

Agency Order and Bureau Resolution Summaries

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



July–December
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>.

Table of Contents

Summaries of Bureau Resolutions	Page
Florida Department of Education	1
Highlands County School District	2
Indian River County School District	3
Palm Beach County School District	4
Pinellas County School District	5

Summaries of Commissioner's Orders	Page
Alachua County School District	6
Broward County School District	10
Collier County School District	13
Duval County School District	14
Florida School for the Deaf and the Blind	16
Hendry County School District	18
Highlands County School District	20
Hillsborough County School District	21
Leon County School District	25
Manatee County School District	27
Martin County School District	28
Miami-Dade County School District	29
Okaloosa County School District	35
Orange County School District	36
Pinellas County School District	39
Seminole County School District	42
Volusia County School District	44

Introduction

Following are summaries of Florida Department of Education Bureau Resolution determinations and Commissioner's Orders entered between July and December 2000. These resolutions and orders were issued after inquiries were made by the Bureau of Instructional Support and Community Services in response to formal complaints filed with the bureau, pursuant to Subsection 300.600–300.662 of Title 34 of the Code of Federal Regulations. Complete copies of the resolutions and orders are available from the bureau.

These summaries are for informational purposes and are not intended to provide legal advice or assistance. Please refer questions to 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 bureau resolution or agency order number, and the effective date of the resolution or order.

Bureau Resolutions

Florida Department of Education

Bureau Resolution Determination: Case No. BISCS-2000-01-RES

August 4, 2000

The parents of a student with disabilities filed this complaint alleging that the Florida Department of Education failed to complete their earlier complaint inquiry within the 60-day timeline specified by the Individuals with Disabilities Education Act. Because this new complaint involved a single specific issue, the resolution determination process was used.

On March 9, 2000, the complainants informed the bureau that they wished to file a complaint against the Seminole County School District. The deadline for completion of activities related to that complaint was May 8, 2000. As of August 4, 2000, the inquiry had not been completed. The bureau did not meet the 60-day timeline. As corrective action, the bureau implemented new procedures and supplemented resources to ensure that complaint inquiries are completed in a timely manner.

**Florida Department of Education
Bureau Resolution Determination: Case No. BISCS-2000-02-RES
August 4, 2000**

The parents of a student with disabilities filed this complaint alleging that the Florida Department of Education failed to monitor the Hillsborough County School District's compliance with the corrective actions required in the May 28, 1999, Commissioner's Order regarding an earlier complaint against that district. Because this new complaint involved a single specific issue, the resolution determination process was used. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

On March 9, 2000, the parents filed a complaint against the district. The Commissioner's Order in that case included a corrective action requiring that when the district proposes a change in the student's eligibility or placement, the district provide an informed notice to the parents that clearly explains the specific changes being proposed and that the district provide to the bureau copies of any such notices sent to the parents during the 1999-2000 school year.

In the current complaint, the parents alleged that the district did not provide them with appropriate information in the prior written notice of an individual educational plan (IEP) meeting. The inquiry revealed that the bureau had been informed by the district that, after an August 3, 1999, IEP meeting, no other meetings had been held and no proposals to change the student's special education or related services had been made during the 1999-2000 school year up to the time of the current complaint. It was found that the bureau did monitor the district's compliance with the order in the original case. No corrective action was required.

**Highlands County School Board
Bureau Resolution Determination: Case No. BISCS-2000-03
August 4, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to protect the confidentiality of personally identifiable information about the student. Because this complaint involved a specific single issue, the resolution determination process was used. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

Specifically, the parents alleged that the school board's attorney released to the local newspaper information about their child that could only be found on her IEP and that the general public would be able to identify as relating to her. In a March 28, 2000, newspaper article, the parents identified themselves by name. On May 11, a newspaper article stated that an unnamed parent was to make a presentation to the school board that evening regarding his child's special education services. (The parents and school district were involved in due process at the time.) Transcripts from the board meeting indicated that the parent asked not to

be identified, but stated his last name during his presentation. In a May 13 newspaper article, the parent's name was mentioned.

It was determined that the transcripts of the school board meeting conducted on May 11 are public records. It was determined that if the school district did release personally identifiable information regarding the student to the press, that information had already been made public via alternative public record sources. No corrective action was required.

