

Agency Order Summaries

Resulting from Inquiries Conducted by the Bureau
of Instructional Support and Community Services



July–December
1999

These summaries are available through the Bureau of Instructional Support and Community Services, Florida Department of Education, and are designed to assist school districts in the provision of special programs for exceptional students. For additional copies, contact the Clearinghouse Information Center.

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Introduction

Following are summaries of Florida Department of Education Early Resolutions, Bureau Resolution determinations, and Commissioner's Orders entered from July through December 1999. These resolutions and orders were issued after inquiries were made by the Bureau of Instructional Support and Community Services in response to formal complaints filed with the bureau, pursuant to Subsection 300.600–300.662 of Title 34 of the Code of Federal Regulations. Complete copies of the resolutions and orders are available from the bureau.

These summaries are for informational purposes and are not intended to provide legal advice or assistance. Please refer questions to Conflict Resolution, Bureau of Instructional Support and Community Services, 614 Turlington Building, Tallahassee, Florida 32399-0400; (850) 245-0475; Suncom 205-0475; or via electronic mail at eileen.amy@fldoe.org.

The heading for each summary provides the school board or agency involved in the inquiry, the bureau resolution or agency order number, and the effective date of the resolution or order.

Alachua County School Board Agency Case No. DOE-99-430-FOF August 30, 1999

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are visually impaired, who have specific learning disabilities, and who are speech and language impaired. The parent was formerly an administrator at a charter school. The complainant alleged that, during the 1997-1998 school year, that same charter school failed to provide her with written notice with all the required components prior to individual educational plan (IEP) meetings and failed to schedule such meetings at a mutually agreed on time and place; provide the vision services prescribed by the student's 1997-1998 IEP; determine his eligibility for occupational therapy (OT) in a timely manner; provide him with instruction by appropriately qualified or certified personnel; and provide the parent access to the student's educational records, thereby denying her the right to review and amend the records and to forward a complete copy of all of his records to his current school.

Documented IEP meetings for the student during the 1997-1998 school year occurred on May 28, 1997; August 21, 1997; and November 13, 1997. The complainant withdrew the student from the charter school prior to the end of the 1997-1998 school year. There is some dispute as to the actual date of withdrawal.

In the first issue, the parent alleged that the charter school failed to provide the complainant with written notice with all the required components prior to IEP meetings in order to ensure that the complainant had an opportunity to attend, and failed to schedule meetings at a mutually agreed on time and place. On January 28, 1998, a notice of a planning conference scheduled for January 30, 1998, to review the student's IEP was sent home. The notice was not received until the evening of January 30, 1998, after the meeting was to have taken place. The complainant asked to reschedule the meeting if the meeting was not an eligibility staffing for OT. There is no documentation to indicate that an IEP meeting took place on January 30, 1998, nor that the complainant requested any additional IEP meetings. The Bureau could not determine whether there were changes to services during the 1997-1998 school year that would have required an IEP meeting; however, it was determined that the charter school did not provide the parent with prior written notice of the January 30, 1998, IEP meeting in time to assure that she could attend. As corrective actions the district was required to develop procedures for the training of personnel at the charter school in regards to the provision of prior written notice. The district was also required to provide evidence that the parents had been provided with the requested notice for any IEP meeting scheduled for the 1999-2000 school year.

The parent also alleged that the charter school failed to provide the vision services prescribed in the 1997-1998 IEP. Documentation showed that the 1997-1998 school year IEP indicated vision services. A review of the vision service logs indicated monthly consultation services with the classroom teacher; however, there was no evidence that the student was receiving the weekly services as prescribed by his IEP. It was concluded that the charter school failed to provide the vision services prescribed by the 1997-1998 school year IEP. As corrective action the district was ordered to assess the student for compensatory services regarding his visual impairment.

The complainant alleged in the third issue that the charter school failed to determine the student's eligibility for OT in a timely manner. Documentation indicated that the student was evaluated to determine his eligibility for OT services on October 8, 1997; however, there was no eligibility staffing held to determine his eligibility or ineligibility for OT. As corrective action the IEP team was to meet to determine what information was needed to determine the student's eligibility for OT. Upon completion of the reevaluation process the IEP team must determine whether the student is eligible or ineligible for OT services.

In issue four, the parent alleged that the charter school failed to provide the complainant's son with instruction by appropriately qualified or certified personnel. The issue of qualifications and certifications of the personnel at the charter school was addressed in a separate complaint (DOE-99-397-FOF).

In the final issue, the complainant alleged that the charter school failed to provide the parent with access to her son's educational records, thereby denying her the

right to review and amend the records, and failed to forward a complete copy of all the records to his current school. It could not be determined whether the charter school failed to provide the parent with access to all her son's educational records. As corrective action the district was to inform the complainant of the district's written policy for purging school records. If the complainant requests to have her son's educational records purged, the district must respond according to policy.

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Brevard County School Board
Agency Case No. DOE-99-475-FOF
November 30, 1999

This complaint was filed by the parent of a child who had been determined eligible for special programs for students who are physically impaired and who are speech and language impaired. The child also required occupational and physical therapy. Specifically, the parent alleged that the district failed to develop an individual educational plan (IEP) by the child's third birthday; provide for services to be implemented in the least restrictive environment (LRE); and involve the parent as an equal participant in the IEP process.

The first issue alleged that the district failed to develop an IEP for the child by his third birthday. It was determined that an IEP was developed four days after his third birthday. No corrective action was required.

In the second issue the complainant alleged that the district failed to provide services in the LRE. The IEP team placed the child at an elementary school that was the school the child would attend if he were not disabled. Documentation indicated that the complainant and the district disagreed as to whether that school was the LRE for the child. The IEP identified the school as the LRE and included a separate page that documented LRE considerations and placement decisions. There were no corrective actions required.

The third issue alleged that the parents were not equal participants in the IEP process. At their son's IEP meeting the parents expressed their preference for their son to attend a different elementary school, which was not the school their son would have attended if he were not disabled. The district denied the placement request on the grounds that the non-home zone prekindergarten handicapped program was full. The IEP team placed the child at the zoned school, a placement with which both parents disagreed; thus the parents alleged that their input regarding which school the child should attend was not considered. The complainants were not provided with a written informed notice of refusal regarding the district's refusal to place the child at the school that the parents requested. As corrective action the district was required to provide prior informed written notice containing all the required components any time the district refused a request by the complainant.

The last issue alleged that the district failed to meet the child's needs by providing him with a licensed practical nurse (LPN) to meet his health care needs at school. The parent contended that only an LPN could perform her son's G-tube suctioning and feeding needs. The district conducted an evaluation by a public health department nurse to determine whether the nursing needs of the student could be met by a trained assistant; however, the district agreed to hire an LPN at the home zone school, the school that the district proposed that the child attend. The complainants were not provided with a written informed notice of refusal regarding the district's refusal to place the child at the school that the parents requested. As corrective action the district was required to provide prior informed written notice containing all the required components any time the district refused a request by the complainant.

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Broward County School Board
Agency Case No. DOE-99-479-FOF
December 15, 1999

This complaint was filed by the parent of a child with a disability, alleging that the district failed to identify and evaluate him as a preschool child with disabilities through the Child Find process. Records indicated that the child was screened by Child Find on two occasions and passed each screening. Records further indicated that the child had difficulty maintaining appropriate behavior during the screenings; however, he was not provided with a formal evaluation for placement in an exceptional student education program. The district has reviewed and revised its policies and procedures to ensure potential preschool children with disabilities are identified and evaluated as appropriate. As corrective action the district was required to begin implementing the new procedures developed as a result of this inquiry. The district was required to submit to the bureau all new forms and written procedures, as they became available, and all existing forms and procedures that described the revised process, within 20 days of the date of this Order.

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Charlotte County School Board
Agency Case No. DOE-99-481-FOF
December 17, 1999

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are autistic, who are other health impaired, who are mentally handicapped, and who are speech and language impaired. The student also required occupational therapy. The complainant alleged that the district determined the placement of the student prior to the development of an individual educational plan (IEP) during the 1998-99 and 1999-2000 school years;

denied the student the opportunity to be educated in the least restrictive environment (LRE) during the 1998-99 and 1999-2000 school years; and failed to provide access to the student's records when the complainant made requests on April 16, 1999, and September 24, 1999.

