

**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 August 8, 2007, the Bureau of Exceptional Education and Student Services received a signed complaint letter from [REDACTED] on behalf of [REDACTED] who has been receiving exceptional student education (ESE) services. The complainant alleged that the St. Lucie County School District had violated federal and state laws relating to the education of students with disabilities. On August 10, 2007, Bureau staff spoke with both the parent and the district, who agreed to participate in mediation to attempt to resolve the complaint issues. However, on September 5, 2007, [REDACTED] informed the Bureau via an electronic mail (e-mail) message that [REDACTED] was no longer willing to participate in mediation. Later in the day on September 5, 2007, [REDACTED] informed the Bureau that [REDACTED] changed [REDACTED] mind and would still like to mediate. On September 17, 2007, the Bureau was informed that the parent withdrew [REDACTED] request for mediation. Specifically, the complaint allegations involved the following issues:

- ISSUE 1:** Whether the St. Lucie County School District reviewed and revised the student's individual educational plan(s) (IEPs) with regard to the student's behaviors and the parent's allegations of the use of inappropriate physical restraints during the 2006-07 school year.
- ISSUE 2:** Whether the St. Lucie County School District responded in a timely manner to the parent's February 4, 2007, written request for a functional behavioral assessment (FBA) and behavioral intervention plan (BIP).
- ISSUE 3:** Whether the St. Lucie County School District considered the student's behavioral needs and the use of positive behavioral interventions (PBI) and supports, and other strategies, to address these needs in the development of the student's individual educational plan(s) (IEPs) when the student's school day was shortened during the 2006-07 school year.
- ISSUE 4:** Whether the teachers assigned to the student during the 2006-07 school year were qualified and had been adequately prepared and trained to teach the student.
- ISSUE 5:** Whether the St. Lucie County School District provided the parent copies of the student's progress reports on annual individual educational plan (IEP) goals as required during the 2006-07 school year.

The 60-day timeline for the complaint inquiry began on August 8, 2007, with an anticipated completion date of October 7, 2007. The timeline was extended for three weeks, until October 28, 2007, to allow sufficient time for the parties to participate in mediation. As part of the inquiry process, the district and complainant were asked to submit relevant documents and information to the Bureau. Both parties submitted documentation. The district's documentation was submitted by Mr. Bill Tomlinson, ESE Director, St. Lucie County School District. 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 eligible for the special programs for students who are speech impaired (S/I) and other health impaired (OHI).

ISSUE 1: Whether the St. Lucie County School District reviewed and revised the student's individual educational plan(s) (IEPs) with regard to the student's behaviors and the parent's allegations of the use of inappropriate physical restraints during the 2006-07 school year.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.324 of Title 34 of the Code of Federal Regulations (Title 34) states: "(a)(1) General. In developing each child's IEP, the IEP Team must consider (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. (2) Consideration of special factors. The IEP Team must (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior..."

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

CONCLUSION

The St. Lucie County School District did not review and revise the student's IEPs with regard to the student's behaviors that addressed the use of physical restraints during the 2006-07 school year.

CORRECTIVE ACTIONS

1. If the student re-enrolls in the district during the 2007-08 school year:
 - The district shall promptly convene the student's IEP team, with the appropriate participants and sufficient advance notice to provide an opportunity for the parent to attend that IEP team meeting, to determine what interventions are appropriate for the student's behavior. Documentation of the IEP team's determination must be provided to the Bureau within one week following the IEP meeting.

- If the student's behaviors require the use of physical restraints, written notification shall be provided to the parent and the Bureau, to include the following:
 - the date, time, and location of the event and the duration of the restraint
 - the name of the person making the report
 - the location in which the restraint occurred
 - a narrative describing the incident, precipitating behaviors, less restrictive interventions that were used, and what occurred immediately following the termination of the restraint
- 2. When a student's behaviors require the use of physical restraints, the IEP team shall ensure that the student's behaviors have been addressed on the IEP and/or a BIP. The district shall so inform school personnel within the district and provide verification to the Bureau of such information and how provided no later than January 31, 2008.

ISSUE 2: Whether the St. Lucie County School District responded in a timely manner to the parent's February 4, 2007, written request for a functional behavioral assessment (FBA) and behavioral intervention plan (BIP).