**Indian River County School Board
Bureau Resolution Determination: Case No. BISCS-2000-05-RES
November 13, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to schedule the student's individual educational plan (IEP) meeting in a timely manner and failed to have the student's special education teachers participate in the development of his IEP. Because this complaint involved a single student and two specific issues, the resolution determination process was used. 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 have specific learning disabilities. The student had an IEP with a duration of April 28, 1999, to April 28, 2000. The district scheduled an IEP review meeting in April 2000 for the 2000-2001 school year but the complainant did not agree to meet at that time. The complainant stated that he had a verbal agreement with the district to meet during August 2000. The IEP meeting was scheduled for September 5 and then rescheduled for September 6 per the parent's request. It was found that the IEP was not reviewed during the 1999-2000 school year and that a current IEP was not in place at the beginning of the 2000-2001 school year. As corrective action, the district was required to ensure that the student's IEP is reviewed and revised each school year and that he has a current IEP in place at the beginning of each school year. The district was required to submit a copy of the IEP that was reviewed and revised for the 2000-2001 school year and a copy of the IEP in place at the beginning of the 2001-2002 school year.

The complainant also alleged that the district failed to have the student's special education teacher participate in the development of his 2000-2001 IEP. The parent had requested that the district identify his son's teacher for the 2000-2001 school year so that that teacher could attend the IEP meeting. A review of documentation submitted by the district indicated that two general education teachers and one exceptional student education teacher attended and participated in the September 6, 2000, IEP meeting. It was determined that the required participants attended and participated in the IEP meeting. No corrective action was required.

Palm Beach County School Board
Bureau Resolution Determination: Case No. BISCS-2000-06-RES
December 6, 2000

The parent of a student with disabilities filed this complaint alleging that the district failed to consider outside evaluations when determining that her son was not eligible for the program for students who are visually impaired. Because this complaint involved a single student and one specific issue, the resolution determination process was used. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student had been determined eligible for programs for students who are mentally handicapped, visually impaired, physically impaired, and speech/language impaired, and eligible for special programs for exceptional students who require physical and occupational therapies. At an individual educational plan (IEP) meeting held April 19, 2000, it was determined that the student was no longer eligible for programs for students who are visually impaired.

The complainant alleged that when determining that the student was no longer eligible for programs for students who are visually impaired, the district had not considered an outside medical evaluation she had presented. The district responded that the dismissal decision was based on the results of a functional vision exam. It was determined that the district did not consider the results of the outside medical evaluation, nor any other medical eye examination, as required by Rule 6A-6.03014, Florida Administrative Code. As corrective action, the district was required to conduct a reevaluation to consider whether the student should be readmitted to the program based on the assessments and his need for the program and to consider any medical eye evaluations provided by the parent. The district was also required to submit to the bureau documentation that this has occurred.

Palm Beach County School Board
Bureau Resolution Determination: Case No. BISCS-2000-07-RES
January 12, 2001

The parent of a student with disabilities filed this complaint alleging that the district failed to include her son in statewide assessment by refusing to allow him to take the Florida Comprehensive Assessment Test (FCAT). Because this complaint involved a single student and one specific issue, the resolution determination process was used. 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 with specific learning disabilities and students who are language impaired, and for exceptional students who require occupational therapy. The parent explained that at her son's IEP meeting it was determined that he would participate in FCAT math, FCAT reading, and Florida Writes statewide assessments with "allowable modifications." However, the student's FCAT results included these statements: "Mathematics Not Reported" and "Mathematics Problem-Solved: Not Tested." The parent

alleged that on the day of the FCAT math test, the student said he was ill and was told he did not have to take the test, or was not allowed to use his calculator, as his individual educational plan (IEP) indicated, and was not included in the testing. The district responded that the student was allowed to use his computer and calculator but refused to participate in the testing. It was not possible to determine when the student took the FCAT or what, if any, accommodations and/or modifications were provided to him. It was determined that both the district and the parent appeared to be confused about the meaning of the terms “accommodation” and “modification” as they refer to standard and nonstandard testing conditions. As corrective action, the district was required to hold an IEP meeting to specifically determine the conditions under which the student would be given the next state assessment, including whether the student would take the assessment under standard conditions with allowable accommodations or whether he would be given an alternate assessment, and how the test results would be reported to the parent. The district was required to provide to the bureau documentation that this has occurred. It was also recommended that if in future the student is not well enough to take an assessment or is unwilling to do so, that the district notify the parent immediately.