In the first issue the parent alleged that the district determined the placement of the student prior to the development of an IEP during the 1998-99 and 1999-2000 school years. Evidence indicated that district staff did discuss placement options with the complainant on March 25, 1999; however, a meeting was held on April 2, 1999, to clarify the placement options to the complainant, stressing that the IEP team is responsible for making the placement decision. Records further indicated that IEP meetings were held on May 25, 1999; August 12, 1999; and September 2, 1999, to develop an IEP for the 1999-2000 school year. The IEP team determined that the complainant's son was to be placed in a separate class and that an IEP review would occur at the conclusion of the fall semester. In addition, the IEP team met on May 21, 1998, and determined the complainant's son's placement that was based on his educational needs as described on the IEP. During the May 21, 1998, IEP meeting, the complainant was a participant and there was no indication on the IEP document that she disagreed with the placement decision. No corrective action was required.

In the second issue the parent alleged that the district denied the student the opportunities to be educated in the LRE during the 1998-99 and 1999-2000 school years. Documentation indicated that the IEP team met on May 21, 1998; May 25, 1999; August 12, 1999; and, September 2, 1999, and discussed the student's educational needs and the environment that could best meet those needs. The IEP conference notes for each school year documented that the team reviewed all possible options and discussed the student's needs relative to each option. In addition an LRE form was completed for each school year that documented the student's need to be placed in a more restrictive environment. No corrective action was required.

In the final issue the complainant alleged that the district failed to provide access to the student's records when the complainant made requests on April 16, 1999, and September 24, 1999. Evidence indicated that the complainant requested records and data collection information on April 16, 1999, and September 24, 1999. As of September 28, 1999, no information was provided to the complainant. On October 4, 1999, district staff met with the complainant and provided to her all the available data. District staff and the complainant reported that bi-weekly meetings were occurring since October 4, 1999, to share collected data with the complainant. There were no corrective actions required; however, it was recommended that the district provide the complainant with the requested records and data in a timely manner.

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Collier County School Board
Agency Case No. DOE-99-458-FOF
October 18, 1999

This complaint was filed by an advocate representing parents of students with disabilities. The complainant alleged that the district's written extended school year (ESY) policy was not individualized and did not provide access to ESY services.

A review of documentation indicated that the district had a written ESY policy that IEP teams used, along with the "ESY Data Record." The ESY Data Record did not indicate that services must be provided if they are necessary to provide a free appropriate public education to the student, and contained questions that resulted in a limitation of services before the IEP committee has an opportunity to completely determine the student's need for ESY. It could not be determined whether the ESY Data Record was implemented in a way that ensured that determinations were made on an individualized basis by IEP teams. As corrective action the district was required to revise the district's written ESY policy and the ESY Data Record. Evidence of the revisions, which was to include submission of an amendment to the district's "special programs and procedures" document, was to be provided to the bureau.

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Collier County School Board
Agency Case No. DOE-99-468-FOF
November 9, 1999

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are autistic. The parent alleged that the district failed to address his son's regression in the areas of social/emotional and behavioral skills when determining his eligibility for extended school year (ESY) services.

The May 28, 1999, IEP described the services to be provided for the ESY; however, the parent disagreed with the district as to the adequacy of the ESY program and requested that behavior be addressed during the ESY periods. The district concluded that the student did not meet regression criteria because the district's ESY policy indicated that the services are determined individually and depend on the potential regression of the individual student. There was no documentation of an informed notice of refusal regarding the district's denial of the request for services. As corrective action the district was required to provide the parent with an informed notice of refusal any time the parents request an action and the district denies the request. The district was further required to develop an individual educational plan for the student that addressed all his needs, including behavior skills.

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Highlands County School Board
Agency Case No. DOE-99-421-FOF
July 9, 1999

The parents of two students with disabilities alleged that the district failed to provide both students with the services indicated on their individual educational plans (IEPs); failed to schedule IEP meetings with the complainants in a timely manner and at mutually agreeable times and places; failed to provide the complainants with copies of student #1's IEP in a timely manner; dismissed student #1 from exceptional student education (ESE) programs without providing the complainants with prior notice; failed to provide student #1 with an independent audiological evaluation; and failed to continue to provide ESE services to student #1 in accordance with the mediation agreement after dismissing her from ESE.

In the first issue the parents alleged that the district failed to provide the services indicated on both students' IEPs. Documentation indicated that both students' IEPs were developed and implemented on June 2, 1998. Both students were provided with special education services during the summer 1998 session. Student #1's special education services for the 1998-1999 school year began on September 11, 1998, one month after the school year began. Student #2 was not provided with special education services during the 1998-1999 school year and was dismissed from ESE on December 1, 1998. As corrective action, if either student was determined eligible for ESE services during the 1999-2000 school year, the district was required to submit to the bureau documentation verifying the provision of services.

The parents alleged in the second issue that the district failed to schedule meetings with the parents in a timely manner and at mutually agreeable times and places. Records indicated that the parents were notified in a reasonable amount of time, the district rescheduled meetings two times as requested by the parents, and the parents attended every meeting that occurred between June 2, 1998, and December 1, 1998. In February 1999 the parents requested an IEP meeting. There was no evidence that the district responded to the request or provided the parents with an informed notice of refusal. As corrective action the district was required to provide informed written notice containing all the required components any time the district refused a request by the complainant.

In the third issue, the parents alleged that the district did not provide them with copies of student #1's IEP in a timely manner. Student #1's IEP indicated that both parents signatures were on page one and that a copy of the IEP was given to the parents. Documentation received for the inquiry was not sufficient to determine when the district provided the parents with a copy of student #1's IEP. No corrective action was required.

The parents alleged, in the fourth issue, that student #1 was dismissed from ESE without prior notice to the parent. The IEP team met on November 19, 1998, and

determined that the student was no longer eligible for ESE. Records indicated that the parents attended the IEP meeting and received an informed notice of dismissal. Corrective action was not required.

In issue five the parents alleged that the district failed to provide student #1 with an independent audiological evaluation. Documentation indicated an audiological assessment was scheduled and conducted on April 7, 1999. No corrective action was required.

In the final issue, the parents alleged that the district did not continue to provide ESE services to student #1 in accordance with the mediation agreement after dismissing the student from ESE. Records indicated that an IEP meeting was held November 19, 1998, during which the IEP team determined that the student was no longer eligible for ESE. The parents were provided a written prior notice of the team's decision. Mediation took place on December 8, 1998, to resolve the disagreement about the change of placement/ dismissal. Documentation indicated that the district continued to provide ESE services to the student during mediation. Student #1 continued to receive ESE services through March 31, 1999. No corrective action was required.

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**Hillsborough County School Board
Agency Case No. DOE-99-431-FOF
September 9, 1999**

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are mentally handicapped and who are speech and language impaired. The student also required physical and occupational therapies. The complainant alleged that the district failed to implement the student's individual educational plan (IEP) during the 1999 summer school session regarding the related service of transportation; provide the student with a free appropriate public education (FAPE) by providing the related service of transportation during the summer school sessions for the 1997-98 and 1998-99 school years; and follow the recommended transportation guidelines for the time spent in transit from home to school and from school to home during the 1997-98 and 1998-99 summer school sessions.

The complainant alleged that the district failed to implement her son's IEP during the 1999 summer school session as written regarding the related service of transportation. Documentation indicated that the student was provided the related service of transportation during the 1998-1999 summer school session as described in his IEP. It was recommended that the district take steps to ensure that public school transportation was available and timely regardless of the school year session or the time of year.

In the second issue, the complainant alleged that the district failed to provide her son with FAPE by providing the related service of transportation during the summer school session for the 1997-1998 and 1998-1999 school years. Documentation indicated that the related service of transportation was prescribed on the student's IEPs for 1997-1998, 1998-1999, and 1999-2000 school years. Records further indicated that the complainant's son received the related service of transportation during the 1997-1998 and 1998-1999 summer school sessions, except during the first three days of summer school in 1999. As corrective action the district was required to provide and implement the related service of transportation as described on the student's IEP.

In the final issue, the complainant alleged that the district failed to follow the recommended transportation guidelines for the time spent in transit from home to school and from school to home during the 1997-1998 and 1998-1999 summer school sessions. Evidence indicated that the student spent more than one and one-half hours on the school bus during both the morning and the afternoon rides. On June 20, 1999, the district made changes in the bus routes and bus schedules and reduced the student's length of time on the public school bus. As corrective action the district was required to ensure compliance with Rule 6A-3.017(6)(c), F.A.C., that a public school bus ride not exceed one hour for an elementary student.