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.324(a) of Title 34 - See Issue One.

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

CONCLUSIONS

1. The complainant requested a FBA and BIP on February 4, 2007.
2. The student's IEP team referenced providing the FBA at a meeting held on March 19, 2007.
3. Neither the FBA nor the BIP were completed by the time the student withdrew from the school on May 29, 2007.
4. The St. Lucie County School District did not respond in a timely manner to the parent's February 4, 2007, written request for a FBA and BIP.

CORRECTIVE ACTION

If the student re-enrolls in the district during the 2007-08 school year, the district shall promptly convene the student's IEP team, with the appropriate participants and sufficient advance notice to provide an opportunity for the parent to attend that IEP team meeting, in which the IEP team shall determine whether the need for the FBA still exists and whether a BIP shall be developed for the student. Documentation of the IEP team's determination must be provided to the Bureau within one week following the IEP meeting.

ISSUE 3: Whether the St. Lucie County School District considered the student's behavioral needs and the use of positive behavioral interventions (PBI) and supports, and other strategies, to address these needs in the development of the student's individual educational plan(s) (IEPs) when the student's school day was shortened during the 2006-07 school year.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION:

Section 300.324(a) of Title 34 - See Issue One.

The corresponding state requirements are found in Rules 6A-6.03028 and 6A-6.03312 F.A.C.

CONCLUSIONS

1. The St. Lucie County School District considered the student's behavioral needs and the use of positive behavioral interventions and supports, and other strategies, to address these needs during the student's April 25, 2007, IEP meeting.
2. However, the student's IEP did not include the use of positive behavioral interventions and supports, and other strategies, to address the student's behavioral needs.

CORRECTIVE ACTION

If the student re-enrolls in the district during the 2007-08 school year, at the IEP meeting required for Issues One and Two, the IEP team shall determine whether there continues to be a need for positive behavioral interventions and supports, and other strategies, to address the student's behavioral needs. If so, the IEP team shall include such positive behavioral interventions and supports, and other strategies, in the student's IEP. Documentation of the IEP team's determination must be provided to the Bureau within one week following the IEP meeting.

ISSUE 4: Whether the teachers assigned to the student during the 2006-07 school year were qualified and had been adequately prepared and trained to teach the student.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION:

Section 300.18(b) of Title 34 states, "*Requirements for special education teachers in general.* (1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that – (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher license to teach in the State as a special education teacher..."

The corresponding state requirements are found in Section 1012.56 of the Florida Statutes (F.S.) and Rule 6A-1.0503, F.A.C.

CONCLUSION

All the student's assigned teachers during the 2006-07 school year were qualified and had been adequately prepared and trained to teach the student except for the substitute teacher, who met requirements for that role.

CORRECTIVE ACTION

None.

ISSUE 5: Whether the St. Lucie County School District provided the parent copies of the student's progress reports on annual individual educational plan (IEP) goals as required during the 2006-07 school year.

1. Documentation from the district indicated that the student's IEP progress reports were completed for the entire school year; however, the complainant stated that ■ had not received these reports.
2. The district reported that school staff stated that the IEP progress reports had been sent home with the student; however, there was no written documentation regarding how these progress reports had been provided.
3. The complainant provided three primary progress reports for language arts and reading; however, these reports did not address the student's progress toward annual IEP goals.

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..."

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

CONCLUSION

1. The St. Lucie County School District completed IEP progress reports for the student for the 2006-07 school year.
2. School staff stated that the IEP progress reports home had been sent home with the student; however, there was no written documentation regarding how these progress reports had been provided.
3. The parent stated that ■ had not received the student's IEP progress reports.

CORRECTIVE ACTIONS

1. No later than November 9, 2007, the St. Lucie County School District shall provide the parent with copies of the student's progress reports on annual IEP goals for the 2006-07 school year.
2. If the student re-enrolls in the district during the 2007-08 school year, the district shall ensure that the parent is provided with the student's progress reports on annual IEP goals as specified on the student's IEP. Copies of such progress reports shall be provided to the Bureau at the same time that they are provided to the parent.