

# Agency Order Summaries

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



January–June  
2000

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, Room 628 Turlington Building, Tallahassee, Florida 32399-0400 [telephone (850) 245-0477; Suncom 205-0477; FAX: (850) 245-0987]. Many publications are also available on the Internet at: <http://www.myfloridaeducation.com/commhome>.

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# Summaries of Due Process Hearings

*Following are summaries of Florida Department of Education Orders entered between January and June 2000. These 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 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 Dr. Margot Palazesi, Program Director, 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 Margot.Palazesi@fldoe.org.*

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

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**Charlotte County School Board  
Agency Order No. DOE-2000-522-FOF  
April 13, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide her with a mid-term report regarding her son's educational progress, failed to provide the student with occupational and speech therapy services as described on his IEP, failed to consider the student's need for assistive technology through the IEP process, and failed to implement the student's behavioral plan. The bureau conducted an inquiry that included review of records and contact with the complainant and district personnel.

The parent alleged that the school did not provide her with a mid-term report about the student's educational progress. The district responded that all teachers at the school had the option to send mid-term reports to the parents of individual students, that daily reports were provided to the parents of the student in question, and that bi-weekly meetings with the parent were held to monitor the student's progress. It was determined that the complainant was provided with reports about the student's progress more often than were other parents of students with or without disabilities in the same school. No corrective action was required.

The parent alleged that the student failed to provide occupational and speech therapy services as described on the student's IEP during the 1999-2000 school year and the summer term preceding it. The parent alleged that the student had missed therapies due to teacher absences. The district provided documentation that therapy services had been provided as indicated on the IEP during both periods. It was determined that the student received language and occupational therapy services as described on his IEP during these periods. No corrective action was required.

The parent alleged that the district failed to consider the student's need for assistive technology devices and services. The district maintained that the IEP team had considered assistive technology. A review of documentation showed that the IEPs developed in May and September/October of 1999 considered services. It was not possible to determine whether any additional consideration was given to the student's need for assistive technology. No corrective action was required.

The parent alleged that the district failed to implement the student's behavioral management plan. The district maintained that a behavior plan had been developed by an independent evaluator and provided documentation to support its implementation. The documentation also indicated that school staff who worked with the student had received training related to autism, aggression management, and behavior lesson training. It was determined that the student's behavior plan had been implemented, as had training for those who provided the student's educational services. No corrective action was required.

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**Collier County School Board**  
**Agency Order No. DOE-2000-502-FOF**  
**February 28, 2000**

This order incorporates all the issues that were part of two originally separate formal complaints, one filed by an advocate and one filed by the parent of a student with disabilities. The complaints alleged that the district denied students with hearing impairments a free appropriate public education by not providing qualified interpreters, including substitutes, throughout the school day as described on the students' individual educational plans (IEPs); did not employ qualified interpreters, including substitutes, that met the needs of students with hearing impairments as indicated on the students' IEPs; and failed to provide the student with an interpreter throughout the school week as indicated on her IEP. The bureau conducted an inquiry that included contact with the complainants and district staff and review of records, including the educational records of 12 students in addition to the records of the individual student who was the subject of this complaint.

The complaint alleged that the district did not provide qualified interpreters, including substitute interpreters when needed, for students with hearing impairments throughout the school day, thereby denying the students the opportunity to be educated in the least restrictive environment. The district submitted documentation of its policies related to the employment of interpreters of various skill levels, payment records for interpreters and substitutes, and documentation of its request to a deaf service center to assist in providing substitute interpreters. The bureau determined that the district employed interpreters according to its policies and had made efforts to employ qualified interpreters and substitute interpreters. The bureau also found that the district has not been successful in providing a substitute during each interpreter absence during the 1999-2000 school year. The bureau also found that the district does not require interpreters to have state or national certification.

As corrective action, the bureau was to review standards for interpreters and make recommendations for the district's establishment of minimum skill levels for interpreters. It was also recommended that the district continue its efforts to secure substitute interpreters and that the district consider adopting certification standards for interpreters.

The complaint also alleged that the interpreters (and substitutes) were not trained and qualified to meet the educational needs of students with hearing impairments, as described on their IEP. The district submitted documentation as described above. It was determined that there were not district policies in place that describe how a student who is hearing impaired is matched to the skill level of an interpreter.

As corrective action, the district was required to develop a written policy and procedure for matching the needs of students who are hearing impaired with skill levels of interpreters. The district was required to submit to the bureau before the conclusion of the 1999-2000 school year a school-board-approved policy addressing students' needs and interpreters' skill levels.

The complaint further alleged that the district did not provide the student with an interpreter throughout the school week, as indicated on her IEP. The district stated that the student and the other student's in the self-contained class remained in their classroom in the event the interpreter was absent. The bureau was unable to determine if the classroom teacher accompanied the student to activities outside the classroom when the interpreter was absent. No corrective action was required. It was recommended that the district provide parents of students who are hearing impaired with information regarding activities that would occur should an interpreter be absent during the school day.

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**Collier County School Board**  
**Agency Order No. DOE-2000-551-FOF**  
**June 14, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide speech and language services as described on the individual educational plan (IEP), failed to provide the parents with information about the student's therapies, denied the student access to school facilities and services available to nondisabled peers, failed to provide the parents with appropriate notification of meetings, and failed to implement the student's behavioral intervention plan as written. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

At the time of the inquiry, the child was attending a prekindergarten program and was eligible for special programs for children three to five years old who are developmentally delayed and who are speech and language impaired. She also qualified for occupational therapy. The IEP team met three times in the fall of 1999, all of which were continuations of a May 1999 IEP meeting. In February 2000, a new IEP was written establishing the need for services through the hospital/homebound program.

The parent alleged that, contrary to the IEP, the student was receiving speech and language therapy during the time the student was scheduled to be included in a regular prekindergarten classroom and was not receiving speech and language therapy three times a week. The IEP indicated the student would receive such services three times a week in small group and classroom settings for 30-minute sessions. The district provided documentation that the student often missed her therapy sessions because of her absence or tardiness. Lesson plans showed the student was scheduled for therapy three times a week, though on some days she was scheduled for 15 minutes of therapy and on other days she received more than 30 minutes of therapy. It was determined that the student received speech and language services 90 minutes per week through a combination of small group and classroom settings, and so was receiving weekly services as described on her IEP. No corrective action was required.

The parent alleged that the district did not provide her with information about the schedule for the student's speech and language therapy sessions when she requested it. The district maintained that the parent had been provided with schedules on several occasions. It was not possible to determine whether the district honored the complainant's request. No corrective action was required. It was recommended that the district provide requested information in a timely manner and provide the complainant with current information as the schedule changes during the school year.

The parent alleged that although other students who arrived at school early were able to play on the playground, students with disabilities, including her daughter, were not allowed to use the playground at that time. The district provided documentation that children in kindergarten through grade five who are part of an independent company's day-care program were allowed on the playground before or after school, and that students with disabilities were enrolled in that program. The school also allowed children in the prekindergarten early intervention program who are bused from an out-of-zone area and arrive at school early to enroll in the program (at the school's expense) and play on the playground. The district maintained that the principal offered the complainant the opportunity to enroll the student in that program but did not receive a response. It was determined that the student was not denied access to the before-school activity. No corrective action was required.