**Pinellas County School Board
Bureau Resolution Determination: Case No. BISCS-2000-04-RES
November 9, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to ensure that the student’s regular education teachers participated in the development of the student’s individual educational plan (IEP) goals and objectives and that the district failed to ensure that the student’s IEP goals and objectives were meeting his needs to enable his progress in the general curriculum. Because this complaint involved a single student and narrow issues, the resolution determination process was used. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student was eligible for programs for students who are speech/language impaired and was receiving 20-25 hours per week of exceptional student education (ESE) services. A conference was held on September 16, 1999, regarding the student’s progress and an IEP meeting was held on October 28, 1999. The complainant stated that the student’s math and science teachers had not read his IEP as of October 28 and that his one general education teacher did not attend the October 28 IEP meeting. A review of the list of participants in these meetings revealed that a regular education teacher was not in attendance at either meeting, and that the student’s ESE teachers did not attend the September 16 conference. The district stated that the ESE teachers consulted with the regular education teacher on a weekly basis, but did not provide documentation of such consultation.

The parents removed the student from the district’s school and placed him in a private school in November 1999.

It was found that there was insufficient evidence to determine if the student's ESE teachers had consulted with his regular education teacher or had copies of his IEP at the beginning of the school year. As corrective action, the district was required to ensure that the student's regular education teacher(s) participate in the development and review of his IEPs. If the student returned to a district public school, the district was required to reconvene an IEP meeting and include the student's regular education teacher(s) as participants. The district was required to submit to the bureau documentation that the necessary participants attended the meeting.

The complainant also alleged that the district failed to ensure that the student's goals and objectives were meeting his needs to enable him to progress in the general curriculum. The parent stated that the student had failed his reading class and that his math class was too advanced and that this was why the parent had requested the October 28 IEP meeting. The district responded that the student's IEP indicated his present level of performance was below his assigned grade level; that he received ESE services for 20-25 hours per week; and that his IEP listed goals and objectives in language arts, communication, reading, math, social skills, and organization skills. It was determined that the IEP addressed all academic areas, that the student's progress report for the first nine weeks stated that he had mastered his goals at a level of at least 60%, and the student's report card indicated he received all passing grades with the exception of an "F" in reading. It was determined that the student's IEP goals and objectives assisted him in progressing through the curriculum. No corrective action was required.

Commissioner's Orders

Alachua County School Board
Agency Order No. DOE-2000-565-FOF
August 7, 2000

The director of a charter school within Alachua County School District filed this complaint alleging that the district did not provide Individuals with Disabilities Education Act (IDEA), Part B, funds to the charter school in the same manner as it provided such funds to its other schools. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

As part of the inquiry, the district was asked to respond to a series of questions about how it allocates IDEA, Part B, entitlement funds. The district provided in its responses that it allocates IDEA, Part B, based on needs identified by principals, teachers, and others at regular district schools and charter schools. The district described the types of expenditures made across the district for the 1999-2000 school year and the expenditures made for the charter school. Further, the district provided a three-year breakdown of the administrative services provided to the charter school. In 1999-2000 the district expended more to assist the charter

school than the school would have generated if the allocation had been based on the number of students with disabilities, and in the two preceding years the district expended slightly less to assist the charter school than a per-student formula would have generated. It was determined that the process the district used to allocate IDEA, Part B, funds was based on a needs assessment that was applied equitably to regular district schools and charter schools.

Alachua County School Board
Agency Order No. DOE-2000-566-FOF
August 7, 2000

The parent of a student with disabilities filed this complaint alleging that the district failed to claim state weighted funding for her son's special education services because her son's individual educational plan (IEP) had expired. The bureau conducted an inquiry that included a review of records and contact with the complainant and district staff.

The student was enrolled in an Alachua County charter school and his mother, the complainant, was the executive director of the charter school. The student's IEP expired on October 6, 1999. A meeting to develop a new IEP was scheduled for September 25, but the complainant asked that the meeting be rescheduled. It was eventually held in December. Because the student's IEP was not current during the October, 1999, FTE survey, the charter school did not receive weighted funding for the student's exceptional student education (ESE) services. The complainant alleged that the charter school was financially penalized because she exercised her right to reschedule the meeting for a mutually convenient time. The district responded that the complainant, as director of the charter school, had received a written reminder that all IEPs needed to be current during the survey period and received a monthly printout indicating which IEPs needed to be reviewed. The district also reported that the complainant served as ESE liaison for the school and was responsible for ensuring that all IEPs were current.