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**Hillsborough County School Board
Agency Case No. DOE-99-439-FOF
September 24, 1999**

This complaint was filed by the parent of a student who had been determined eligible for special programs for students with specific learning disabilities and who are speech and language impaired. The student also required occupational therapy. The complainant alleged that the district failed to provide the student with special education and related services by failing to consistently provide him with an instructional aide as documented in the individual educational plan (IEP) that was developed during the February 23, 1999, IEP meeting; provide the complainant with a copy of the IEP developed on January 7, 1999; respond to the complainant's request for a physical therapy (PT) evaluation; inform the parents of the student's progress toward his annual goals; and allow the instructional aide to attend the May 12, 1999, and May 28, 1999, IEP meetings.

In the first issue, the complainant alleged that the district failed to provide the student with special education and related services by failing to consistently provide him with an instructional aide as documented in the IEP that was developed during the February 23, 1999, IEP meeting. Documentation indicated that the IEP team decided to provide the student with an instructional aide. An aide was assigned to him in the regular education classroom, resource classroom, and speech class. The assigned aide had numerous absences during the second half of the 1998-1999 school

year without the district assigning a substitute. It was concluded that the district did not implement the agreed-upon provision of an instructional aide for the student, as specified in the IEP. It could not be determined, however, whether the absence of the aide constituted a denial of a free appropriate public education (FAPE). It was found that the district's stated policy regarding the provision of substitutes for classroom aides when such aides are specifically required by an IEP may result in a denial of FAPE. As corrective action, the district was required to submit documentation that its policy regarding the provision of substitutes for classroom aides, when such aides are specifically required by IEPs and the lack of such an aide would constitute a denial of FAPE, has been appropriately revised.

In the second issue, the complainant alleged that the district failed to provide the parents a copy of the IEP developed on January 7, 1999. The district acknowledged its failure to provide the parents with a copy of their son's IEP. As corrective action the district was required to provide evidence to the bureau that a copy of the IEP was provided to the parents.

The third issue alleged that the district did not respond to the parent's request for a PT evaluation. A PT evaluation requested by the parents was completed on April 21, 1999. An eligibility staffing committee determined the student was not eligible for PT services. No corrective action was required.

In the fourth issue, the complainant alleged that the district failed to inform the parents of the student's progress in his regular classroom towards his annual goal. Documentation indicated that the parents received progress reports from the resource teacher, the speech/language therapist, the occupational therapist, and the special education teacher. The district was not obligated to provide a written report from each teacher. Corrective actions were not required; however, it was recommended that the teachers and therapists who are responsible for implementing the goals and objectives specified in the student's IEP collaborate with one another in order to ensure that instruction and progress reports integrate the various aspects of the educational program.

In the final issue, the complainant alleged that the school district failed to allow the instructional aide to attend the May 12, 1999, and May 28, 1999, IEP meeting as requested by the parent. The personnel required by state and federal law participated in the IEP meetings. The district did not require the aide to attend the May 12, 1999, or May 28, 1999, IEP meetings, as requested by the parent. No corrective actions were required; however, it was recommended that when the parents request specific information from their son's instructional aide, the district develop an alternative method for obtaining information and communicating such information to the parent, if the aide is not going to attend the IEP meeting.

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Lee County School Board
Agency Case No. DOE-99-420-FOF
July 1, 1999

This complaint was filed by the parents of a student who had been determined eligible for the special programs for students who are autistic and who are speech and language impaired. The complainants alleged that the district failed to appropriately respond to their request for an independent functional behavioral assessment for the student; failed to appropriately respond to the complainants' request for an assistive technology (AT) evaluation for the student; and failed to appropriately respond to the complainants' request regarding the status of the provision of a "one-on-one aide" as agreed upon by the IEP committee.

The complainants requested an independent functional behavior assessment. The district agreed to provide an independent functional behavior assessment using district staff; however, the complainants alleged that they were not notified regarding the status of the functional behavioral assessment conducted by the district or the status of the district's response to their request for an independent functional behavioral assessment. The findings indicated that the district did not act on the complainants' request for an independent functional behavioral assessment, did not provide complainants with an informed notice of refusal and did not file a petition for a due process hearing. As corrective action, the district was required to submit documentation that one of the following actions has been taken: that arrangements have been made for the independent evaluation; or that the parents have been provided with a written notice of the district's refusal and the district has initiated a due process hearing.

In a second issue the complainants alleged that they requested that the district conduct an AT assessment for the student. The district conducted an "Assistive Technology Screening" believing the district had complied with the complainants' request. As corrective action, the district must submit documentation that one of the following actions has been taken: that the assessment process has been completed; the student has been provided with a full AT assessment; or the parents have been provided with a written notice of the district's refusal to provide that assessment.

In a third issue the complainants alleged that the district failed to provide one-on-one assistance to the student as indicated on her IEP. The district did not provide documentation in support of this issue. As corrective action the district must provide evidence that one-on-one assistance is being provided as indicated on the IEP. If one-on-one assistance cannot be provided, the district was required to determine the extent to which compensatory services should be provided. In addition, the district was required to submit to the bureau on a quarterly basis, evidence that services described on the student's 1999-2000 IEP were provided.

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Lee County School Board
Agency Case No. DOE-99-423-FOF
July 21, 1999

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are emotionally handicapped and who are speech impaired. The student also required occupational therapy. The parent alleged that the district failed to implement the student's individual educational plan (IEP) in physical education class, including behavioral interventions; and, implement the student's positive behavior management plan.

The parent alleged, in first issue, that the student's physical education (PE) teacher did not implement the student's IEP, including behavior interventions. Documentation indicated one discipline referral related to an incident in PE, which included counseling and a "cool down" period. Two other incidents were noted but no documentation of the implementation of the provisions of the student's IEP was provided. There was also no documentation provided that addressed the suspension from the track club. As corrective action the district was to ensure that the student's IEP is implemented in PE class and track club by documenting each behavior and intervention.

In the second issue, the parent alleged that the student's teachers did not follow the student's positive behavior management plan. The student's IEP addressed behavioral interventions and directed that all of the student's teachers be made aware of the behavior strategies to follow. Documentation indicated that meetings were held to discuss the staff's response to the student's IEP. There was no documentation to indicate whether the interventions were implemented, as required by the IEP. As corrective action the district was required to ensure that the student's IEP is implemented in all his classes by documenting each behavior incident and the intervention used. The district was required to submit to the bureau all documentation of behavioral incidents involving the student during the 1999-2000 school year.

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Lee County School Board
Agency Case No. DOE-99-432-FOF
September 10, 1999

This complaint was filed by the parents of a student with disabilities. The complainants alleged that the district failed to develop and implement a behavior plan as indicated on the student's individual educational plan (IEP); develop and implement parent training as indicated on her IEP; provide occupational therapy (OT) and physical therapy (PT) as indicated on the IEP; and conduct an IEP meeting prior to determining the student's need for an extended school year (ESY).

In the formal complaint the parents alleged that the district failed to develop and implement a behavior plan as indicated on the student's IEP. Records indicated a functional behavioral assessment was completed on April 16, 1999, and her behaviors were recorded on behavior recording forms during the month of January, February, March, and April 1999. The parents reported that the behavior intervention plan was implemented following the May 19, 1999, meeting. There were no corrective actions required.

In the second issue, the parents alleged that the district failed to develop and implement parent training as indicated on the IEP. Documentation indicated that the IEP developed on December 2, 1998, described parent-training activities. On July 21, 1999, the parent trainer contacted the parents and provided them with specific training activities. There were no corrective actions required.

The parents alleged in the third issue that the district failed to provide OT and PT as indicated on the IEP. The student's IEP, developed on September 2, 1998, indicated PT services was to be provided two hours per month and OT was to be provided five hours per month. The bureau reviewed three months of OT and PT services provided to the student, which indicated that she received the required two hours of PT during the month of March and some OT, but not the required five hours per month. As corrective action the district was required to assess the student's needs for compensatory services in regard to OT and PT. Based on the assessment, the IEP team was required to convene and devise a plan to offer compensatory services, if appropriate. The district was to provide documentation of the provision of compensatory services to the bureau.

In the fourth issue, the parents alleged that the district failed to conduct an IEP meeting prior to determining the student's need for an ESY. The IEP developed on September 2, 1998, indicated that ESY services would be provided. Extended school year services were further discussed at the June 9, 1999, IEP meeting; however, no documentation was provided that described the details of the discussion. It was concluded that the documentation submitted did not provide sufficient information to make a determination regarding the student's need for ESY services or the complainant's participation in the decision-making process regarding ESY services. As corrective action the district was required to appropriately document any revisions to the student's IEP when determining the need for ESY services and to involve the parents in the decision-making process.