The parent alleged that the district failed to provide her with appropriate notice of meetings pertaining to her child's education—in particular that she was not being notified of meetings at least 10 days before the scheduled day. The district provided documentation that the parent was provided with written notices of all meetings and attended all meetings scheduled during the 1999-2000 school year. Only once was a change in the meeting time requested, and that change was made. It was found that the complainant was sufficiently notified of all IEP meetings. No corrective action was required.

The parent alleged that the district failed to implement the student's behavioral intervention plan, which was referenced in the student's IEP. It was found that a plan was adopted for the student and that district staff observed and made recommendations for the implementation of the plan and collected data in November, 1999. Documentation was not provided to indicate that the plan was implemented during October or December of 1999. The district provided

documentation that the behavioral specialist and the parent determined in December that parts of the plan should be discontinued. The parent indicated she had written a letter to the principal in March 2000 asking why the speech therapist was not implementing the plan and the principal had responded that it was the school staff's understanding from the IEP team that the plan had been discontinued. It was determined that the student's behavioral intervention plan was not fully implemented. As corrective action, the district was required to fully implement the plan as referenced in her IEP. The district was required to submit to the bureau documentation that the plan was being implemented throughout the 2000-2001 school year.

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**Flagler County School Board**  
**Agency Order No. DOE-2000-508-FOF**  
**March 13, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to convene an individual educational plan (IEP) meeting to develop appropriate behavioral interventions and strategies for her son; failed to provide the student's teacher with appropriate behavioral supports to address her son's behavior; failed to provide the student with a time-out room that was built to state specifications and included a window made of unbreakable plastic; and inappropriately removed (suspended) the student. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was a high-school student eligible for programs for students who are autistic and speech-impaired. The parent alleged that the district failed to convene an IEP meeting to develop appropriate strategies to address the student's behavior. The district provided documentation that included the student's IEP, behavioral support plan, evaluation reports, and behavioral data sheets. The IEP, developed in November 1998 and revised in December 1998, included the following services: behavior specialist, behavior plan, crisis procedures, one-to-one assistant. The bureau determined that the November 1998 IEP was still in effect at the time of the complaint and that the services had been provided. No corrective action was required.

The parent alleged that the district failed to provide the student with appropriate supports to address his behavior. The November IEP described above stated that school staff required support related to the student's behavior and that the support would include ongoing staff development, positive behavioral support, and the services of a behavior specialist. The district provided documentation that the services were provided. It was determined that the district did provide the appropriate supports, including a one-to-one assistant, daily assistance from a district behavioral specialist, and technical assistance from a certified behavior analyst and the Positive Behavioral Supports Project. No corrective action was required.

The parent alleged that the district failed to provide the student with a time-out room built to state specifications and equipped with a window made of unbreakable plastic. The parent



provided that the student had been injured before while in the time-out room, and that the room was still dangerous. She also alleged that the locking system did not meet state requirements. The district provided documentation including a work order for revisions to the time-out room, a letter from a contractor, and photographs of the room. It was determined that the window in the time-out room met state requirements, but that the locking system appeared to not be recessed into the wall, per state requirements.

As corrective action, the district was required within 20 days to modify the button to ensure that it was recessed as required. The district was required to send to the bureau a photograph of the modification.

The parent alleged that the district's four-day suspension of the student for striking staff members was illegal because his behavior was a manifestation of his disability. It was determined that the four-day suspension was not long enough to deny him a free appropriate public education. No corrective action was required. However, It was recommended that all staff members who work with the student be trained in crisis prevention intervention and that the IEP team convene to determine interventions and consequences for the student's inappropriate behavior.

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**Lee County School Board**  
**Agency Order No. DOE-2000-552-FOF**  
**June 14, 2000**

The parent of a student with disabilities filed this complaint alleging that the district is in violation of the "child find" requirements under the Individuals with Disabilities Education Act (IDEA) by not evaluating students in a timely manner. The bureau conducted an inquiry that included review of records and contact with the complainant and district personnel.

The complainant alleged that district policies required a wait of up to 13 weeks before a request could be made to evaluate a student, which—when combined with time the student might be on a waiting list—led to a wait of up to a full school year or more for a child to be evaluated. Relevant to this inquiry was the fact that as a result of a formal investigation, the United States Department of Education, Office of Civil Rights, and the Lee County School Board entered into a resolution agreement on December 1, 1997, that required the district to put into place prereferral activities, interventions, observations, and implementation of individual plans designed to reduce referrals under Section 504 of the Rehabilitation Act. These procedures could involve up to 12 weeks of prereferral activities before a student was referred for an evaluation to determine if the student was eligible for special education and related services under the IDEA. The district stated that waivers of the prereferral process were available but was unable to provide documentation that the waivers were available or that parents were informed of the waivers. It was determined that while there is no indication that the Resolution Agreement violated child find requirements, it is possible that the implementation of these procedures interfered with the district's obligation to provide a

timely evaluation for students suspected of have a disability as defined by IDEA. As corrective action, the district was required to revise its procedures to clarify that when school staff or parents refer a student for evaluation and the school intervention team suspects the student has a disability under IDEA, the school shall refer the student using procedures under IDEA. The revision was also required to include how parents would be informed of waivers to the procedures. The district was required to provide a copy of the procedures to the bureau for approval.

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**Leon County School Board**  
**Agency Order No. DOE-2000-521-FOF**  
**April 12, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to provide a free appropriate public education to their son while he was assigned to the homebound/hospitalized (H/H) program. The bureau conducted an inquiry that included review of records and contact with the complainant and district personnel.

The student was eligible for programs for students with specific learning disabilities. The student had an individual educational plan (IEP) in effect for the 1999-2000 school year. In October of 1999, the district was informed that the student had been injured and needed to be temporarily educated at home. An IEP for the student's participation in the H/H program was developed on November 1, 1999, to be in effect until November 15. The parents alleged that while the student was being served by the H/H program, he did not receive the services listed on his IEP.

The parents also alleged that during a November 23 meeting, they requested changes to the student's IEP but their request was ignored.

It was determined that the IEP developed on November 1, 1999, did not contain all required components and did not contain measurable goals. It was found that at this meeting the parents requested homebound services in order to provide the student with the accommodations prescribed by his 1999-2000 IEP, that their request was denied, and that the parents were not provided with a notice of refusal. It was found that the IEP team did not consider the student's needs for services and accommodations as prescribed by his 1999-2000 IEP when developing his H/H IEP and that the student's access to his courses in the general curriculum was determined by the availability of district resources rather than the student's needs. It was found that the parents were not given an informed notice prior to a meeting held on November 23, 1999, nor were they given a notice of refusal when the district at that same meeting refused their request to review and revise the student's H/H IEP. It was also determined that the district did not obtain the physical examination and medical report required by Florida State Board of Education Rule before allowing the student to return to his regular school on a part-time basis. In sum, the order stated that the district did not provide FAPE to the student while he was assigned to the H/H program.

As corrective action, the district was required in future to provide the parents with prior written notice when it schedules an IEP meeting or proposes to change or refuses to change the student's identification, evaluation, or placement or the provision of FAPE to the student. For the 1999-2000 and 2000-2001 school years, the district was required to provide to the bureau a copy of each notice within 15 days of the provision of the notice to the parents. The district was also required to develop IEPs for the student that contain all the components required by IDEA and to provide to the bureau a copy of each IEP developed or revised for the student during the 1999-2000 and 2000-2001 school years within 15 days of the development or revision of the IEP. Finally, the district was required within 25 days of the order to hold an IEP meeting to determine the need for the provision of compensatory services for the student and to determine the need for the district to reimburse the parents for the cost of providing private tutoring to the student while he was in the H/H program. The district was required to provide to the parents written notice of the district's determination in this regard and a copy of their procedural safeguards. The results of the meeting and the resulting notice to the parents were required to be provided to the bureau.

