

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

BACKGROUND

On October 18, 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 Seminole County School District had violated federal and state laws relating to the education of students with disabilities. On October 19, 2007, Bureau staff spoke with both the parent and the district to clarify the issues of the complaint. Specifically, the complaint allegations involved the following issues:

ISSUE 1: Whether the Seminole County School District provided the student with the one-on-one aide as specified on the 2006-07 individual educational plan (IEP) during the 2006-07 and 2007-08 school years following the student's transfer from another school district within the state.

ISSUE 2: Whether the Seminole County School District provided the student with nursing services and informed the IEP team members of the student's health plan and seizure condition during the 2007-08 school year.

ISSUE 3: Whether during the 2007-08 school year, Seminole County School District revised the student's IEP, specifically to address any lack of expected progress toward the academic goals.

ISSUE 4: Whether the Seminole County School District provided the parent copies of the student's progress reports on annual IEP goals as required during the 2007-08 school year.

ISSUE 5: Whether the student's goals on the 2006-07 and 2007-08 IEPs were measurable.

ISSUE 6 Whether the Seminole County School District followed required procedures for the excusal of IEP team members from attending the March 29, 2007, IEP team meeting.

ISSUE 7 Whether the Seminole County School District followed required procedures regarding the provision of written notice for denial or change in services at the November 20, 2006, IEP meeting.

The 60-day timeline for the complaint inquiry began on October 18, 2007, with an anticipated completion date of December 17, 2007. 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 Ms. Ida Mazar, Area Administrator, ESE Services, Seminole 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 traumatic brain injured (TBI), language impaired (LI), speech impaired (SI), and receiving occupational therapy (OT) as a related service.

ISSUE 1: Whether the Seminole County School District provided the student with the one-on-one aide as specified on the 2006-07 individual educational plan (IEP) during the 2006-07 and 2007-08 school years following the student's transfer from another school district within the state.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.323(e) of Title 34 Of the Code of Federal Regulations (Title 34) states, "...If a child with a disability (who had an IEP that in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either - (1) Adopts the child's IEP from the previous public agency; or (2) Develops adopts, and implements a new IEP that meets the applicable requirements..."

Section 300.320(a)(4) of Title 34 states that an IEP must include, "A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, 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 to enable the child..."

Section 300.324(b)(1) of Title 34 states that each public agency must ensure 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... and in the general education curriculum, if appropriate; (B) The results of any reevaluation...(C) Information about the child provided to, or by, the parents...(D) The child's anticipated needs; or (E) Other matters..."

The corresponding state requirement is found in Rules 6A-6.03028 and 6A-6.0334 of the Florida Administrative Code (F.A.C.).

CONCLUSIONS

1. The student's IEP team, including the participation of the parent(s), considered one-on-one assistance for the student upon transfer into the Seminole County School District and at other times during the 2006-07 and 2007-08 school years.

2. The student's Seminole County School District IEPs specified intermittent support from the classroom assistant, and increased the level of that support during the 2006-07 school year.
3. There is no requirement that the new school district IEP team continue the exact services provided in the previous school district.

CORRECTIVE ACTION

None

ISSUE 2: Whether the Seminole County School District provided the student with nursing services and informed the IEP team members of the student's health plan and seizure condition during the 2007-08 school year.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.34(c)(13) of Title 34 defines school health services as "health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP" and school nurse services as "services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person."

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

CONCLUSIONS

1. The Seminole County School District provided the student with nursing services.
2. The IEP team members were informed regarding the student's health plan and seizure plans of action via copies of the student's IEPs and health plans.

CORRECTIVE ACTION

None

ISSUE 3: Whether the student's IEP was revised during the 2007-08 school year to address a lack of expected progress toward the annual goals.

The complainant stated, in additional information provided, that, "Although the service time was increased, the proposed IEP dated September 11, 2007, had the same goals as implemented in the IEP dated September 14, 2006 with the exception of one goal being removed. The goals were not modified to address [REDACTED] lack of progress." In addition, the parent referenced that the student had an expired IEP from September 14, 2006, until October 12, 2007.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.324(b) of Title 34 - See Issue 1.

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

CONCLUSIONS

1. The parent alleged that the student's IEP goals and short-term objectives should have been revised to address a lack of progress during the 2006-07 and 2007-08 school years.
2. The student's IEPs were revised to include additional support from the ESE teacher and the classroom assistant.
3. The student's IEP was reviewed and revised, as appropriate, to address any lack of expected progress toward the annual goals during the 2006-07 school year and the beginning of the 2007-08 school year.

