulations (Title 34) regarding parent participation states: “...Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. (b) Information provided to parents. (1) The notice required under paragraph (a)(1) of this section must—(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and(ii) Inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child)...”

Section 602(23) of the IDEA 2004 defines “parent” as “(A) a natural, adoptive or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent); (B) a guardian (but not the State if the child is a ward of the State); (C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or (D) except as used in sections 615 (b)(2) and 639 (a)(5), an individual assigned under either of those sections to be a surrogate parent.”

Section 1000.21(5), Florida Statutes (F.S.), defines “parent” as “either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.”

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

CONCLUSIONS

1. The foster parent was the parent listed in the student's school records and was provided notice of the meeting and participated by submitting planning notes for the meeting.
2. The complainant was not provided with the opportunity to participate in the review and development of the student's IEPs from January 2006 through January 2007 due to the district's lack of contact information.

CORRECTIVE ACTION

None.

ISSUE 2: Whether from January 2006 through January 2007, the Pinellas County School District revised the student's IEP, specifically to address any lack of expected progress toward the academic goals.

In the complaint letter the parent stated that the student made no progress during the entire time ■ was in the Pinellas County School District.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.320(a) of Title 34 states that the IEP must include: "...(3) A description of – (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section 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..."

Section 300.324(b) of Title 34 requires that the IEP team "(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and (ii) Revises the IEP, as appropriate, to address-- (A) Any lack of expected progress toward the annual goals described in Sec. 300.320(a)(2), and in the general education curriculum, if appropriate..."

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

CONCLUSION

The Pinellas County School District did revise the student's IEP, specifically to address any lack of expected progress toward the academic goals from January 2006 through January 2007.

CORRECTIVE ACTION

None.