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**Manatee County School Board  
Agency Order No. DOE-2000-499-FOF  
February 17, 2000**

An advocate filed this complaint on behalf of a child with disabilities alleging that the individual educational plan (IEP) team failed to consider independent educational evaluations (IEEs) presented by the custodial grandparent and failed to provide for the student's placement in the least restrictive environment. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was an elementary school student eligible for programs for students who are autistic and who are speech language impaired, and for programs for students who require physical and occupational therapy. The student's IEP called for placement in a basic education class for 40 to 79 percent of the time, and in a varying exceptionalities class for less than 79 percent of the school day.

The complainant alleged that the IEP team failed to consider IEEs that recommended the student be placed in a regular class with a lower teacher-pupil ratio. The bureau determined that the IEP team did discuss the results of the IEEs. Since the Individuals with Disabilities Education Act (IDEA) requires IEP teams to consider the results of IEEs, but does not require IEP teams to implement the recommendations from an IEE, no corrective action was warranted.

The complainant also alleged that the district failed to provide for the student's placement in the least restrictive environment. The custodial grandparent requested that the district add a new basic education class or restructure existing basic education classrooms to provide a lower teacher-pupil ratio for the student. The district responded that the IEP team provided

for the student's participation in the regular education environment, based on an individualized decision for the particular child. The bureau determined that since there is no requirement for IEP teams to follow the specific recommendations of an independent educational evaluator, and since there is no requirement for districts to substantially restructure the regular education environment in order to provide for a student with a disability, the district did not violate the least restrictive environment provisions of IDEA. However, the bureau found that the district failed to provide the custodial grandparent with an "informed notice of refusal" of her request for a full-time regular education placement for the student.

As corrective action, the district was required in the future to provide the student's custodial grandparent with an "informed notice of proposal or refusal to take a specific action" form whenever the district refused to change the identification, evaluation, or educational placement of the student. The district was required to submit to the bureau a copy of any such notices during the 1999-2000 and 2000-2001 school years.

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**Manatee County School Board  
Agency Order No. DOE-2000-503-FOF  
February 28, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to provide the services described on their son's individual educational plan (IEP) and failed to implement his IEP; denied their son the opportunity to be educated in the least restrictive environment (LRE); proposed a change of placement for their son that was not based on the IEP team's decision; proposed a change of placement for their son without providing the parents with an informed notice; and failed to conduct their son's IEP meeting with the required participants, including a regular education teacher. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was an elementary student eligible for programs for students who are autistic, programs for students who are speech and language impaired, and exceptional students who require occupational therapy. An IEP was developed for the student in April of 1999. The April IEP did not identify a school site. A meeting was held in August, after school began, to discuss school assignment and the services indicated on the April IEP. No new IEP was written at this August meeting, nor was the April IEP revised. The parents were unwilling to let the child begin school in August because they did not believe all the IEP services were in place. In October, after the complaint was filed, another IEP meeting was held and the student began school in November. He attended a regular kindergarten classroom at his home school with the assistance of a paraprofessional.

The parents alleged that the district failed to provide the services described on the April IEP and to implement the IEP. Although the IEP stated that the student would have the assistance of a trained aide, no aide had been hired as of the time of the complaint. The parents also

alleged that although the April IEP did not indicate a school assignment, and indicated that the student would spend more than 40% of his school day with nondisabled peers, the district in the August meeting offered services only in a particular school in a full-time, separate ESE classroom. The bureau determined that services were not in place as of the first day of school and that no services were offered at that time other than services through the full-time, separate ESE classroom.

As corrective action, the district was required to provide compensatory services for the student relative to the IEP services and therapies he did not receive at the beginning of the school year. The district was required to submit to the bureau the plan for compensatory services and to submit documentation to the bureau that the compensatory services were provided before the beginning of the 2000-2001 school year.

The parents alleged that the district denied the student the opportunity to be educated in the LRE. The April IEP indicated that the student would spend more than 40% but less than or equal to 79% of his school day with nondisabled peers; the IEP also indicated that a separate class was considered “too restrictive.” However, the IEP team in the August meeting offered services only in a particular school in a full-time, separate ESE classroom. The conference notes reflected that the complainant did not agree with this recommendation and requested that the student be with regular education students. No new IEP was written at this August meeting, nor was the April IEP revised. The bureau determined that there was no evidence that the IEP team considered a less restrictive environment.

As corrective action, the district was required in the future to consider all options on the continuum of services for the student and to document that less restrictive environments were considered before making placement decisions for the student. The district was required to submit to the bureau documentation of such consideration at all IEP meetings for the student during the 1999-2000 and 2000-2001 school years.

The parents alleged that the school district proposed a change of placement that was not based on the IEP team’s decision. The complainants alleged that during the summer after the IEP meeting when no school assignment was made, they were given verbal indications from the district that their child would be placed in a separate class at the child’s home school. The parents also produced a bus card they received in August 1999 indicating he would be attending the home school. The bureau determined that, as stated above, the April IEP indicated that the student would spend more than 40% but less than or equal to 79% of his school day with nondisabled peers, and that the IEP was not revised at the August meeting, but conference notes of the August meeting recommended a different placement.

As corrective action, the district was directed to ensure that any changes to the student’s placement and services be made by the IEP team and that the parents receive timely notice of any changes in placement. The district was required to submit to the bureau documentation that all placement decisions regarding the student are made by an appropriately constituted IEP team and that the parents are provided with appropriate notice of these decisions. The district was required to submit this documentation within 30 days of any change in the student’s placement through July 2001.

The parents alleged that the district proposed a change in the student's placement without providing them with an "informed notice of placement." The bureau determined that a placement had been determined for the student at the April IEP meeting and that the parents were not informed of the change in placement until the August meeting, that the IEP was not revised at that time, and that the parents were not provided with an "informed notice of proposal or refusal to take specific action" form regarding the change in the student's placement.

As corrective action, the district was required to provide the parents in future with an "informed notice of proposal or refusal to take specific action" anytime the district proposes to initiate or change the student's identification, evaluation, or educational placement or the provision of a free appropriate public education. The district was required to submit to the bureau all copies of such notices for the 1999-2000 and 2000-2001 school years.

The parents alleged that the August IEP meeting referred to above did not include required participants, including the regular education teacher. The parents stated that the meeting participants did not include a regular education teacher and did not include a special education teacher who would be responsible for implementing the IEP. The district provided documentation that the prekindergarten specialist attended the meeting as the special education teacher. There was no indication that a regular education teacher was involved in the August IEP meeting.

As corrective action, the district was required to ensure that in the future a regular education teacher who works with the student be involved in his IEP development and review process. The district was required to submit to the bureau within 30 days of any IEP meeting held during the 1999-2000 and 2000-2001 school years documentation that one or more of the student's regular education teachers participated in the IEP process.

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**Marion County School Board**  
**Agency Order No. DOE-2000-555-FOF**  
**June 21, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide the student with educational and related services, including social skills training and accommodations in the regular classroom, as indicated on his individual educational plan (IEP); failed to provide the parent with an informed notice of refusal in response to requests by the complainant regarding services for the student; and failed to ensure that the appropriate participants attended the IEP meeting, including an exceptional student education (ESE) teacher. The bureau conducted an inquiry that included review of records and interviews with the complainant and school district personnel.