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Marion County School Board
Agency Case No. DOE-99-405-FOF
July 21, 1999

The parents of a student who had been determined eligible for the special programs for students who are speech and language impaired and autistic filed this complaint. The complainant alleged that the district failed to provide the student with assistive technology (AT) in the area of augmentative communication; develop and implement a transition plan; consider options recommended by outside professionals; and provide occupational therapy (OT).

The parents alleged that the district failed to provide the complainant's son with AT in the area of augmentative communication. Documentation indicated that an individual educational plan (IEP) was developed on September 17, 1998, describing AT devices and services that were considered. Based on a report developed on November 9, 1998, the IEP team recommended the development of different communication booklets; however, the same booklets were still being used seven months after the recommendation. As corrective action the district was required to ensure that decisions made by the IEP team are implemented in a timely manner. It was recommended that the IEP team address whether an AT evaluation is needed.

In the second issue the parents alleged that the district failed to develop and implement a transition plan. Documentation indicated that an IEP developed for the complainant's son on September 17, 1998, included a transition plan with the required components. The student's IEP was not revised when he changed vocational activities. As corrective action the district was required to ensure that the IEP committee review and revise the student's IEP to reflect his training and vocational activities.

The parent alleged, in the third issue, that the district failed to consider options recommended by outside professionals. Documentation indicated that a copy of an unpublished report titled "Report of Observations" was presented and discussed by the student's IEP team. The report made recommendations regarding the complainant's son; however, the IEP team did not agree with all the recommendations. No corrective action was required.

In the last issue, the complainant alleged that the district failed to provide OT to her son. Records indicated that the student was reevaluated and dismissed from OT in 1998. A notice / consent for educational placement form, dated September 17, 1998, signed by the complainant, indicated that the student would be dismissed from OT. The September 17, 1998, IEP did not include any references to OT consultative services. No corrective action was required.

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**Martin County School Board
Agency Case No. DOE-99-482
December 17, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special program for students with specific learning disabilities. The complainant alleged that on October 5, 1999, her son's math teacher failed to sign the Daily Assignment Sheet as required by the implementation plan included in her son's individual educational plan (IEP), and that the school failed to provide progress reports for her son during the week of October 4-8, 1999, as required by his IEP.

In the first issue the parent alleged that the math teacher failed to sign the Daily Assignment Sheet on October 5, 1999, as required by the implementation plan included in the IEP. On October 5, 1999, the math teacher did not complete the daily assignment sheet as required by the implementation plan included in IEP. As a resolution the district provided training to the staff working with the student to ensure the implementation of his IEP. No further corrective action was required.

The final issue alleged that the district failed to provide progress reports for the student during the week of October 4-8, 1999, as required by his IEP. Documentation indicated that the progress report for the week ending October 8, 1999, did not include reports for language arts and social studies. As a resolution and corrective action the district provided training to the staff working with the student to ensure the implementation of his IEP, and changed the district's procedures regarding the responsibility for the progress report. No further corrective action was required. In addition it was recommended that the district confer with the parent regarding her request for further training for the student's teachers.

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**Miami-Dade County School Board
Agency Case No. DOE-99-433-FOF
September 17, 1999**

An advocate on behalf of the parents of a student who had been determined eligible for the special program for students who are mentally handicapped filed this complaint. The complainant alleged that the district failed to provide the parents with accurate information in regard to the invitation to the individual educational plan (IEP) meeting on March 3, 1999, including persons in attendance and the purpose of the meeting; failed to ensure that the student's regular education teacher(s) appropriately participated on the IEP team; failed to implement the IEP as written regarding the use of a tape recorder and the implementation of a behavior support plan; failed to provide the parents with an informed notice of refusal when the parents requested that an independent educational evaluation (IEE) not be considered at the

March 3, 1999, IEP meeting; failed to address student's assistive technology (AT) needs or the need for transition planning during the March 3, 1999, IEP meeting; failed to provide the parents with periodic information regarding the student's progress toward her annual goals; and failed to respond properly to the parents' disagreement with the proposed change in placement.

The complainant alleged that the district failed to provide the parents with accurate information in regard to the invitation to the IEP meeting on March 3, 1999, including persons in attendance and the purpose of the meeting. The parent invitation, dated February 18, 1999, to the March 3, 1999, IEP meeting listed 11 people as scheduled to attend the March 13, 1999 IEP meeting. Documentation indicated that each person listed on the invitation attended the March 13, 1999, IEP meeting. The invitation further indicated that the purpose of the IEP meeting was to review the student's current IEP in light of a reevaluation. No corrective actions were required.

In the second issue, the complainant alleged that the district failed to ensure that student's regular education teacher(s) appropriately participated on the IEP team. Evidence indicated that a regular education teacher, representing all of the student's regular education teachers, attended the March 3, 1999, IEP meeting. Documentation further indicated that six of the student's regular education teachers provided a written response to the regular education representative regarding the student's progress prior to the meeting. No corrective actions were required.

The complainant further alleged that the district failed to implement the IEP as written regarding the use of a tape recorder and the implementation of a behavior support plan. The student's IEP, developed on February 2, 1998, indicated the use of a tape recorder as a modification during regular education classes and that a behavior support program would be developed. Documentation indicated that other modifications had been made in lieu of the tape recorder. No supporting evidence was submitted to demonstrate whether the behavioral support plan had been implemented. As corrective actions the district was required to ensure that the services and modifications described on the IEP are provided. In addition, the district was required to submit to the bureau documentation that a behavior plan, if developed as required by the IEP team, is currently implemented. The district was further required to ensure that when modifications and adaptations described on the IEP are not implemented or a change occurs, the district reconvenes an IEP meeting. The district was required to submit to the bureau information and documentation that demonstrates the modifications and adaptations for educational programming were developed and implemented.

In the fourth issue, the complainant alleged that the district failed to provide the parents with an informed notice of refusal when the parents requested that an IEE not be considered at the March 3, 1999, IEP meeting. District staff stated that they did not provide a notice because they assumed that this matter had already been resolved. Upon receipt of the list of issues regarding this inquiry, the district pro-

vided the parents with an informed notice of refusal. The district was required to provide such notice any time that the parents request an action and the district refuses the request. No further corrective action was required.

In the fifth issue, the complainant alleged that the district failed to address student's AT needs or the need for transition planning during the March 3, 1999, IEP meeting. Documentation showed that the IEP included a statement of transition service needs and reflected the team's consideration of the student's need for AT *devices*, but that it did not reflect consideration of the student's need for AT *services*. As corrective action, the district was required to consider the student's need for AT services during IEP meetings. The district was required to submit to the bureau copies of the student's IEPs for school year 1999-2000 to show that AT services were considered.

In the sixth issue, the complainant alleged that the district failed to provide the parents with periodic information regarding the student's progress toward her annual goals. Documentation showed that progress reports were completed for the student three times during the 1998-1999 school year, but was insufficient to show whether the parents received the reports. It was recommended that the district develop specific procedures to ensure that the parents of students with disabilities are provided with periodic notification of their child's progress as required by law.

In the final issue, the complainant alleged that the district failed to respond properly to the parents' disagreement with the proposed change in placement. No corrective actions were required. It was determined that the district provided the parents with an informed notice of refusal that contained the components required by law. No corrective action was required.

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Miami-Dade County School Board
Agency Case No. DOE-99-476-FOF
December 7, 1999

This complaint was filed by the parent of a student with disabilities. The student had been determined eligible for the special program for students with specific learning disabilities. The parent alleged that the district failed to provide the student with a free and appropriate public education (FAPE).

This was addressed at the individual educational plan meeting on August 13, 1999. The district had addressed the complainant's concerns and, through the IEP process, was providing FAPE to the student. No corrective action was required.

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**Okaloosa County School Board
Agency Case No. DOE-99-456-FOF
October 18, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are mentally handicapped and who are speech and language impaired. The student also required occupational therapy. The parent alleged that the district failed to provide access to and copies of the student's educational records and anecdotal notes upon the request of the parent; and implement the student's individual educational plan (IEP) as written.

In the first issue, the parent alleged that the district failed to provide access to and copies of the student's educational records and anecdotal notes upon request of the parent. Documentation indicated that the parent requested the student's educational records and anecdotal notes about him both orally and in writing. Records showed that the district responded to each of the parent's requests in an appropriate manner. There were no corrective actions required.

The parents also alleged that the district failed to implement the student's IEP as written. Documentation indicated that the district provided each service listed on the student's IEP. No corrective actions were required.

