

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

BACKGROUND

On November 5, 2007, the Bureau of Exceptional Education and Student Services received a signed complaint letter from [REDACTED], the parent of a student 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. By letters dated November 7, 2007, the complainant and the district were informed of the Bureau's receipt of the formal complaint. Specifically, the complainant's allegations involved the following issues:

ISSUE 1: Whether the Seminole County School District provided the student qualified and specially trained teachers during the 2007-08 school year.

Although the Bureau's request for documentation listed the 2006-07 school year, the complainant was concerned with the 2007-08 school year.

ISSUE 2: Whether the Seminole County School District conducted the May 7, 2007, individual educational plan (IEP) meeting with the required participants present.

ISSUE 3: Whether the Seminole County School District provided the student with the recommended accommodations from the student's doctor during the 2006-07 school year.

ISSUE 4: Whether the Seminole County School District followed required procedures regarding the student's out-of-school suspensions during October 2007.

The 60-day timeline for the completion of the inquiry began on November 5, 2007, with an anticipated completion date of January 4, 2008. As part of the inquiry process, the district and the complainant were asked to submit relevant documents and information to the Bureau. The district's documentation was submitted by Ms. Ida Mazar, ESE Area Administrator, 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 gifted and have specific learning disabilities (SLD). After the complaint was filed, the parent withdrew the student from Seminole County School District to attend a private school with McKay Scholarship.

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LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.18(b) of Title 34 of the Code of Federal Regulations (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..."

Section 300.323(d) of Title 34 states, "*Accessibility of child's IEP to teachers and others.* Each public agency must ensure that - (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of - (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP."

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

CONCLUSION

The Seminole County School District provided the student qualified and specially trained teachers during the 2007-08 school year.

CORRECTIVE ACTION

None.

ISSUE 2: Whether the Seminole County School District conducted the May 7, 2007, individual educational plan (IEP) meeting with the required participants present.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.321 of Title 34 states, “(a) *General*. The public agency must ensure that the IEP Team for each child with a disability includes - (1) The parents of the child; (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child; (4) A representative of the public agency who - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency. (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section; (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and (7) Whenever appropriate, the child with a disability...(e) IEP Team attendance. (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a 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 described in paragraph (e)(1) of this section 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 Rule 6A-6.03028, F.A.C.

CONCLUSIONS

1. The Seminole County School District followed required procedures regarding inviting the IEP team members for the May 7, 2007, IEP team meeting.
2. The Seminole County School District did not follow required procedures regarding IEP team participation for the May 7, 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 3: Whether the Seminole County School District provided the student with the recommended accommodations from the student's doctor during the 2006-07 school year.

The complainant alleged that a list of recommended accommodations provided by the student's doctor had been provided, but "the school misplaced this list."

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

300.42 of Title 34 defines supplementary aids and services as "...aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate..."

300.324(b) (1) 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 300.320(a)(2), and in the general education curriculum, if appropriate; (B) The results of any reevaluation conducted under 300.303; (C) Information about the child provided to, or by, the parents, as described under 300.305(a)(2); (D) The child's anticipated needs; or (E) Other matters."

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

CONCLUSIONS

1. The Seminole County School District provided the student with one of the recommended accommodations from the student's doctor during the 2006-07 school year.
2. There is no requirement for IEP teams to provide all doctors' recommendations in an educational setting.

CORRECTIVE ACTION

None.

ISSUE 4: Whether the Seminole County School District followed required procedures regarding the student's out-of-school suspensions during October 2007.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.536 of Title 34 states, "(a) For purposes of removals of a child with a disability from the child's current educational placement under 300.530 through 300.535, a change of placement occurs if (1) The removal is for more than 10 consecutive school days; or (2) The child has been subjected to a series of removals that constitute a pattern (i) Because the series of removals total more than 10 school days in a school year; (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. (b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. (2) This determination is subject to review through due process and judicial proceedings."

300.530 of Title 34 state, "(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct. (b) General. (1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 300.536). (2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section..."

The corresponding state requirement is found in Rule 6A-6.03312, F.A.C.

CONCLUSION

The Seminole County School District followed required procedures regarding the student's out-of-school suspensions during October 2007.

CORRECTIVE ACTION

None.