The child was a high-school student eligible for programs for students who are emotionally handicapped and students who are gifted. The student is served full-time in regular education classes.



The parent alleged that the district failed to provide the student with educational and related services, including social skills training and accommodations in the regular classroom, based on his present level of functioning as indicated on his IEP. Documentation supported the following:

- Consultation services— The district submitted teacher logs to document the consultation services; the logs reflected various, intermittent dates. It was found that these services were not documented consistently.
- Counseling services—The district submitted an August 1998 memo requesting a person whose title was unknown to provide weekly services to the student, which the district implied were counseling services, and a summary note from a counseling center from May 2000. It was found that the counseling services were not documented.
- Training for school personnel on Asperger's Syndrome—The district submitted as documentation a memo from the school psychologist stating that the psychologist had provided the training to the student's teachers. No agenda or attendance roster was provided. It was found that the inservice training was provided as described on the student's IEP.
- Social skills training related to communication—The district maintained that the social skills training was integrated into two general curriculum courses and provided documentation about the topics covered in the courses. It was found that the courses did address social skills.

As corrective action, the district was required to ensure that the services described on the student's IEP were provided and documented. The district was required to submit documentation including schedules, attendance rosters, and therapy/counseling logs that indicated the services were being provided consistently throughout the 2000-2001 school year.

The parent alleged that the district failed to provide her with an informed notice of refusal form in response to her requests to provide social skills training during the school day. The district maintained that it had not received any such requests since they had been in mediation with the parent the year before. It was not possible to determine whether the district refused to respond to the parent's requests. No corrective action was required.

The parent alleged that the district failed to ensure that the appropriate participants attended the IEP meeting, including an ESE teacher. The parent stated that after a September 17, 1999, IEP meeting, the ESE teacher was called in to sign the IEP but had not participated in the meeting. The district and the ESE teacher maintained that she was in attendance for the entire meeting. Her signature was on the line for ESE teacher on the IEP attendance section. No corrective action was required. It was recommended that the district ensure that the complainant is fully apprised of the roles of all participants in IEP meetings.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-494-FOF**  
**February 14, 2000**

The parent of a student with disabilities filed this complaint alleging that the individual educational plan (IEP) developed for her child contained multiple procedural violations. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The district acknowledged that there were procedural violations in the completion of the student's IEPs. In order to correct these violations, the district had scheduled an IEP meeting for the student and had scheduled training for teachers and administrators of the student's school related to procedures for conducting an IEP meeting.

As corrective action, the district was to forward a copy of the resulting IEP to the bureau. Additionally, a copy of the agenda and list of school staff attending the training was forwarded to the bureau.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-511-FOF**  
**March 17, 2000**

This complaint was filed by the University of Miami, Children and Youth Law Clinic, on behalf of a student with disabilities and alleged that the district failed to assign surrogate parents to those children with disabilities for whom the parent remains unknown, who are wards of the state or court, or whose parents cannot be located; and failed to assign a surrogate parent for the child. The bureau conducted an inquiry that included review of records and interviews with the complainant and district staff. As part of the inquiry, the district responded to numerous questions about its policies and practices related to the assignment of surrogate parents for students with disabilities.

The complainant alleged that the district refused to assign surrogate parents to children who need one, claiming that children living with a foster parent have no right to a surrogate parent. The complainant also alleged that a particular surrogate refused to go to IEP meetings and refused to meet the children he represented. The district submitted documentation of its efforts to recruit surrogates, documentation of its process for assigning surrogates, and documentation of training for surrogates. It was determined that the district had made a good faith effort to recruit qualified surrogates, had developed forms to facilitate the appointment of a surrogate, and had provided training for surrogates. It was also determined that the district had removed a potentially misleading statement from its "Request for a Surrogate Parent" form.



As a corrective action, the bureau was to revise its technical assistance materials to provide districts with more detailed direction regarding the appointment of surrogate parents for students with disabilities in need of “parent” representation.

The complainant alleged that the district failed to appoint a surrogate for a particular student who had been a ward of the state since 1995. The student was eligible for programs for students who are severely emotionally disturbed. The complainant alleged that a request for a surrogate parent had been made in May of 1998 but a surrogate had not been provided. According to the complainant, the student lived in a group home and the foster parent for the group home had not represented the student at individual educational plan (IEP) meetings. The district provided materials from the Florida Department of Education regarding the need for surrogate parents for students living in foster homes. It was found that during the student’s most recent IEP meeting, no person acting in the place of a parent attended, that a surrogate parent has not been appointed for the student, and that the student has not had a “parent” represent him in all matters relating to identification, evaluation, placement, or the provision of a free appropriate public education. It was determined that the technical assistance paper referenced above did not address the facts of the situation presented in this inquiry, in which the foster parent has no interest in the educational needs of the student and refuses to participate. Previous bureau policy had addressed this issue and recommended that a surrogate be appointed if the foster care parent elects not to participate in the child’s education.

As corrective action, the district was required to ensure that the student was represented by a “parent” in all matters relating to his exceptional student education program. The district was to assign a surrogate parent and ensure that the appropriate services were provided. The district was required to appoint the surrogate and submit evidence of appointment of a surrogate to the bureau.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-518-FOF**  
**April 3, 2000**

An advocate for the parents of a student with disabilities filed this complaint alleging that the district failed to schedule an individual educational plan (IEP) meeting for the student at the parents’ request, failed to provide the student with a free appropriate public education by inappropriately identifying him as severely emotionally disturbed (SED) and inappropriately placing him in the SED program, failed to develop a current IEP for the student that meets the requirements of the Individuals with Disabilities Education Act (IDEA), failed to provide the parents with an appropriate prior written notice for an IEP meeting, and failed to invite the appropriate participants to the IEP meeting. The bureau conducted an inquiry that included review of records and contact with the complainant and district personnel.

The child was a high-school student eligible for programs for students who are emotionally handicapped/severely emotionally disturbed. The student was being served in full-time exceptional student education classes. The advocate alleged that although she had on November 23, 1999, requested an IEP meeting on the parents' behalf, the district had not responded to the request. The district maintained that there was no response because the district was not refusing to conduct the IEP meeting. It was found that the IEP meeting, which was eventually scheduled for January 24, 2000, was not scheduled in a timely manner. As corrective action, in the future when the parents or their advocate request an IEP meeting, the district shall respond in writing within 10 days of the request. For the 1999-2000 and 2000-2001 school years, the district was required to provide to the bureau a copy of each such notice.

The advocate alleged that because the district had inappropriately identified the student as SED rather than autistic, he was denied FAPE. The district provided documentation that the student was found eligible for the SED program based on the results of an independent evaluation provided by the parents in 1994. It was found that the documentation used as the basis for determining the student eligible for the SED program was consistent with state requirements and that there was no evidence that there are programs or services available to students identified as autistic that are not available to students identified as SED. It was further found that although there were inaccuracies in the prior notices of IEP meetings and the IEPs themselves, there was no lack of a free appropriate public education (FAPE) due to the label of SED versus autistic. No corrective action was required.