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**Orange County School Board
Agency Case No. DOE-99-428-FOF
August 12, 1999**

This complaint was filed by the parent of a student with disabilities. The complainant alleged that the district failed to respond to a formal complaint filed with the district by the complainant in March of 1999.

Documentation indicated that the complainant wrote two letters (addressed to district and bureau staff) dated March 13, 1999, and received by the bureau on April 1, 1999, requesting a formal complaint investigation. Records further showed that the letter dated March 13, 1999, from the complainant requesting a formal discrimination investigation from the district's Equal Education Opportunity Office was received June 3, 1999. On June 9, 1999, bureau staff sent a letter to the complainant and district staff indicating that the issue would be investigated. The bureau concluded that it can not be determined whether district staff were aware of the complainant's separate request for a parallel local education agency complaint investigation. No corrective action was required.

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Orange County School Board
Agency Case No. DOE-99-464-FOF
November 4, 1999

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are trainable mentally handicapped and who are speech and language impaired. The student also required occupational therapy. The parent alleged that the district failed to develop and implement an individual educational plan (IEP) for the student that was based on his present level of functioning and current assessment information; failed to provide educational services and instruction to the student as described on his IEP; failed to provide the parent with an informed notice of refusal when the parent requested that an independent educational evaluation (IEE) be conducted as part of the three-year reevaluation process; failed to appropriately respond to the parent's request for a physical therapy (PT) evaluation; falsified the student's educational records by changing the dates on his IEP; failed to provide the parent with a notification of the IEP meeting conducted on January 27, 1999, or failed to provide the notice early enough so that the parent could make arrangements to attend the IEP meeting; developed and completed the student's IEPs, dated January 14, 1999, and January 27, 1999, without the required participants and without all the participating members in attendance during the meeting at the same time and place; and failed to provide the complainant with appropriate notice of a school health screening and failed to request her consent to perform a school health screening of the student.

The parent alleged, in the first issue, that the district failed to develop and implement an IEP for the student that was based on his present level of functioning and current assessment information. Documentation indicated that on January 14, 1999, the district developed a new IEP for the student based on his out-of-state IEP. The student's most current assessment information indicated that he had an intelligence quotient of 43, which was consistent with his other current and past assessments. It was concluded that the goals and objectives listed on the student's IEP were based on his present level of performance. Corrective actions were not required.

In the second issue, the parent alleged that the district failed to provide educational services and instruction to the student as described in his IEP. The student's IEP indicated that the goals and objectives addressed functional and readiness math and reading skills and self-care skills. Records indicated that the student was enrolled in six courses during the school day that addressed pre-academics, social and personal skills, physical education, and exploratory vocational. A review of the documentation and evidence indicated that the educational services and instruction provided to the student were consistent with the goals and objectives indicated on his IEP. No corrective actions were required.

The third issue alleged that the district failed to provide the parent with an informed notice of refusal when she requested that an IEE be conducted as part of the three-

year reevaluation process. Documentation indicated that the complainant gave her consent for reevaluation on April 7, 1999, and the student was reevaluated between April 7, 1999, and April 26, 1999. The three-year reevaluation assessment did not include a psychological assessment. Records indicated that the complainant requested an IEE on April 29, 1999. Records further indicated that the district refused the complainant's request. The district provided the complainant an informed notice of refusal; however, the form did not contain all the components required by state and federal law. As corrective action the district was required to provide the complainant with an informed notice of refusal with all the required components each time the complainant makes a request regarding the identification, evaluation, or educational placement of her son and the district denies the request. A copy of such notice was to be provided to the bureau when such notice is provided to the complainant during the 1999-2000 school year.

In the fourth issue the complainant alleged that the district did not respond appropriately to the parent's request for a PT evaluation. Evidence indicated that the complainant requested a PT evaluation on February 10, 1999, and April 26, 1999. The district provided a screening and determined that no further evaluation was indicated. Documentation indicated that the district did not provide the complainant with an informed notice of refusal when it denied the complainant's request of February 10, 1999, and April 26, 1999, for a formal PT assessment. As corrective action the district was required to provide the complainant with an informed notice of Refusal with all the required components each time the complainant makes a request regarding the identification, evaluation, or educational placement of the student and the district denies the request. A copy of such notice was to be provided to the bureau when such notice is provided to the complainant during the 1999-2000 school year.

In the fifth issue, the complainant alleged that the district falsified the student's educational records by changing the dates on his IEP. Documentation indicated that an IEP development meeting occurred on January 14, 1999, and a meeting to revise the IEP was conducted on January 27, 1999. Following a review of the evidence, it was determined that an incorrect date was written on the cover page of the revised IEP. The date was corrected following the IEP meeting without the complainant's knowledge. All other components of the revised IEP, dated January 27, 1999, were in order. No corrective actions were required. However, it was recommended that the district inform the complainant of clerical errors discovered on the student's educational records. It was further recommended that the district provide the complainant with copies of the corrected records as soon as feasible after the error is corrected.

In issue six, the complainant alleged that the district failed to provide her with a notification of the IEP meeting conducted on January 27, 1999, or failed to provide the notice early enough so that the parent could make arrangements to attend the IEP meeting. Documentation indicated that the complainant received a letter of invitation, dated January 26, 1999, to her son's IEP meeting on January 27, 1999. The invitation was sent to the complainant on January 26, 1999, via her son. The complainant communicated in writing that the advance notice of one day was not "early enough" notification for the complainant to attend the meeting. Evidence does indicate that the complainant participated in the IEP meeting on January 27, 1999, as evidenced by her signature on the IEP participants' list. As corrective action the district was required to ensure that the complainant is notified of meetings early enough to ensure that she will have an opportunity to attend. The district was further required to submit to the bureau a copy of the parent invitation sent to the parent and the IEP developed at all of the IEP meeting(s) with the complainant during the 1999-2000 school year.

The charge in issue seven alleged that the district developed and completed the student's IEPs, dated January 14, 1999, and January 27, 1999, without the required participants and without all the participating members in attendance during the meeting at the same time and place. Records indicated that an IEP meeting was conducted for the complainant's son on January 14, 1999, and on January 27, 1999. As evidenced by the signatures on the IEPs, the required participants attended both IEP meetings. On January 27, 1999, one district staff person participated in the education planning conference, but did not participate in the IEP development process, as evidenced by her signature on the conference form and the absence of her signature on the IEP form. No corrective actions were required.

In the final issue the complainant alleged that the district failed to provide her with an appropriate notice of a school health screening and failed to request her consent to perform a school health screening of her son. Documentation indicated that the parents of all students enrolled in the district completed an emergency student information form. Each form contains a section called School Health Service Consent, providing the district parents' consent for "health appraisals at school, including screenings such as vision, hearing, and growth and development." The complainant's signature appeared on this section, dated January 14, 1999, which indicated her consent to school health screenings. The complainant's signature appeared on a Permission for Reevaluation form, dated January 14, 1999, which also indicated her consent to vision and hearing screenings for her son. No corrective actions were required.

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Orange County School Board
Agency Case No. DOE-99-466-FOF
November 8, 1999

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are speech and language impaired and who are physically impaired. The student also required occupational and physical therapy. The student was part of the homebound/hospitalized program. The complainant alleged that the district failed to provide the services specified on the student's 1998-99 school year individual educational plan (IEP), including those related to assistive technology (computer, Dynavox, and calculator) and particular annual goals (Junior Achievement and language arts); follow written procedures regarding an annual review of her IEP; ensure that her 1998-99 teachers were appropriately trained; and ensure that she met the course standards for Exceptional Student Education (ESE) Applied Math 1 during the 1998-99 school year before credit was given for the course. This complaint was an appeal to the state educational agency regarding the outcome of a local educational agency complaint that the complainant had filed with the district in a letter dated July 9, 1999. The local school district had found no violations of law.

The parent alleged that the district failed to provide the services specified on the student's IEP for the 1998-99 school year, including those related to assistive technology and particular annual goals such as those in Junior Achievement and language arts. It was determined that the student was provided with the instruction described on her IEP during the 1998-99 school year (including extended school year services). It could not be determined whether this instruction was appropriate. Corrective actions were not required. However, it was recommended that district staff and the complainant meet with a third party or request a due process hearing in order to resolve differences in opinions regarding services.

The parent alleged that the district failed to follow written procedures regarding an annual review of the student's IEP. Documentation indicated that two IEP meetings were held in May, 1999, to complete the IEP. The required participants attended both meetings. It could not be determined whether all of the district's written policies were followed. No corrective actions were ordered.