The complainant submitted a document developed by charter school staff showing that there was a significant number of ESE students in other district schools whose IEPs were not current during the survey period, but who were counted for weighted funding. The district responded that the document did not reflect the final data collected for the survey count.

It was determined that it was the responsibility of the charter school staff to schedule IEP meetings as needed and that the student's IEP was not current during the October survey period, making him ineligible to be reported for weighted funding. A regularly scheduled DOE compliance monitoring visit for the 1999-2000 school year did not include any findings related to IEPs not being current. No corrective action was required.

Alachua County School Board
Agency Order No. DOE-2000-590-FOF
October 13, 2000

This complaint is based on correspondence from a former resident of Alachua County School District to the U.S. Department of Education, alleging that the district failed to appropriately discipline students with disabilities and consider their disabilities in regard to disciplinary action; falsified student records of students with disabilities, including letters of parent notification to individual educational plan (IEP) meetings; failed to appropriately identify students who may be in need of exceptional student education (ESE) services; failed to appropriately implement child find activities; failed to appropriately expend state funds for ESE; failed to provide students with disabilities with the opportunity to be educated in the least restrictive environment (LRE); and failed to provide students with disabilities with the aids and services necessary to benefit from education in the least restrictive environment. The bureau conducted an inquiry that included review of records, contact with district staff, and an on-site visit to the district.

In **issue 1**, the complainant alleged that the district suspended ESE students for 12 to 33 days a year without a “manifestation hearing.” A review of the records of 10 students who had been suspended for more than 10 cumulative days during the school year revealed that a “manifestation determination” was made during an IEP meeting for each student. All these IEP meetings were held within 10 business days of the disciplinary action and whenever the student had accumulated more than 10 days of removal. At all the meetings, the IEPs were reviewed and revised; in some cases students were assigned to alternative school sites. Educational services were provided to the students on the 11th day of removal from school and continued to be provided throughout the IEP review process. Four of the students had a functional behavior assessment completed before the 11th cumulative day of suspension. Six of the students had a functional behavior assessment completed and revised within 14 days of the 11th day of suspension. It was determined that the district appropriately disciplined students with disabilities and considered their disabilities in regard to disciplinary action. No corrective action was required.

In **issue 2**, the complainant alleged that the district “[falsified] ESE paperwork including parent notification.” A review of 23 sets of student records indicated that the district provided parents with two notices of invitation to IEP meetings, one written and one via telephone. All written notices were dated well in advance of the meetings, and parents attended all but two of the meetings. It was determined that student records, including letters of parent notification of IEP meetings, were completed appropriately. No corrective action was required.

In **issue 3**, the complainant alleged that the district failed “...to refer students for testing in a fair and equitable manner, i.e. over and under identification by category...” Twenty student educational records were reviewed. It was found that prereferral activities, evaluation activities, and eligibility/IEP development meetings were completed appropriately for all the students. It was determined that the district appropriately identified students who may be in need of ESE services.

In **issue 4**, the complainant alleged that the district “[failed] to fund psychological services at a level sufficient to provide necessary staff for identification of students mandated under Child Find.” It was found that the district had child find procedures in place through the Florida Diagnostic and Learning Resources System (FDLRS) associate center, the district’s multidisciplinary team for prekindergarten students, and the educational planning teams at each school site. Records of 11 students determined to be ineligible were reviewed; prereferral activities, evaluation activities, and eligibility/ineligibility meetings were completed appropriately. It was determined that the district appropriately implemented child find activities. No corrective action was required.

In **issue 5**, the complainant alleged that the district “[failed] to provide full FTE [full time equivalent] reported hours to ESE students attending Center Schools.” A review of cost reports for the 1997-1998 and 1998-1999 school years revealed that the district devoted more than 100% of the state ESE revenue generated at the center schools to the center schools and that the district devoted more than 100% of the ESE revenue generated in the district to ESE. It was determined that the district was expending state funds for ESE in accordance with applicable requirements.