The advocate alleged that the student's current IEP did not meet the requirements of IDEA. The advocate referred to numerous strike-throughs and new dates on an IEP developed and revised several times in 1998. She also referred to an inconsistency in that while the student's diploma option was changed from standard diploma to special diploma in November 1998, his transition plan indicated that he would like to attend college. However, the student's current IEP was one developed on September 15, 1999, and provided to the bureau. It is this latter IEP for the 1999-2000 school year that the bureau reviewed. It was found that this IEP reflected areas of noncompliance. Specifically, the present level of performance was given in academic terms only, although there were annual goals related to behavior; some annual goals were not measurable; short-term objectives were not written appropriately; and there was lack of specificity as to the actual services the student was to receive and as to the frequency, location, and duration of services. It was also concluded that the student retains the right to the opportunity to pursue a standard diploma. As corrective action, the district was required within 25 days to reconvene the IEP team to develop an IEP for the student in accordance with IDEA requirements and to provide to the bureau a copy of said IEP within 10 days of its development. The order also required the IEP team to consider the parents' or advocate's request for change of placement to a less restrictive environment and the opportunity for the student to access the general curriculum in order to pursue a standard diploma. The district was required to provide the parents and/or advocate with a written notice of the IEP team's decisions and an explanation of the parents' right to a due process hearing if they disagree with the district's decisions. The district was required to provide the results of this meeting and a copy of the notice to the bureau..

The advocate alleged that the notice inviting the parents to the January IEP meeting was not appropriate because the parents did not receive an updated copy of their procedural safeguards, the notice did not indicate that transition would be considered at the meeting, the form did not indicate that the student was invited to the IEP meeting, and the form did not indicate that the current IEP would be reviewed. The district responded that the use of outdated forms had led to errors and suggested and implemented appropriate corrective actions. Further, as corrective action the district was required to provide the parents with appropriate prior written notice of all the student's IEP meetings and to send copies of these notices to the bureau within 10 days of the IEP meetings held through the end of the 2000-2001 school year.

The advocate alleged that the district did not invite the appropriate participants to the January IEP meeting. The advocate stated that the district invited representatives of various ESE programs, even though the parents had made it clear that they wanted the student to receive services in regular classes. The advocate added that the invitation to the IEP meeting did not indicate that regular education teachers from the student's neighborhood school were invited. It was determined that the participants invited to the January IEP meeting were appropriate because the district was not limited to inviting representatives of the programs the parents were requesting, nor was the district required to invite a regular education teacher from the student's home school. The district had already agreed, as discussed above, that the notice was inappropriate. The corrective actions outlined in the preceding paragraph applied here. In future notices, the district was required to inform the parents of who will attend the meeting.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-523-FOF**  
**April 13, 2000**

An advocate for the parent of a student with disabilities filed this complaint alleging that the district failed to implement the student's individual educational plan (IEP) and failed to evaluate the student in a timely manner. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was a high school student eligible for special programs for students who are physically/orthopedically impaired and speech and language impaired. The student's IEP was developed on September 3, 1999, and she was placed in six regular education courses with support services (including a paraprofessional) and the related services of consultation and physical and occupational therapy.

The complainant alleged that the school was in disagreement with the student's regular education placement and intended to move her to a more restrictive setting and that the school did not implement the student's IEP, making a referral to a more restrictive setting inappropriate. The complainant alleged that the student did not have access to a communication device listed her on IEP; was not using her augmentative communication

device and should be reevaluated to determine if the device was still appropriate; was not receiving the language therapy listed on her IEP; that some of the student's teachers did not want the student to use "a light touch on the arm" to aid in communication, as prescribed by her language therapist; that a large-print font for the computer, books on tape, and extra time for testing were not being provided as indicated on the IEP; that modifications for flexible scheduling, flexible responding, flexible setting, and revised format were not used in all the student's classes; and that inservice training on inclusion strategies had not been provided as indicated on the IEP. It was found that the communication device had been unavailable for two months; that the student was not using the device in class; that most of the therapy sessions had been missed; that the large print font and books on tape had not been provided; that most of the accommodations were not provided; but that the inservice training was provided. In sum, the order stated that the district failed to implement all components of the student's IEP. As corrective action, the district was required to complete an assistive technology evaluation within 20 days of the order and provide a copy of the evaluation to the bureau. An IEP meeting was required to be held within 30 days of the order to discuss the assistive technology evaluation and the lack of provision of speech/language services and accommodations, and the team was to develop a plan for providing compensatory services to the student in the area of speech/language and submit the plan to the bureau. The district was required to provide to the bureau evidence of the implementation of all components of the student's IEP at the end of the 1999-2000 school year and at the end of each semester of the 2000-2001 school year.

The complainant also alleged that the district failed to reevaluate the student in a timely manner. The date of the complaint was December 27, 1999; the district provided that the last completed psychological evaluation was dated 1995, and that another evaluation was in progress. It was determined that the student was not reevaluated in a timely manner. As corrective action, the district was required to ensure that the student was reevaluated in a timely manner if conditions warrant as determined by the IEP team, if a reevaluation is requested by the teacher or parents, or within three years of the current reevaluation. For future years, if the teacher or parent requested a reevaluation, the district was to provide a copy of the request and of the results of the IEP team review to the bureau.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-528-FOF**  
**April 19, 2000**

An advocate for the parents of a student with disabilities filed this complaint alleging that the district failed to evaluate the student in a timely manner and failed to provide the student with the Individuals with Disabilities Education Act (IDEA) protections for students who have not yet been determined to be eligible for special education and related services. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

At the time of the complaint, the student had not yet been identified as a student with a disability under IDEA. The student had been suspended from an alternative outreach center and the district proposed to expel the student and assign him to an alternative program. The parents appealed that decision and at an October 27, 1999, child study team meeting requested the student be evaluated to determine if he was a student with a disability. The student was evaluated on November 19. The student was expelled from the regular school district programs and reassigned to the alternative program on December 8. On December 13, 1999, the district held a meeting with the parents to review the results of the evaluation and inform the parents that the student was not eligible as a student with a disability under IDEA.

The parents alleged that the district failed to evaluate the student in a timely manner. In 1994, when the student was enrolled in the Broward County School District, he was evaluated and found to be ineligible. Miami-Dade County School District reported that there was no record of any request for the student to be re-evaluated until October 27, 1999. The student was evaluated and determined to be ineligible at the December 13, 1999. The district did not provide the parents or their advocate with written notice because the advocate and parents left the meeting. It was determined that there was no evidence that the district or parents had requested an evaluation, or needed to have requested an evaluation, until the October 27, 1999, meeting to discuss the parents' appeal to the expulsion. It was determined that the district did not provide the parents with written notice regarding the student's ineligibility for special education. As corrective action, the district was required to hold a meeting with the parents and provide the parents with a copy of the results of the meeting and a copy of the procedural safeguards notice. A copy of the results of the meeting was to be provided to the bureau.

The parents alleged that because of the previous (Broward) evaluation and the parents' October 27, 1999, request for an evaluation, the district should have provided the student with protections under IDEA, specifically the right to a manifestation determination and to stay in his current placement. No documentation was provided to indicate that the district should have considered the student to be a student with a disability under IDEA. It was determined that the district evaluated the student when requested to do so by the parents, and since the district determined he was ineligible for special education and related services, he did not qualify for protections under IDEA. No corrective action was required.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-532-FOF**  
**May 12, 2000**

An advocate for the parents of students with disabilities filed this complaint alleging that the district completed individual educational plans (IEPs) for students outside of formal IEP meetings and without parents present and failed to provide adequate staff training regarding the implementation of the Individuals with Disabilities Education Act (IDEA) at one of its elementary schools and in one region of the district. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The complainant alleged that staff of West Homestead Elementary school held IEP meetings that lasted only one half hour, and that school staff completed IEPs in the school office without parents present. The district responded by describing the process used at the school for developing IEPs. The district also provided the educational records of 10 students from the school, which revealed that all 10 parents were notified in writing twice about IEP meetings, and that three had attended. The district also stated that what the complainant viewed in the office was actually staff reviewing IEPs and cumulative records as part of an audit, not completing IEPs. The district submitted an "audit check list" as documentation. No corrective action was required.