In the third issue, the parent alleged that the district failed to ensure that the student's teachers were appropriately trained. It was concluded that district staff were qualified in accordance with *The Florida Course Code Directory and Instructional Personnel Assignments, 1998-99*. The teachers using the Dynavox implemented the student's goals and objectives; both teachers were provided training on the use of the Dynavox. There were no corrective actions required.

The final issue alleged that the district gave the student credit for ESE Applied Math 1 before she completed the course. Records indicated that the student completed 3 of

8 outcomes in the math course, which was consistent with the modifications and accommodations provided to her. A review of the records further indicated that the modifications and accommodations were not included on the IEP. As corrective action the district was to provide instruction to ensure that the course objectives are met as described on the student's IEP. If the IEP team determines that compensatory instruction must be provided so that the student can master the material in ESE Applied Math 1, course accommodations and modifications must be included in the IEP.

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**Orange County School Board
Agency Case No. DOE-99-469-FOF
November 16, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are speech and language impaired and who are physically impaired. The student also required occupational and physical therapy. The student was part of the homebound/hospitalized program. The complainant alleged that the district failed to provide services to the student through an individual educational plan (IEP) during the beginning of the 1999-2000 school year.

Documentation indicated that students in the district began the school year on August 9, 1999. The student began receiving services on September 13, 1999. As corrective action the district was required to provide the necessary compensatory services to ensure that the instruction she missed at the beginning of the 1999-2000 school year was provided. The district was also required to ensure that the student has current IEPs for the 1999-2000 and 2000-2001 school years.

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**Palm Beach County School Board
Agency Case No. DOE-99-422-FOF
July 9, 1999**

This complaint was filed by the parents of a student who had been determined eligible for the special program for students who are mentally handicapped. In the complaint, the parents alleged that the district failed to provide the assistive technology (AT) services prescribed by the student's individual educational plan (IEP).

On October 23, 1998, an IEP was developed for the student that referenced her development of computer skills in the classroom. The student transferred to Jupiter Middle School, where her October 23, 1998 IEP stayed in effect until March 16, 1999. Computer use was not included in the March 16, 1999, IEP because the school did

not have the hardware or software required. On May 7, 1999, an annual IEP review was held, at which time computer usage was included in the annual goals and short-term objectives. The appropriate software would be available for the 1999-2000 school year. It was concluded that the district failed to appropriately provide the AT prescribed by the student's IEP. As corrective action the district was required to make available to the student the computer hardware and software necessary to meet the goals and objectives prescribed by her IEP. The district was further required to develop a plan to address the student's need for compensatory services due to the district's failure to appropriately provide the AT services from October 1998, through June, 1999, as prescribed by the IEP.

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**Palm Beach County School Board
Agency Case No. DOE-99-434-FOF
September 17, 1999**

On June 18, 1999, the parent of a student who had been determined eligible for the special program for students who are speech impaired alleged that when the district filed a request for a due process hearing, it failed to provide specific information in a timely manner regarding her rights as a parent and the availability of legal assistance. The district's filing of a request for a due process hearing was in response to the complainant's request for an independent educational evaluation for her daughter.

The parent alleged that the district failed to provide the required information to her in a timely manner, upon the filing of a request for a due process hearing by the district regarding her request for an independent educational evaluation for her daughter. The district requested a due process hearing on June 1, 1999, regarding the parent's request for an independent educational evaluation. The parent was listed as a "cc" on the hearing request letter; however, she indicated that she did not receive the letter. The parent was notified via telephone on June 4, 1999, regarding the filing of the due process hearing. Documentation indicated that the parent received information regarding the parent's rights related to the due process hearing, information about low-cost legal assistance, and a copy of the Order of Prehearing Instructions on June 11, 1999. This order stated that the district must provide to the parent copies of any rules of procedure and information regarding parent rights at least thirty (30) days prior to the date set for the hearing. The administrative law judge (ALJ) set a hearing date of June 28, 1999, less than 30 days from the district's original request for a hearing. The date set by the ALJ did not give a sufficient amount of time to the district to comply with the timeline. There was no corrective action required; however, it was recommended that the district implement an expedited mailing process in order to ensure that information is provided to parents in a more timely manner when a due process hearing is requested.

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**Palm Beach County School Board
Agency Case No. DOE-99-435-FOF
September 21, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are language impaired and who have specific learning disabilities. The student also required occupational therapy. The parent alleged that the district failed to implement the corrective action ordered in DOE Agency Case No. DOE-96-155-FOF, thereby failing to provide her son with evaluations in the areas of sensory integration and assistive technology (AT); allow the participation of the complainant in the evaluation process; provide an independent educational evaluation of the student's AT needs in response to the complainant's request; and obtain prior consent for a language evaluation that was conducted during the 1998-99 school year.

The parent alleged that the district failed to implement the corrective action ordered in DOE Agency Case No. DOE-96-155-FOF, thereby failing to provide the student with evaluations in the areas of sensory integration and AT, and failed to provide for parent participation in its efforts to conduct an AT evaluation. Based on documentation, the complainant declined the proposed evaluations of her son that would have fulfilled the district's obligation in the corrective actions specified in DOE Agency Case No. DOE-96-155-FOF.

The district submitted two proposals to conduct an AT evaluation. The complainant refused consent for the first and consented to the second with a proviso based on an agreement regarding the composition of the evaluation team. Evidence indicated the initiation of the AT evaluation during January 1999. On January 26, 1999, the complainant withdrew her consent, indicating that her request for participation and the agreed upon provisions of parental consent were completely disregarded. On February 23, 1999, the complainant reinstated her consent, with an observation of her son being conducted by school staff on March 4, 1999. Evidence indicated that the complainant and the district attempted to set up a meeting to jointly observe the student. On March 19, 1999, the complainant again withdrew her consent for the evaluation because the district had failed to inform her of the time of the observation. Consent was reinstated contingent on the district arranging a specific date and time for the evaluation. Transcriptions of voice mail messages confirm a date for an observation of the complainant's son.

It was concluded that attempts to conduct the AT evaluation during the 1998-99 school year have been complicated by failed communication between the district and the complainant and a history of the complainant's repeated withdrawals of consent for evaluation because of concern that the district was not meeting the provisos of the consent. There is evidence that the district made attempts to have the complainant participate in a portion of the evaluation, but this participation was never realized due to failed communication. As corrective action the district was

required to provide evidence of its response to the complainant's August 31, 1999, requested for an AT evaluation for her son.

It was further recommended that the district specifically ascertain the conditions that the complainant wishes to establish in regard to the conducting of the evaluation. It is strongly recommended that all provisions and subsequent agreements related to the conducting of any evaluation be documented in writing and signed by all parties. If the district cannot agree to certain stipulations made by the complainant, an informed written notice of refusal must be provided to the complainant.

In the second issue, the complainant alleged that the district failed to provide an independent educational evaluation of the student's AT needs in response to the complainant's request. The complainant requested an evaluation from the Florida Alliance for Assistive Services in Technology (FAAST). The complainant was not aware that her request for an evaluation from FAAST constituted a request for an independent educational evaluation. The district initiated an AT evaluation following the complainant's request for her son to be evaluated by FAAST. No corrective action was required.

In the final issue, the complainant alleged that the district failed to obtain prior consent for a language evaluation for her son conducted during the 1998-99 school year. Documentation indicated that the complainant gave consent for an academic evaluation. Records indicated that the complainant left the decision for further occupational and speech evaluations to the school, agreeing to follow the school's recommendations regarding the need for such evaluations.

No corrective action was required; however, it was recommended that all future Parent Consent for Individual Student Reevaluation forms regarding the student be completed with sufficient detail so that both parties are clear about the purpose of the form and the types of evaluations that will be conducted.

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Palm Beach County School Board
Agency Case No. DOE-99-436-FOF
September 17, 1999

This complaint was filed by an advocate on behalf of parents of a child who had been determined eligible for special programs for students who are physically impaired, who are visually impaired, and who are speech and language impaired. The student also required physical therapy and occupational therapy. The complainant alleged that the district's policy on providing assistive technology (AT) and software is in violation of federal and state law; and that the district's failure to provide the student with the AT devices and services for home use has interfered with the district's provision of a free appropriate public education (FAPE) to her.

The complainant alleged that the district's policy on providing AT and software was in violation of federal and state law. Documentation indicated that the student had been provided with AT to enable her to complete her school assignments. On several occasions the parents requested that the district provide the student with software for home use so that she could use it to do her homework assignments. The district provided the parents with an informed notice of refusal that stated that "School district policy dictates that software is not purchased for home use, on home computer." District policy stated, in part, "Software, hardware enhancements (e.g., memory chips) and/or assistive devices, purchased with school district funds, are not installed on family owned hardware." The Bureau of Instructional Support and Community Services approved the district's policy on February 7, 1997. The Bureau concluded that the district's policy was not in compliance with current federal regulations. As corrective action the district was to revise its policy on the provision of AT to a student with disabilities for use in the student's home. The revision was to reflect that AT, including hardware and software, may be provided in a student's home, based on an IEP committee's determination that it was required in order for the student to receive FAPE.