CORRECTIVE ACTION

None.

RECOMMENDATION

The IEP team may consider adjusting the annual goals to be attainable within a year.

ISSUE 4: Whether the Seminole County School District provided the parent copies of the student's progress reports on annual IEP goals as required during the 2007-08 school year.

In the additional information provided for the inquiry, the complainant stated that the progress reports had been received, but did not clearly indicate how the student was progressing.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.320(b) of Title 34 states that an IEP must include, "(3) 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 requirement is found in State Board of Education Rule 6A-6.03028, F.A.C.

CONCLUSION

The Seminole County School District followed required procedures related to the provision of the student's progress reports.

CORRECTIVE ACTION

None.

ISSUE 5: Whether the student's goals on the 2006-07 and 2007-08 IEPs were measurable.

The complainant stated in the complaint letter that ■■■ felt the goals were appropriately geared to the areas that the student had a deficit in; however, "they were not measurable and therefore it can't be shown with any validity whether [the student] made satisfactory progress toward the goals through any verified testing process. The goals should be measured objectively through standardized testing versus teacher observation."

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.320(a)(2)(i) of Title 34 states that an IEP must include "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 requirement is found in Rule 6A-6.03028, F.A.C.

CONCLUSION

The student's IEPs for 2006-07 and 2007-08 school years contained measurable goals.

CORRECTIVE ACTION

None.

RECOMMENDATION

Although the annual goals for the 2006-07 and 2007-08 school years were measurable, the IEP team may consider increased attention to ensuring that the goals are so clearly descriptive of the behavior or skill to be addressed and so observable that anyone asked to evaluate progress would be able to do so with consistency and accuracy.

ISSUE 6 Whether the Seminole County School District followed required procedures for the excusal of IEP team members from attending the March 29, 2007, IEP team meeting.

In the additional information provided by the complainant, [REDACTED] clarified that this issue related more to the April 11, 2007, IEP meeting, in which [REDACTED] was allegedly asked to sign a new IEP to add extended school year. The parent also stated that this meeting was between the parents and the ESE Coordinator only and that the guidance counselor collected the signatures from IEP team members who were not present in the meeting.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.321(e) of Title 34 states the following: (1) "A member of the IEP team...is not required to attend an IEP team meeting, in whole or in part, if the parent of the child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. (2) A member of the IEP Team...may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if - (i) The parent, in writing, and the public agency consent to the excusal; and (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting."

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

CONCLUSIONS

1. The Seminole County School District followed required procedures regarding IEP team participation for the March 29, 2007, IEP team meeting.
2. The Seminole County School District did not follow required procedures regarding IEP team participation for the April 11, 2007, IEP team meeting.

CORRECTIVE ACTIONS

1. The Seminole County School District shall ensure that federal and state regulations related to IEP team participation are followed. Information and/or training shall be provided to appropriate district and school personnel regarding requirements for IEP team participation. Documentation to verify the provision of this information and/or training shall be provided to the Bureau no later than January 31, 2008.
2. For the remainder of the 2007-08 school year, the district shall provide the Bureau with documentation to verify required IEP team participation for each IEP meeting held for the student referenced in this complaint. Such documentation shall be provided within ten days of each IEP meeting.

ISSUE 7 Whether the Seminole County School District followed required procedures regarding the provision of written notice for denial or change in services at the November 20, 2006, IEP meeting.

In the additional information provided for the complaint inquiry, the complainant clarified that this issue should not be restricted to November 20, 2006, and referenced the denial of a one-on-one aide upon enrollment in the Seminole County School District.

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

Section 300.503 of Title 34 states, in part, as follows: “(a)...(1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency - ... (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child... The notice required under paragraph (a) of this section must include-(1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of any other options that the agency considered and the reasons why those options were rejected; (4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action; (5) A description of any other factors that are relevant to the agency's proposal or refusal; (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.”

The corresponding state requirement is found in Rule 6A-6.03311, F.A.C.

CONCLUSIONS

1. Documentation reviewed by the Bureau did not reference a specific request to the Seminole County School District by the parent for a one-on-one assistant for the student.
2. Both parties acknowledged that the parent wanted a one-on-one aide for the student.
3. The student’s IEP team considered the student’s needs, but did not determine a need for a one-on-one aide at any of the student’s IEP meetings.
4. The Seminole County School District followed required procedures regarding consideration of a one-on-one assistant for the student.

CORRECTIVE ACTION

None.

RECOMMENDATION

The parent may consider presenting a written request for a one-on-one-aide for the student to the district.