

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

BACKGROUND

On October 29, 2007, the Bureau of Exceptional Education and Student Services received a signed complaint letter from [REDACTED], parent of a student with a disability. The complainant alleged that the Duval County School District had violated federal and state laws relating to the education of students with disabilities. On November 2, 2007, Bureau staff spoke with both the parent and the district to clarify the issues in the complaint. Specifically, the complaint allegations involved the following issues:

ISSUE 1: Whether the Duval County School District followed the Individuals with Disabilities Education Act (IDEA 2004) requirements in the determination of the individual speech therapy services needed for the student in the development of the student's individual educational plan (IEP) team eligibility meeting on October 9, 2007, for the 2007-08 school year.

ISSUE 2: Whether the Duval County School District provided the complainant the required written notice regarding the October 9, 2007, IEP team refusal to provide the student with individual speech therapy, conducted five (5) times per week for thirty (30) minutes to forty-five (45) minutes per session.

The 60-day timeline for the complaint inquiry began on October 29, 2007, with an anticipated completion date of December 28, 2007. As part of the inquiry process, the district and the complainant were asked to submit relevant documents and information to the Bureau. Both parties submitted documentation. The district's documentation was submitted by Mr. Kenneth W. Sutton, Exceptional Student Education (ESE) Director of the Duval 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 developmentally delayed (DD) and speech impaired (SI).

ISSUE 1: Whether the Duval County School District followed the Individuals with Disabilities Education Act (IDEA) 2004 requirements in the determination of the individual speech therapy services needed for the student in the development of the student's individual educational plan (IEP) eligibility team meeting on October 9, 2007, for the 2007-08 school year.

The complaint letter included another letter addressed to the district regarding the parent's request for individual speech therapy for five times per week, thirty minutes per session.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

The following legal provisions apply to this issue:

Section 300.320(a) of Title 34 of the Code of Federal Regulations (Title 34) states that the IEP must include: “(4) 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 - (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum... and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children...”

Section 300.324(a)(1) of Title 34 states, “...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.”

The corresponding state requirements are found in State Board of Education Rules 6A-6.03012, 6A-6.03026, and 6A-6.03027 of the Florida Administrative Code (F.A.C.).

CONCLUSION

The Duval County School District did not follow the IDEA 2004 requirements in the determination of the speech therapy services needed for the student in the development of the student’s IEP eligibility team meeting on October 9, 2007, for the 2007-08 school year.

CORRECTIVE ACTION

The Duval County School District shall ensure that the IDEA 2004 procedures are followed in the determination of speech therapy services for a student. The IEP team for the student referenced in the complaint shall convene no later than January 15, 2008, with the appropriate participants and sufficient advance notice to provide an opportunity for the parent to attend that IEP team meeting:

- to review the speech therapy services determined to be needed by the student, including whether or not these services are to be individual, and to revise the IEP, if necessary
- to determine the possible need for compensatory services due to the delay in speech therapy services after the October 9, 2007, IEP team meeting

Documentation of the IEP team's determinations regarding appropriate speech therapy services for the student and possible compensatory services shall be provided to the Bureau within ten days following the IEP meeting. If there is a determination of the need for compensatory services, verification of the provision of such services shall be provided to the Bureau on the following dates (as applicable): January 31, 2008, and June 16, 2008.

ISSUE 2: Whether the Duval County School District provided the complainant the required written notice regarding the October 9, 2007, IEP team refusal to provide the student with individual speech therapy, conducted five (5) times per week for thirty (30) minutes to forty-five (45) minutes per session.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.503(a) of Title 34 states, "...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...(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) *Content of notice.* 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 each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) 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; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal..."

The corresponding state requirements are found in Rule 6A-6.03311, F.A.C.

CORRECTIVE ACTION

The Duval County School District shall ensure that parents are provided the required written notice upon refusal to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free, appropriate public education (FAPE) for a student. No later than January 31, 2008, the Duval County School District shall provide the Bureau with the district's action plan including timelines for projected completion of the comprehensive training to be provided for all of the staff supporting the [REDACTED] program. Documentation of the provision of the training, including the content and participants, shall be provided to the Bureau on the following dates (as applicable): April 15, 2008, and June 16, 2008.