In the second issue, the complainant alleged that the district's failure to provide the student with AT devices and services for home use has interfered with the district's provision of FAPE to her. The district denied the parent's request for the use of assistive technology, for their daughter, at home. It was determined that the notice of refusal was not provided to the parents in a timely manner. As corrective action the district was required to review any requests for AT in relation to the student's educational needs. If the IEP team determines that the requested technology is not recommended, the district shall provide the parent with a timely notice of refusal.

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Palm Beach County School Board
Agency Case No. DOE-99-440-FOF
September 27, 1999

This complaint was filed by an attorney associated with the Legal Aid Society of Palm Beach County, Inc. The complainant alleged that the district had demonstrated a "complete disregard of state and federal special education laws in the opening of a new contract program between the Alternative Education Division of Palm Beach County Schools and Columbia Hospital," and "that students with disabilities served through the Exceptional Student Educational (ESE) program have been placed at Columbia Academy unilaterally by Alternative Education staff." The complainant also alleged that the "unilateral action" taken in placing students with disabilities at Columbia Academy constitutes multiple violations of IDEA.

The first issue alleged that the district failed to comply with state and federal special education laws in the opening of a new contract program between the Alternative

Education Division of Palm Beach County Schools and Columbia Hospital and that the "unilateral action" taken in placing students with disabilities at Columbia Academy constitutes multiple violations of IDEA. Documentation indicated that the district failed to conduct three-year reevaluations; hold properly constituted IEP meetings; consider the needs of all students for extended school year (ESY) services; consider the transition needs of students; invite a representative from an agency to attend transition IEP meetings for students; and ensure that parents understood the proceedings at an IEP meeting, including arranging an interpreter for parents who are deaf or whose native language is a language other than English. The district provided transportation for students enrolled in Columbia Academy; however, arrival and departure times for the students varied. As such, the amount of instructional time for the students was less than the required time.

Follow up investigation, indicated the district had meanwhile hired a new director for the alternative programs and the ESE program. The district had also created an Alternative Education/Exceptional Student Education Action Plan Committee whose mission was to "Provide to the School Board a framework for offering a comprehensive program of Alternative Education to the students of Palm Beach County." The district reviewed the ESE student records at all of the district's alternative education sites, the district delineated the assignments of supervisors of the alternative education programs to specific district alternative education managers, and developed an information and procedures manual for the 2000 school year for the Alternative Education Department. As corrective actions the district was disallowed funding above the basic weight for the students enrolled at Columbia Academy and was required to determine the level of compensatory education to be offered to the students. The district was further required to report on the status of the students enrolled at Columbia Academy during the Survey 3 FTE period and any other students enrolled at Columbia Academy after March 1999.

The bureau reviewed the district's "Information and Procedures Manual for SY 2000." The district was required to proceed with the adoption of these procedures and conduct training for all of the district's principals.

In the second issue, the complainant alleged that the district failed to implement the corrective actions required by Agency Order-98-344-FOF. Based on the evidence gathered by the bureau during the seven on-site visits to the selected alternative education programs during the months of April through July, 1999, the district failed to implement the corrective action plan as required by Agency Order DOE-98-344-FOF. As corrective action the district was required to submit the actions taken by the district in response to the findings of noncompliance within 30 days of the district's receipt of the order. The district was further required to provide to the bureau information regarding changes, enhancements, or improvements made to the services provided to ESE students at the alternative education programs, provide a listing of all ESE students enrolled in the alternative education program by site, and provide an updated listing in December, 1999; February, 1999; and April, 1999.

The district was also required to conduct site visits to all of the alternative education programs to determine the level of compliance with the district's procedures for ESE students placed in these programs. Site visits, for the corrective action, were required at a minimum of every three months during the 1999-2000 school year. The district was to work with the complainant to create a program review form or revise the existing form for use during the on-site visits.

Finally, the bureau was to conduct on-site visits to the district's alternative education program during the 1999-2000 school year. The site visits were to be conducted on a monthly basis to verify the district's compliance with the terms of the order. A finding of noncompliance during the bureau's review was to result in a reduction of federal and state funding for the student(s) if appropriate. The bureau was to determine further corrective action based on the district's compliance with the terms of the order.

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**Palm Beach County School Board
Agency Case No. DOE-99-457-FOF
October 18, 1999**

This complaint was filed by an advocate representing the parents of a student who had been determined eligible for the special program for students who are autistic. The complainant alleged that the district had failed to ensure that students in the autism program at Forest Hill Elementary School had available to them the variety of educational programs and services available to students who did not have a disability; develop an individual educational plan (IEP) based on the student's needs related to his autistic behaviors; provide the parents with a legible copy of their son's IEP; provide the parents with adequate prior notice as to the IEP team's recommendations; and inform the parents that they were entitled to an independent educational evaluation (IEE).

In the first issue, the complainant alleged that the district failed to ensure that students in the autism program had available to them the variety of educational programs and services available to students without a disability. Documentation indicated that no school policies existed that restricted the students who are autistic from participating in age- / grade-appropriate services and programming. The requirement for children who are autistic to be escorted to the classroom from the bus loading and unloading ramp was an issue of safety. There were no corrective actions required; however, it was recommended that school personnel inform the parents of children with autism of school-wide activities and programs that are available to students. If there are any activities that the students with autism will not be allowed to attend, the parents should be afforded a full explanation of why these students cannot participate.

The complainant, in the second issue, alleged that the district failed to develop an IEP based on the student's needs related to his autistic behaviors. Records indicate an IEP was developed on June 3, 1999, that described performance levels, annual goals, and short-term objectives in the "Interpersonal Relations" domain. The IEP stated that behavior concerns would not have an impact on the student's performance in a regular classroom; however, his interpersonal problems would have a mild impact on his performance. It was concluded that the annual goals and short-term objectives were neither specific nor measurable and the results of the Gilliam Autism Rating Scale were not discussed nor referenced in the IEP. There was no behavioral plan attached to the IEP. As corrective action the district was required to determine the student's need for a functional behavioral assessment regarding his interpersonal behaviors. Based on the student's specific interpersonal problems and the behavioral concerns expressed by the parents, the district was required to convene an IEP meeting to write measurable goals and objectives to meet those needs.

The complainant alleged in the third issue that the district failed to provide the parents with a legible copy of their son's IEP. The father claimed that the copy of the IEP for his son was illegible; however, when the district was informed, the father was provided with a legible copy. Corrective actions were not required.

In the fourth issue, the complainants alleged that the district failed to provide them with adequate prior notice as to the IEP team's recommendations. The father met with the school psychologist on May 4, 1999, to review the instruments that would be used during his son's evaluation. A separate meeting was held on May 27, 1999, to provide an explanation to the father of the psycho-educational evaluation. The district reported that a discussion of the current program and the proposed program was held during the June 3, 1999, IEP meeting. Documentation indicates that the IEP team changed the student's placement from a special class to a resource room setting. There was no indication that the parents received a separate notice of the proposed change of placement recommended by the IEP team. A review of the IEP document and the attached conference notes showed that the IEP form did not include all of the components of the prior written notice requirement. As corrective action the district was required to provide the parent with prior written notice of the change of placement, which includes all of the required components if the IEP team recommends a change of placement. The district was further required, during the 1999-2000 school year, to provide the bureau with a copy of the prior written notice provided to the parent of any IEP team recommendations for a change of placement.

In the final issue, the complainants alleged that the district failed to inform the parents that they were entitled to an IEE. Records indicate that the parent was provided with a copy of the Notice of Procedural Safeguards on June 3, 1999. Documentation further indicated that the parent expressed his disagreement with the validity of his son's evaluation and informed the committee that he was interested in an IEE. On August 11, 1999, after the filing of the formal complaint, the parent was provided with information on how to select an independent evaluator. It was concluded that

the district did not inform the parents in a timely manner that they were entitled to an IEE. As corrective action the district was required to inform the bureau of the status of the parent's request for an IEE. The district was also required to respond to the parent's request for an IEE within 10 days by either consenting to the IEE or by providing the parents with a notice of refusal and filing for a due process hearing to demonstrate that its evaluation is appropriate.