In **issue 6**, the complainant stated that the district “[failed] to provide Least Restrictive Environment options through a continuum of service options.” A review of documentation indicated that inclusionary practices were promoted throughout the district. Additionally, the records of 22 students were reviewed, indicating that the IEP team completed a “Least Restrictive Environment Review” form for each student who was removed from general education for more than 50% of the day. The IEP in each student record stated the percentage of time the student participated in the general education setting and the purpose of the participation. Before this inquiry, a monitoring visit by the Florida Department of Education resulted in no findings of noncompliance regarding the placement of students in the LRE. It was determined that the district provided students with disabilities the opportunity to be educated in the LRE. No corrective action was required.

In **issue 7**, the complainant stated that the district “[failed] to provide ‘aids and services necessary for identified students to derive educational benefit.’” Review of the records of 11 students and supporting documentation indicated that the aids and services described on the students’ IEPs were provided. Before this inquiry, a monitoring visit by the Florida Department of Education resulted in no findings of noncompliance regarding the provision of aids and services. It was determined that the district provides students with disabilities with the aids and services necessary for them to benefit from education in the LRE. No corrective action was required.

Broward County School Board
Agency Order No. DOE-2000-568-FOF
August 17, 2000

An advocate filed this complaint on the part of a parent of a student with disabilities, alleging that the district failed to reevaluate the student in a timely manner, failed to implement the student's individual educational plan (IEP), failed to provide the student with special education in the least restrictive environment (LRE), failed to provide the parent with appropriate prior notice for an IEP meeting, and failed to review all components of the draft IEP presented to the parent at the IEP meeting. 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 autistic and who are language impaired. She transferred to the Broward County School District from Palm Beach County School District in August 1997. She was served at a school operated by Nova Southeastern University, a contractual agent of the district.

The complainant alleged that the district had never evaluated the student. The district responded that it had never received any evaluation results from the transferring district but had maintained the student's eligibility as autism, speech/language, and occupational therapy as indicated on the student's IEP from the transferring district. The district reported that it had conducted a reevaluation for occupational therapy, speech, and physical therapy in 1997 and that the student was scheduled to be reevaluated in May 2000. The district also reported that the school staff had no record of the parent requesting additional evaluations. It was determined that there is conflicting evidence in regard to whether the parent requested that the student be reevaluated. As corrective action, the district was required to initiate the reevaluation procedure, including the parent in the decisions as to which evaluations should be done.

The complainant alleged that the student's June 9, 1999, IEP had not been implemented—specifically that no certified teacher was in the classroom 100% of the time, that interruptions have occurred in the student's therapies, that the Picture Exchange Communication System (PECS) was not made available to the student, that the individual curriculum developed for the student was not implemented, that the goals and objectives were not implemented, and that the evaluation criteria and procedures were not adequate. The district responded that the student was taught by certified teachers, that the PECS was used, and that skills listed in the individual curriculum (a packet of skills provided by the parent) were used by the teacher starting in February 2000, even though the methodology and evaluation schedule were not the same as those described in the individual curriculum. The district also provided extensive logs of therapy provision; however, inconsistencies were found in these logs. It was determined that the student's IEP did contain measurable goals and objectives, that the individual curriculum was not implemented during the first four months of the school year, that there is conflicting evidence as to whether the PECS was used, and that it was not possible to determine whether there were interruptions in therapy provision. As corrective action, the district was required to revise the IEP based on the reevaluation required in the corrective action described above, ensuring that the IEP makes clear how the special education and related

services will be implemented. It was also required that if the parent requests specific services or curriculum, the IEP team must provide the parent with an explanation in writing of whether or not the services or instruction will be provided. The district was further required to provide to the bureau a copy of the completed IEP and any supporting documentation. The district was required to maintain a separate therapy log for each related service provided to the student, to provide a copy of those logs to the parent upon request, and to provide a copy of the logs to the bureau at the end of each semester of the 2000-2001 school year. It was also required that during the IEP meeting noted above, the district inform the parent as to how and when any communication system the team recommends would be made available to the student.

The complainant also alleged that the district failed to provide the student the opportunity to participate in the general education program. A review of the June 9, 1999, IEP showed that it included a page titled "Placement/Services" that documented the IEP team's consideration of the student's placement in the least restrictive environment. It was determined that the IEP team considered options for placement in the LRE and documented their determination that separate services were appropriate. No corrective action was required.