The complainant alleged that the district did not provide adequate training on the implementation of IDEA to staff of West Homestead Elementary School and Region VI of the district. The district submitted documentation of IDEA-related training provided to staff in Region VI. It was determined that staff development on eight topics had occurred between August 1998 and January 2000, including six trainings specifically for Region VI, and that 13 staff members of the school had attended these trainings. No corrective action was required.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-536-FOF**  
**May 22, 2000**

An advocate for parents of students with disabilities filed this complaint alleging that the district violated federal and state laws regarding confidentiality of records when one of its school administrators distributed to school staff personally identifiable information about a student with a disability. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The complainant alleged that during inservice training at a district elementary school, school staff distributed as a sample a student's individual educational plan (IEP) on which the student's name had been blacked out but other personally identifiable information (including the student's address and parents' signatures) had not been blacked out. The district agreed that these were the facts of the situation and maintained that the information was inadvertently left on the IEP.



As corrective action, the district was required to instruct the administrative staff of the school on policies and procedures regarding the release and use of information from student records. The district was also required to notify the bureau regarding the date this instruction took place and the personnel involved.

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**Miami-Dade County School Board**  
**Agency Order No. DOE-2000-545-FOF**  
**June 7, 2000**

An advocate for the parents of a student with disabilities filed this complaint alleging that the district

- failed to consider in her individual educational plan (IEP) the student's native language, access to the general curriculum, and annual goals and objectives
- failed to provide the parents with informed notice each time the district proposed or refused to initiate or change the identification, evaluation, or placement of or provision of a free appropriate public education (FAPE) to the student
- denied the student the opportunity to be educated in the least restrictive environment (LRE)
- failed to consider all available assessment information during the eligibility staffing process, including parental input
- failed to properly conduct an IEP meeting for the student, including providing the parents with a clear and understandable explanation of the meeting's purpose, inviting a regular education teacher, and conducting the meeting at a mutually agreed upon time and place.

The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was an elementary-school student who had been determined eligible for programs for students who are trainable mentally handicapped (TMH). Her eligibility was later changed to educable mentally handicapped (EMH), and still later changed back to TMH. Numerous IEPs were developed for the student during 1998 and 1999.

The complainant alleged that the district failed to consider and include in the student's IEP her native language, access to the general curriculum, and annual goals and objectives. It was found that all but one of the student's IEPs did consider her need for assistance in the area of Limited English Proficiency. It was determined that the IEP did contain the required components. No corrective action was required.

The complainant alleged that the district failed to provide the parents with informed notice as required by IDEA. The complainant stated that the parents had requested for the student's eligibility category to remain EMH, for particular district staff to be invited to the IEP meeting, and for an IEP meeting to continue when district personnel intended to stop it, and that on these occasions the parents had not received informed notice of refusal. It was found

that the parents were provided with an “Informed Notice of Change in Program Eligibility and/or Placement of an Exceptional Student” when the student’s eligibility was changed and that the other instances were not ones in which informed notice was required by IDEA, since they did not relate to identification, evaluation, placement, or the provision of FAPE. No corrective action was required. It was recommended that, as a courtesy, the district provide the parents with a written response to requests for actions such as the participation of particular personnel in an IEP meeting.

The complainant alleged that the district denied the student the opportunity to be educated in the LRE. The student had attended a regular kindergarten class prior to being determined eligible for ESE services. The IEP team initially determined she would receive services at one school, but due to the parents’ concern with the eligibility category, she was assigned to a different school in a self-contained classroom. The parent consented to this placement. The LRE section of all the IEPs completed for the period was completed, including that a regular classroom had previously been attempted and that a resource classroom had been considered. No corrective action was required.

The complainant alleged that the district failed to consider all the available assessment information during the eligibility staffing process, including parental input. The district submitted the initial evaluation information, which showed the student’s test results and reflected that the parents had been interviewed as part of the evaluation. The district also provided forms showing that the parents’ names appeared as members of the IEP team and the eligibility committee when the change was made. It was determined that the district followed the procedures for parent participation during the eligibility process and the IEP development and placement process as described in the district’s special programs and procedures document. No corrective action was required.

The complainant alleged that the district did not properly conduct an IEP meeting for the student. Specifically, the complainant maintained the school had violated the Individuals with Disabilities Education Act (IDEA) by not inviting a regular education teacher to the IEP meetings and that the parental notice for one of the meetings was not understandable because it included a statement about post-school transition services that did not apply to the young child. The complainant also maintained that the district refused to hold an IEP review meeting on the dates the parents proposed. The district provided documentation that a regular education teacher did attend one of the IEP meetings during the period in question, but did not attend several other IEP meetings. In regard to the inappropriate purpose marked on the IEP invitation, it was found that the copy of the invitation provided by the complainant did have a check placed in the inappropriate box, but that the copy provided by the district was too poor for the reviewer to discern whether that option was checked; it was not possible to determine the exact purpose of the meeting. In regard to hold the meeting in a mutually agreeable time and place, documentation provided by the district indicated that the parents were notified of the meeting and indicated they would attend the meeting. As corrective action, the district was required to ensure that a regular education teacher participates in the development of the student’s IEPs. The district was required to submit to the bureau copies of IEPs developed for the student for the remainder of the 1999-2000 school year and for the 2000-2001 school year that demonstrate such participation.

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**Orange County School Board**  
**Agency Order No. DOE-2000-503-FOF**  
**February 28, 2000**

This complaint was filed by an advocate on behalf of the parent of a student with disabilities, who alleged that the district failed to appropriately implement portions of the child's individual educational plan (IEP) and that the district resource person failed to conduct the appropriate activities as agreed upon at the IEP meeting. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was a middle-school student eligible for programs for students with specific learning disabilities. The complainant alleged that the district was not implementing services related to the student's IEP goals for organizational strategies, organizational skills, and on-task behavior. The IEP indicated that the exceptional student education (ESE) teacher and general education teachers would use teacher-developed checklists to measure the student's progress in these areas. The complainant alleged that such checklists had not been used to gather baseline data on the student and, therefore, the student's progress was not being measured as stated on the IEP. Based on a review of documentation submitted by the district, the bureau determined that the district did not appropriately implement the portions of the student's IEP relating to data collection.

As corrective action, the district was required to convene an IEP team to review the student's current progress toward his IEP goals, to determine a data collection system for the teachers to use in measuring the student's progress, and to establish a time for the team to meet to review the data. A copy of the initial IEP and a description of the data collection system was to be sent to the bureau, as was a copy of the second IEP and any conference notes generated at that meeting.

The complainant alleged that the district resource person failed to conduct activities agreed upon at the IEP meeting. The student's IEP stated that the district would conduct a formal behavioral observation of the student, collect baseline data, collect data each quarter, and assist teachers on a monthly basis with implementation of the IEP. The district had observed the student three times (two of which were after the date of the complaint) and produced as documentation "behavior frequency records," but no formal report had been written. The complainant stated that the parent had not seen any recorded data from the observations. Information from the district also showed that an area support teacher had requested information on the student from his teachers, and maintained that the support teacher had met with the student's teachers, but no logs of the meetings were available. The district indicated that an ESE teacher had worked with the student's math teacher; anecdotal records provided by these teachers were reviewed. The information reviewed outlined the student's behavior but did not provide recommendations for modifying the behavior. Based on the information submitted, the bureau determined that consultation services were not provided as indicated on the IEP.

