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April 28, 2009



Legal Aid Services of Broward County
491 N. State Road 7
Plantation, Florida 33317

Ms. Denise Rusnak, Director
Exceptional Student Education
Broward County School District
600 Southeast Third Avenue, 9th Floor
Ft. Lauderdale, Florida 33301

Re: Early Resolution Agreement: Case No. BEESS-2009-018-ER

Dear Ms. Marcus and Ms. Rusnak:

On December 10, 2008, the Bureau of Exceptional Education and Student Services received a state complaint in which [REDACTED], Esquire, on behalf of two parents alleged that the Broward County School District had violated federal and state laws relating to the education of students with disabilities. Both parents provided signed release of information forms authorizing the Bureau to contact [REDACTED]. Ms. Vicki Eddy, Program Specialist, was assigned to manage the case and contacted both parties who agreed to attempt early resolution. Specifically, the complainant's allegations involved the following issues:

ISSUE 1: Whether the Broward County School District followed the appropriate procedures regarding the incident on November 26, 2008, at Sunset School concerning Student A, specifically related to the following:

- student's shoulder broken during the disciplinary take down
- complainant's request for documentation regarding the incident
- complainant's request to develop an interim IEP to include a safety plan
- complainant's request to meet and discuss the incident
- complainant's request for training of staff involved in the incident
- student's functional behavioral assessment (FBA) and behavioral intervention plan (BIP) implemented

BAMBI J. LOCKMAN

Chief

Bureau of Exceptional Education and Student Services

- ISSUE 2:** Whether the Broward County School District followed the correct procedures regarding Student A's May 12, 2008, individual educational plan (IEP) team meeting at Plantation Park Elementary, specifically regarding:
- parent's request to sign a new parent participation form
 - consideration of a different placement for the student other than Sunset School
 - manifestation determination meeting held
- ISSUE 3:** Whether the Broward County School District followed the appropriate procedures regarding the incident on December 3, 2007, at █ Elementary School concerning Student B, specifically related to the following:
- use of the mat during the disciplinary incident
 - student's wrists twisted
 - student threatened by school staff
 - parent's request for documentation regarding the incident
 - parent's request for training of staff involved in the incident
 - student's functional behavioral assessment FBA and BIP implemented
- ISSUE 4:** Whether the Broward County School District followed the appropriate procedures regarding Student B's neck injury received during a discipline incident while attending █ Elementary School
- ISSUE 5:** Whether the Broward County School District followed the correct procedures regarding Student B's IEP meeting at █ School on December 4, 2008, specifically regarding identifying the IEP meeting participants correctly on the student's IEP meeting notice
- ISSUE 6:** Whether the Broward County School District followed procedures regarding behavioral interventions and/or disciplinary incidents that required physical contact with students by a staff member at the eighteen (18) center schools during the period from December 2007 through December 2008

The 60-day timeline for completion of the inquiry began on December 10, 2008, with an anticipated completion date of February 8, 2009. The complaint timeline was extended on December 19, 2008; February 3, 2009; March 5, 2009; March 24, 2009; and April 20, 2009, at the complainant's request to allow time to complete the early resolution agreement process. Both parties met on several occasions and as a result of the meetings the complainant agreed to withdraw without prejudice all the complaint issues that referenced Students A and B (Issues one through five). The parties agreed that the goal of the early resolution agreement was to ensure the district's consistent and proper use of manual physical restraint (referring to only vertical and prone restraint) through appropriate training, documentation, and monitoring in all the emotional behavioral disabilities (E/BD) centers and for students with disabilities in all discipline centers, which is Issue six.

On April 24, 2009, the district provided the Bureau a copy of the early resolution agreement, which both parties agreed to and signed. The early resolution agreement is enclosed.

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We commend both parties for working together on the local level to resolve the issues presented in the state complaint. If you have any questions or concerns regarding this information, you may contact Ms. Eddy at (850) 245-0476, or via electronic mail at Vicki.Eddy@fldoe.org.

Sincerely,

Bambi J. Lockman, Chief
Bureau of Exceptional Education and Student Services

BJL/ve

Enclosure: Early Resolution Agreement dated 4/23/2009

cc: Grace McDonald
Kim C. Komisar
Demetria Harvell
Vicki Eddy