The complainant further alleged that the parental notice for the February 1, 2000, IEP meeting did not include the names of all the participants. The complainant reported that the district had invited 20 people to the meeting. The complainant stated that the original meeting notice sent to the parent did not include all the invitees, and that the school added names to the notice after the parent signed it. The district agreed that names had been added and indicated that the signed notice had been returned to the parent with the changes noted. It was determined that the parent was not informed of all the individuals who would attend the meeting. As corrective action, in future the district was required to provide the parent with notices that specify all individuals who will be in attendance at the IEP meetings. The district was also required to provide to the bureau a copy of each parent invitation for the 2000-2001 school year. It was also recommended that the district carefully consider which participants are essential for the development of the student's IEP to ensure that the team be kept to a reasonable size.

The parent also alleged that the IEP team did not go over all components of the draft IEP presented to the parent at the February 1, 2000, IEP meeting. In response, the district indicated that since the IEP developed at that meeting was a "draft," the team did not review all the components, and also that the meeting had gone for three hours and "was concluded by trying to schedule...continuation of this interim review." It was determined that the team did not review all the required components of the IEP at the February 1 meeting. As corrective action, at the IEP meeting required as part of the corrective action cited above, the team will discuss all components of the IEP with the parent and if the allotted time is insufficient, additional meeting time will be scheduled within a reasonable time frame.

Broward County School Board
Agency Order No. DOE-2000-608-FOF
December 20, 2000

An advocate for the parent of a student with disabilities filed this complaint alleging that the district failed to recommend an appropriate placement for the student in the least restrictive environment (LRE); failed to include the parent as an equal participant in the individual educational plan (IEP) meeting; and failed to provide the parent with an appropriate informed notice of refusal. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student was eligible for programs for students who are autistic and who are language impaired; she was placed in a special school, a contractual agent for the district. Subsequent to the filing of this complaint, the student was placed in a classroom for autistic students on a regular school campus.

The complainant alleged that the district failed to recommend an appropriate placement for the student in the LRE. The complainant stated that at the student's IEP meetings, the team agreed the student's placement was too restrictive but, because other schools were overcrowded, gave no other options except for the student to remain at the special school. The district responded that at the April 13, 2000, IEP meeting, the team agreed that a placement in a special class in a regular school was appropriate and less restrictive, but that since the cluster school that would have served the student was overcrowded, she would have to go to a different cluster school for the rest of the 1999-2000 school year and then switch to her regional cluster school the next school year. The district stated that the parent and advocate did not want the student to make a school change but wanted her to be placed in her regional cluster school at that time. The team decided to leave the student at the special school for the rest of the school year. At the beginning of the 2000-2000 school year, the student was placed in a special class located at the regular school in her cluster region. No corrective action was required.

The complainant alleged that the district failed to include the parent as an equal participant in the IEP meeting. The complainant stated that at the February 1, 2000, IEP meeting, the parent and advocate said they had to leave and wanted to continue the meeting at another time, but the district staff refused to reconvene the meeting and instead continued without the parent present. The district stated that when the parent and advocate left, all program, placement, and services decisions had already been made, so the IEP was complete. No conclusive evidence was provided to the bureau to indicate that the IEP team made additional recommendations or decisions after the parent and complainant left the meeting. No corrective action was required.

Finally, the complainant alleged that the district did not provide the parent with an appropriate informed notice of refusal. At an IEP meeting, the complainant requested that a specific reading program and a specific assistive technology software program be included in the IEP, and the district staff refused the request. The district provided copies of two notices explain-

ing that the programs had not been included because methodology choices were made at the discretion of the professionals. It was determined that the IEP team decided it was not appropriate to reference specific programs in the IEP and the parent was provided with notice explaining why the district refused to reference the programs in the IEP. No corrective action was required.

Collier County School Board
Agency Order No. DOE-2000-571-FOF
August 22, 2000

The parents of a student with disabilities filed this complaint alleging that the district failed to provide the parents with written notice prior to a September 3, 1999, individual educational plan (IEP) meeting; failed to provide the parents with prior written notice of a change in the provision of a free appropriate public education (FAPE) as a result of changes to the student's IEP when it was revised on September 3, 1999; and failed to develop an IEP that met the requirements of law. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student transferred to the district from the state of Washington during the summer before the 1999-2000 school year. An IEP had been developed for her in Washington in May 1999. The district held what it termed a "transfer eligibility and IEP development meeting" for the student on August 20 and another meeting on September 3 that it also termed an IEP meeting. The parents and district were in disagreement as to whether either of these meetings were fully constituted IEP meetings.