As corrective action, the district was required to identify which member of the IEP team would provide consultation services related to behavioral management for the student. Documentation of consultation activities was to be provided to the parent and the bureau throughout the 1999-2000 school year, and a copy of the student's 2000-2001 IEP was to be sent to the bureau.

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**Orange County School Board**  
**Agency Order No. DOE-2000-509-FOF**  
**March 13, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide her daughter with the appropriate books and the *Parallel Alternative Strategies for Students* (PASS) curriculum she needed in order to earn a standard diploma, and failed to include "additional time to complete course" on her daughter's individual educational plan (IEP). The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was a high-school student eligible for programs for students who are language impaired and physically impaired. She also received occupational and physical therapy. The parent alleged that the district did not provide the student with appropriate books, including the PASS curriculum, she needed in order to be able to earn a standard diploma. The IEP did not list any instructional materials. Instructional materials do not have to be listed in the IEP. The district provided that PASS materials were discussed at the IEP meeting and that school staff did tell the parent that the student would have access to PASS materials. The district documented use of the materials by the student. The bureau was unable to determine whether the PASS curriculum and other materials were being provided at the time of the complaint, but did determine that such materials had been provided since that time. No corrective action was required.

The parent alleged that the district refused to include on the IEP that the student would have additional time to complete course credit. The district provided that the mother had requested the additional time, and that the IEP team felt this would be inappropriate. It was determined that the district did not provide the parent with informed notice of refusal.

As corrective action, the district was required to reconvene the IEP team to consider whether extra time was needed for the student to complete her courses. The district was required to provide the parent with written notice of refusal if the IEP team decided that the extra time was not needed. Evidence that the meeting was held and the notice provided was to be provided to the bureau.

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**Orange County School Board**  
**Agency Order No. DOE-2000-512-FOF**  
**March 17, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide her with a copy of her daughter's occupational therapy evaluation, failed to conduct an individual educational plan (IEP) meeting in a location that provided for confidentiality, failed to correctly notify her regarding the IEP meeting, failed to provide requested written exemption criteria for statewide testing, failed to discuss or consider her daughter's previous IEP, failed to provide appropriate goals on her daughter's IEP, and failed to develop an appropriate IEP for her daughter. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student was eligible for programs for students who are language impaired and physically impaired. She also received occupational and physical therapy. She receives services through the homebound/hospitalized program.

The parent alleged that the district failed to provide her with a copy of her daughter's occupational therapy evaluation. The parent stated that she requested such copy before a September 13, 1999, IEP meeting but was not given the copy until a December 7, 1999, IEP meeting. The district provided that the parent received a draft copy of the report at the September IEP meeting and a final copy at the December IEP meeting.

As corrective action, the district was required to ensure that in future the student's educational records are provided to her mother before any IEP meeting. If the student's mother requested an educational records during the 1999-2000 and 2000-2001 school years, the district was to provide to the bureau within 45 days of the meeting evidence that the records were provided.

The parent alleged that the district did not hold the September IEP meeting in a location that provided for confidentiality. The meeting was held in the cafeteria of the Educational Leadership Center. The parent maintained that there was no way to close off the room and that strangers walked in and out of the meeting. The district maintained that the cafeteria was closed at the time of the meeting, that the meeting area was partitioned by room dividers, that the area was quiet and free of distractions, and that only people attending the meeting were in the area. Based on the information provided, the bureau was unable to determine whether the location provided for confidentiality. No corrective action was required. It was recommended that the district and complainant agree in advance to the location for IEP meetings and that if either party does not feel comfortable with the location when the meeting starts, that the location be changed.

The parent alleged that the district did not notify her that the September IEP meeting was intended to develop an "interim" IEP. The parent also alleged that an attorney contributed to the meeting via other staff members, although the notice for the IEP meeting did not indicate that an attorney was invited. The district maintained that the parent knew that the purpose of

the September IEP meeting was to develop an interim IEP because that had been discussed in an informal meeting on August 13 and that the IEP would be revised after a psychoeducational evaluation was completed. The district further maintained that while the attorney did talk to a staff member during the meeting, no dialogue from that conversation was part of the meeting. The district provided to the bureau a copy of the meeting notice given to the parent. It was determined that required items related to the purpose, time, and location of the meeting were included on the meeting notice. The bureau was unable to determine whether an attorney contributed to the meeting. No corrective action was required.

The parent alleged that the district did not provide her with a copy of the “exemption criteria for statewide testing” as she requested. A copy of the “educational planning form” developed at the September IEP meeting indicated that the parent requested written information regarding assessment at the meeting. The district provided the information to the parent at a December meeting. No corrective action was required. It was recommended that the district provide information to the parent in a timely manner.

The parent alleged that the district refused to discuss or consider the student’s previous IEP at her September IEP meeting. The district maintained that the previous IEP was reviewed during the September meeting. The bureau was unable to determine whether the district refused to discuss or consider the student’s previous IEP at the September IEP meeting. No corrective action was required.

The parent alleged that the district refused to provide for any general curriculum academic goals on the student’s IEP, as the parent had requested. The “Educational Planning Form” developed at the September IEP meeting indicated that the complainant requested goals in specific areas. The district did not provide the parent with a written notice of refusal to include the goals the parent had requested. As corrective action, in future if the district refuses to include information requested by the parent on her daughter’s IEP that results in a change in the provision of FAPE, the district must provide a notice of refusal to the parent. For the remainder of the 1999-2000 school year and the 2000-2001 school year, the district was required to provide to the bureau evidence that such notice was provided to the parent.

The parent alleged that the student’s September IEP was not appropriate. The parent stated that she had requested that goals be written relating to a Junior Achievement program and that was not done, that the LRE was not discussed, and that she was denied the right to choose a standard diploma option for her daughter. Based on the information provided, it was not possible to determine whether the student’s mother was allowed to participate in the meeting to the extent she felt appropriate, whether the least restrictive environment (LRE) was appropriately discussed at the meeting, or whether the district originally denied the mother the right to choose a standard diploma option at the September IEP meeting. As corrective action, the district was required to reconvene the IEP team to discuss whether a Junior Achievement program would be included on the IEP and to address the LRE and diploma options. Evidence of the outcomes of this meeting was required to be provided to the bureau.

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**Palm Beach County School Board**  
**Agency Order No. DOE-2000-490-FOF**  
**January 28, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to respond to parental requests for reimbursement for tutoring, behavior observations, and a written report regarding her son's reading support; develop an appropriate behavioral plan for her son; and respond to the parent's request for evaluations of her son in the areas of assistive technology, speech and language therapy, and specific learning disabilities. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was a middle-school student eligible for programs for students who are severely emotionally disturbed and for students with specific learning disabilities. The parent alleged that the district did not respond to her requests for reimbursement for tutoring, behavior observations, and a written report regarding the student's reading support. However, in her response to the draft findings of fact, the parent indicated that the latter two issues had been resolved, but the district had still not addressed tutoring. The district had no documentation that it had addressed the tutoring issue.