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Palm Beach County School Board
Agency Case No. DOE-99-467-FOF
November 9, 1999

A parent of a child who had been determined eligible for the special programs for students who are emotionally handicapped and who have specific learning disabilities filed this complaint. The complainant alleged that the district failed to conduct IEP meetings appropriately, include measurable annual goals and short-term objectives that met the requirements of the Individuals with Disabilities Education Act (IDEA) on the student's November 2, 1998, individual educational plan (IEP); and provide the extended school year (ESY) services specified on the 1998-99 school year IEP.

In the first issue the parent alleged that the district failed to conduct the student's IEP meetings appropriately. It was determined that the required participants had attended the meeting. However, it could not be determined whether the IEP was completed at the meeting. It was determined that the student's placement was changed and the parents were notified through his IEP meeting. As corrective action the district was required to ensure that decisions regarding changes in the student's placement / free appropriate public education are made by his IEP team in accordance with his needs. In addition, a written notice was to be provided to the parents of any changes in the student's placement and appropriate staff members were required to be invited to the student's IEP meetings in accordance with state and federal law.

In the second issue the parents alleged that their son's IEP did not contain measurable goals and short-term objectives that met the requirements of IDEA. A review of the student's IEP indicated that the annual goals developed on November 2, 1998, did not describe what he was expected to accomplish within the 12-month period. It was determined that the annual goals were not measurable. As corrective action the district was required to ensure that the student's IEP contains appropriate annual goals and short-term objectives.

The parent alleged in the final issue that the district failed to provide the student the ESY services specified on his 1998-99 school year IEP. The student's May 11, 1999, IEP included objectives concerning multiplication and division, and identifying long

vowels and two-letter vowel consonant blends. It could not be determined whether the student performed the work described on his IEP. No corrective actions were required.

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**Palm Beach County School Board
Agency Case No. DOE-99-473-FOF
November 30, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special program for students who are emotionally handicapped. The complainant alleged that the district failed to provide the services specified in her son's 1998-99 individual educational plan (IEP); suspended the complainant's son inappropriately during the 1998-99 school year; and failed to evaluate her son at the complainant's request.

The complainant alleged that the district failed to provide services to the student as specified on his 1998-1999 IEP. Documentation indicated that the student received information regarding American history, mathematics, and make-up work during February, March, and April of 1999. A review of the attendance record indicated that the student was not credited with unexcused absences due to the district providing twice-weekly home visits by the homebound or hospitalized teacher. In addition the district informed the complainant and her son that he must record at least "Ds" in all subject areas for the fourth quarter of the 1998-1999 school year in order to pass to the ninth grade. The investigation concluded that the district provided the services as described on the student's IEP. No corrective action was required.

In the second issue, the complainant alleged that the student was suspended inappropriately during the 1998-99 school year. Evidence indicated that the student was suspended for a total of eight days during the months of December, January, February, and March of the 1998-99 school year, with the district conducting three manifestation determination meetings during those months. The committee determined that the behavior was a manifestation of the student's disability and recommended a change of placement. To address the student's verbal and physical aggression a behavioral plan was developed. In addition, seven IEP meetings were held to address educational needs. It was determined that the complainant had the opportunity to be a member of the committee and participate; therefore, it was concluded that the student was appropriately suspended, using procedures that were consistent with applicable federal and state legal provisions. No corrective action was required.

In the final issue the parent alleged that the district did not evaluate her son as she requested. Records indicated that the complainant's son was reevaluated on January 20, 1999, with an emphasis on problems related to social/emotional functioning.

One month later the IEP team recommended that pre-referral activities be initiated. On June 7, 1999, the IEP team determined that the complainant's son had not previously been tested due to his excessive absences. No corrective action was required; however, it was recommended that the district continue the process to formally evaluate the complainant's son to determine whether he has additional educational needs in the area of academics. The district, at the conclusion of the evaluation process, should hold an eligibility staffing with the appropriate participants to determine if the complainant's son is eligible for other exceptional student education programs.

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**Palm Beach County School Board
Agency Case No. DOE-99-474-FOF
November 30, 1999**

An advocate on behalf of the parent of a student who had been determined eligible for the special program for students who are speech and language impaired filed this complaint. The complainant alleged that the district failed to conduct a full and individual evaluation of his son to determine his unique needs; to provide his son with special education and related services, based on his unique needs and not on his disability category; and to develop an adequate individual educational plan (IEP) that addressed his unique needs, and was not based solely on his disability category.

In the first issue the advocate alleged that the district failed to conduct a full and individual evaluation to determine the student's unique needs. The district identified the student as a student with a disability while attending elementary school. Speech therapy services were provided from 1996 through 1999. The student was evaluated three times during elementary and middle school, and each time speech and language was the sole area assessed. It could not be determined whether the student was evaluated in all areas of suspected disabilities during his general progression through the regular curriculum in elementary school and in middle school. In May 11, 1999, an academic improvement plan was developed for the student and, following the August 10, 1999, conference, the district initiated steps to evaluate him to determine possible eligibility in another area of exceptional student education. Corrective actions were not required.

The advocate alleged in this issue that the district failed to provide the student with special education and related services based on his unique needs and not on his disability category. Documentation indicated the student was identified as a student with disabilities and was receiving services based on his difficulty in the area of speech and language. The IEP and course schedule developed for the 1998-99 school year indicated that special education services were provided to him based on his fluency disorder. No corrective action was required.

In the third issue the advocate alleged that the district failed to develop an adequate IEP that addressed the student's unique needs and was not based solely on his disability category. Documentation indicated that the IEP was developed to address his needs in the area of speech and language, specifically fluency. The IEP addressed the special educational services necessary for the student, as known to the IEP team. No corrective actions were required.

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**Palm Beach County School Board
Agency Case No. DOE-99-480-FOF
December 15, 1999**

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are emotionally handicapped and students with specific learning disabilities. The complainant alleged that the district failed to provide written notice of a change in placement to the student's parents at his January 13, 1999, individual educational plan (IEP) meeting; provide the services specified on the November 2, 1998, January 13, 1999, and April 29, 1999, IEPs; follow the assessment procedures specified on the IEP effective on August 17, 1999; implement the monthly IEP checklists specified on his November 2, 1998, IEP; and provide IEP progress reports to parents for his IEP developed on April 29, 1999.

In the first issue the complainant alleged that the district failed to provide written notice of a change in placement to the parents at the January 13, 1999, IEP meeting. Following an investigation and a review of documentation it was determined that on January 13, 1999, the student's IEP was changed from one class period of social/personal skills to one class period of exceptional student education reading. It was further determined that the IEP committee made a change in his free appropriate public education (FAPE) on January 13, 1999, and did not provide his parents with prior written notice of the change. As corrective action the district was required to provide the parents with prior written notice of any changes in FAPE for the 1999-2000 school year. In addition, for the remainder of the 1999-2000 school year, evidence of the IEP committee's decisions regarding the IEP and any changes in FAPE were required to be provided to the bureau within 30 days of the IEP meeting.

The parent alleged in the second complaint that the district failed to provide the services specified on the student's November 2, 1998; January 13, 1999; and, April 29, 1999, IEPs. A review of the IEPs indicated that consultation was described on the November 2, 1998, IEP; that specialized training in self-advocacy was reflected on the January 13, 1999, IEP; and, that daily assistance for social/personal skills was indicated on the April 29, 1999, IEP. There was no documentation that such services were provided. As corrective action the district was required to provide the services specified on student's IEP. For the remainder of the 1999-2000 school year, evidence of the provision of services was to be provided to the bureau.

In the third issue the complainant alleged that the district failed to follow the assessment procedures specified on the August 17, 1999, IEP. Documentation indicated that the student was administered a reading test. District staff explained that it was a school-wide test. No corrective action was required; however, it was recommended that the district clearly inform parents of the types of assessment that are district-wide or statewide and types of assessment which are school-wide.

In the fourth issue the parent alleged that the district failed to implement the monthly IEP checklist specified on the November 2, 1998, IEP. There was no evidence that the school used the checklists. As corrective action the district was required to ensure that if monthly checklists are used they are provided to the student's parents.

In the final issue, the parent alleged that the district failed to provide IEP progress reports to the parents for the April 29, 1999, IEP. Documentation provided by district staff indicated that progress reports dated March 3, 1999; April 14, 1999; May 5, 1999; and June 8, 1999, were given to the student to give to the parents. The student signed two of the reports himself. As corrective action the district was required to ensure that progress reports are given to the parents rather than to the student.

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Education

Jim Horne, Commissioner

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