The parents alleged that the district did not provide them with appropriate written notice before the September 3 meeting. The August 20 IEP had written on it "Revised 9/3/99" and a statement that monthly assistance with academic strategies was to begin September 3. There were no signatures or notes that referred to a September 3 meeting. No documentation was provided to show that the parents were sent a written invitation to the September 3 IEP meeting. As corrective action, the district was required to provide the parents with meeting notices that contain all required components. The district was required to provide to the bureau copies of such notices for the 2000-2001 school year.

The parents also alleged that the district did not provide them with prior written notice of a change in FAPE as a result of changes from the Washington IEP that were made at the August and September meetings. A review of the Washington IEP and the Florida IEP revealed that the services, goals, and objectives on the two documents were not the same. It was determined that the district failed to provide the parents with notice of a change of FAPE as a result of changes to the student's IEP made at the meetings held on August 20 and September 3. As corrective action, the district was required to provide to the parents prior written notice of any changes in FAPE that the IEP team proposed. The district was further required to provide copies of such notices to the bureau for the 2000-2001 school year.

The parents further alleged that at the August 20 and September 3 meetings the district failed to develop an IEP for the student that met the requirements of law. It was determined that the IEP developed and revised during the two meetings did not contain all the required components. As corrective action, the district was required to ensure that all IEPs developed for the student include the required components. The district was further required to provide to the bureau a copy of each IEP developed for the student for the 2000-2001 and 2001-2002 school years.

Duval County School Board
Agency Order No. DOE-2000-570-FOF
August 22, 2000

The parents of students with disabilities filed this complaint alleging that the district failed to evaluate the students in a timely manner to determine their eligibility for exceptional student education (ESE) services, failed to provide the students with educational and related services listed on their individual educational plans (IEPs), failed to provide the parents with informed notice before changing the students' placements, proposed a change of placement for the student that was not based on the IEP team's decisions, failed to expend funds appropriately at the school, and failed to address all a student's needs, including health needs. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

All three children attended the same elementary school. All three students were eligible for programs for students with specific learning disabilities; students #1 and #2 were also eligible for programs for students who are speech and language impaired.

The parents alleged that the district failed to evaluate student #1 in a timely manner in order to determine potential eligibility for an ESE program. A review of documentation showed that prereferral interventions and individual evaluations took place during student #1's kindergarten, first-grade, and second-grade school years but an eligibility determination was not made until student #1's third-grade year. The documentation also showed that the student made adequate progress during the first and second grade and was promoted to succeeding grades. The student was assessed in the third grade and found to be eligible for the two programs indicated above. It was determined that the student experienced difficulty in academic areas as early as kindergarten and no specific action was taken to determine his potential eligibility until the third grade. As corrective action, it was required that if the student is considered for additional ESE programs, the district must evaluate and make an eligibility decision in a reasonable time.

The complainants also alleged that the district failed to provide students #2 and #3 with the services listed on their IEPs. The students both had IEPs developed in the early summer for the 1999-2000 school year. The parents stated that because of staff reductions, soon after the school year began the children's placements were changed and that specific ESE services

were no longer provided as indicated on the IEP. A review of documentation showed that at a school open house in September parents were told that a change in services would occur and that teachers at the school would decide which subject each child needed the most help in. The parents were told they would receive an invitation to an IEP meeting to revise their child's IEP. The meetings were held in October and the IEPs were revised to show a change in placement and fewer objectives in various academic areas (and no objectives in math). Teachers' schedules indicated that changes in services were already made before the October IEP meetings. The documentation also showed that another IEP meeting was held for each student later in the school year and consultation services were added to their IEPs. It was determined that the students' service delivery model changed before their IEPs were changed and that they did not receive special instruction in math as indicated on their IEPs before their IEPs were changed in October to not include those services. It was also found that the consultation services listed on the later-revised IEPs were not provided. As corrective action, the district was required to meet with the complainants to develop a plan to provide compensatory services to the students and to submit the plan to the bureau, along with documentation that the services were provided.