As corrective action, the district was required to meet within 15 days with the parent to discuss provision of tutoring and reimbursement for the tutoring the parent had provided, and to inform the parent in writing of the district's agreement or refusal to provide tutoring and reimbursement, and to provide documentation to the bureau.

The parent alleged that the district failed to develop a formal, written behavior plan for the student and failed to respond to her request that her child receive assistive technology, speech therapy, and language therapy evaluations. In her response to the draft findings of fact, the parent reported that these issues had been resolved.

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**3. Palm Beach County School Board**  
**Agency Order No. DOE-2000-495-FOF**  
**February 15, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to provide informed notice before changing their son's placement, failed to seek parental input prior to the alleged change of placement, and failed to provide their son with the services listed on his individual educational plan (IEP). The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The child was an elementary school student eligible for programs for students who are emotionally disturbed and for students who are gifted. The student spent his school day in a third-grade, full-time gifted classroom.

The student's IEP indicated that he was to receive "Daily Counseling or Specific Instruction on Behavior" and "Weekly Counseling and Guidance." The parent alleged that these services were not being provided and that this constituted a change of placement. The parent alleged that the district did not notify her of or seek parental input into this alleged change of placement. It was determined that the IEP indicated the student's placement was in a full-time gifted classroom, and that his placement had not changed, so neither parental input regarding change of placement nor notice of change of placement was required.

The parent alleged that the district was not providing the student with the counseling services. The district agreed that the service "Weekly Counseling and Guidance" had not been provided and agreed to offer guidance sessions twice weekly as compensation. The district was only able to document that the service "Daily Counseling or Specific Instruction on Behavior" was provided for about one and a half months of the period covered by the IEP. It was determined that services on the student's IEP were not being provided.

As corrective action, the district was directed to provide compensatory services for the student regarding the services on his IEP that he did not receive at the beginning of the school year. The district was required to submit a plan for providing compensatory services and documentation to the bureau that such services were provided before the beginning of the 2000-2001 school year.

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**Pasco County School Board**  
**Agency Order No. DOE-2000-533-FOF**  
**May 22, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to provide the student with educational and related services, including occupational therapy, based on the student's present level of functioning and as indicated on his individual educational plans (IEPs), failed to provide the parents with informed notice prior to changing the student's educational placement, proposed a change of placement not based on the IEP team's decision, and denied the student the opportunity to be educated in the least restrictive environment (LRE). The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student was eligible for special programs for students who have specific learning disabilities. An IEP for the 1999-2000 school year written on June 9, 1999, determined that the student would receive services in a regular education classroom, with consultation by the ESE teacher and speech therapy. Soon after school started, the student was moved to a class co-taught by an exceptional student education (ESE) teacher and a regular education teacher. At an IEP meeting on October 28, 1999, the IEP was revised to reflect the change in delivery model, which the parent did not agree with. A third IEP meeting was held in December and the team determined the student would receive services in a regular class, with ESE services delivered via a resource room. It was found that the student was receiving instruction focusing on his goals and objectives as described on his IEP, but that the documentation



submitted by the district was inadequate to determine whether speech therapy and occupational therapy were being provided as described on the IEP. As corrective action, the district was required to ensure that the student received speech therapy and occupational therapy and to submit to the bureau for the rest of the school year and through December 2000, documentation of those services. Further, the district was required to meet with the parent to discuss a plan to provide compensatory services relative to the therapies the student did not receive. The district was required to submit to the bureau the plan and documentation that the compensatory services were provided.

The parent alleged that the district did not provide him with informed notice before changing the student's placement. It was found that the district did not provide the parent with written notice for either of the changes of placement described above. As corrective action, the district was required to ensure that the student's parent is provided with an informed notice of change of placement form each time the district proposes or refuses to change the student's placement. The district was required to submit a copy of said notice to the bureau in the event any such change of placement occurs during the 2000-2001 and 2001-2002 school years.

The parent alleged that the district implemented a change of placement for the student that was not based on the IEP team decision. The specific learning disabilities consultant recommended the change of placement that occurred early in the school year; the IEP was not reviewed or revised and the parent did not receive informed notice of the change. The district responded that the school staff did not follow proper procedures for initiating a change of placement. As corrective action, the district was required to ensure that the IEP team determined the student's placement based on his IEP. The district was required to submit to the bureau documentation that the IEP team determined the student's placement each time an IEP meeting occurred for the student through the 2000-2001 school year. Said documentation must include the IEP and any notes that support the team's decision.

The parent alleged that the district denied the student the opportunity to be educated in the LRE, and that he had received a notice dated October 29, 1999, recommending "special classes either full or part time in regular school." The district submitted documentation showing that all three IEPs developed for the 1999-2000 school year, including one dated December 9, 1999, stated that the student would participate with nondisabled peers for "100% of his time in school each day" and that the student was assigned to the school he would attend if not disabled. No corrective action was required.

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**Pinellas County School Board**  
**Agency Order No. DOE-2000-554-FOF**  
**June 19, 2000**

The parent of a student with disabilities filed this complaint alleging that the district directed its teachers not to address extended school year (ESY) services on the individual educational plans (IEPs) of students with disabilities and that the district failed to provide an informed

notice of refusal when the complainant requested that summer ESE services be addressed on her child's IEP. The bureau conducted an inquiry that included review of records and contact with the complainant and district personnel.

The student was a sixth-grader eligible for programs for students who are severely emotionally disturbed and for students who have specific learning disabilities. The student was receiving services in a varying exceptionalities classroom. The IEP developed on September 15, 1999, for the 1999-2000 school year did not address extended school year (ESY) services.

The parent alleged that during her son's fall IEP meeting, the ESE teachers had told her that the district directed them to not address ESY services on IEPs. The parent said this was because of lack of funds for summer school. The district denied that such direction had been given, but provided that it had suggested that teachers defer an ESY determination until the spring semester. As documentation, the district provided a section of its ESE teachers' handbook, which related to ESY services; a memo to ESE staff and building administrators defining the process for determining a student's need for ESY services; and a letter to parents explaining summer term and ESY services. The district also provided a "conference report" dated December 16, 1999, on which was handwritten: "...By March 1, 2000, an IEP team meeting will be convened to discuss options for summer programs to meet [the student's] educational needs." At a meeting held a few weeks after this complaint was filed, the IEP team proposed specific summer services for the student. It was found that the parent requested summer school services be addressed on her son's IEP developed on September 15, 1999. On December 16, 1999, the parent was informed that an IEP meeting would be held by March 1, 2000, to address summer services for the student. During the complaint inquiry, the district did develop an IEP that addressed ESY services for the student. There is no federal requirement that ESY be addressed at every IEP meeting for a student. However, as corrective action, beginning with the 2000-2001 school year, the district was required to provide instructional staff with specific information regarding the district's policy for addressing ESY, so that the staff may provide appropriate and meaningful responses to parents at IEP meetings. Evidence of the district's dissemination of this information was to be provided to the bureau.

The parent alleged that the district failed to provide her with an informed notice of refusal when she requested that summer ESE services be addressed on the IEP developed September 15, 1999. The district maintained that there was no need to provide a notice of refusal because the district was not refusing to address summer services, and had assured the parent that such services would be addressed in a spring semester meeting. It was found that while the district did eventually address the parent's request, the parent did not receive this explanation until the December IEP meeting—three months after her request. As corrective action, the district was required in future to provide a timely response when the parent makes a request for ESY services to the IEP team.





The New Department of  
**Education**

Jim Horne, Commissioner

**ESE 311287**