The complainants also alleged that as described above the district did not provide them with informed notice before changing the students' placements. It was found that the students' placements were changed but their IEPs were not changed until a month later and that the complainants were not provided with informed notices regarding these changes in placement. As corrective action, the district was required in future to provide the complainants with informed notice each time the IEP team proposed to change the placement of their children.

The complainants also alleged that as described above the district proposed a change of placement for the students that was not based on the IEP teams' decisions. It was found that the placement changes were made as a result of an administrative action at the school level, rather than as a result of IEP team decisions. As corrective action, the district must ensure that changes in placement are determined by the IEP team.

The complainants also alleged that the district failed to expend state and federal funds appropriately for ESE at the school. The district submitted documentation showing that during the 1996-97, 97-98, and 98-99 school years, the district expended more funds on ESE services at the school than were generated through the Florida Education Finance Program. A review of personnel paid with IDEA, Part B, funds showed that the district used those funds to support staff to provide services to students with disabilities in region III of the district, which includes the school in question. It was determined that the district expended the state and federal funds appropriately for students with disabilities. No corrective action was required.

The complainants also alleged that the district failed to meet student #3's educational needs, including his health needs, on his 1999-2000 IEP. They stated that the student was absent due to allergies and that accommodations were not being made for him relative to academic work missed because of the absences. The district indicated that the IEP team had met in February and revised the IEP to address the student's health needs. The team met again in April about the student's health needs and decided to address the concerns at the IEP meeting for the next

school year. The district provided statements from teachers showing implementation of the IEP but it was not possible to determine whether the student's health needs were addressed in the IEP process. It was recommended that the district review all the student's educational needs, including his health needs; determine if those needs should be addressed as a related service on the IEP; and document any services provided.

**Florida School for the Deaf and the Blind
Agency Order No. DOE-2000-582-FOF
December 1, 2000**

The parent of a student with disabilities filed this complaint alleging that the Florida School for the Deaf and Blind's (FSDB's) enrollment and admission rules failed to provide students with disabilities with access to educational services in the least restrictive environment (LRE); that FSDB failed to determine placement decisions for students based on the students' individual educational plans (IEPs); that FSDB proposed an educational placement for the student that was not based on the IEP team's decision; that FSDB predetermined the student's placement before developing his current IEP; that FSDB failed to consider evaluation data from other school districts and outside agencies when determining the student's eligibility; and that FSDB failed to seek parental participation in the eligibility determination for the development of the student's IEP and for the student's placement. The bureau conducted an inquiry that included review of records and contact with the complainant and FSDB staff.

At the time the complaint was filed, the student was enrolled in St. Johns County School District and had been determined eligible for programs for students who are visually impaired. In August 1999, the parents had made application for the student to attend FSDB.

In **issue 1**, the complainant stated that FSDB's admission rules do not comply with the Individuals with Disabilities Education Act (IDEA) because they place children with significant needs in the less restrictive environment of the district school system and place students with lesser disabilities in the more restrictive environment of the special school (FSDB). A review of FSDB's application materials indicated that a student must meet the school's criteria for admission. An IEP must be developed for the student after admission. It was determined that FSDB's IEP form does not reflect all requirements of the Individuals with Disabilities Education Act (IDEA), Part B, or of state statute. As corrective action, the district was required to ensure that IEPs developed for its students meet all state and federal requirements. The school was required to provide training to its staff on those requirements and a copy of the training schedule and materials to be used in the trainings was to be sent to the bureau for review and approval. The school was also required to conduct an administrative review of its students' IEPs to identify missing components. The school was further required to submit to the bureau a written report of the results of these administrative reviews and a schedule for reconvening IEP teams for the purpose of revising the IEPs to include required components. The school was also required to submit to the bureau copies of IEPs for students randomly selected by the bureau for verification of inclusion of required components.

Issues 2, 3, and 4 were addressed as a group. The complainant alleged that FSDB failed to determine placement decisions for the student based on the student's IEPs; proposed an educational placement for the student that was not based on the IEP team's decision; and predetermined the student's placement before developing his current IEP. The complainant stated that FSDB used evaluations to determine placement, but the IEP is supposed to determine placement and the school never developed an IEP for the student. The complainant also stated that the president of the school independently made "a special education placement decision" to allow the student to enroll on a temporary placement in the school, a decision made without the intake staffing committee. Because the student was living out of the country and home-schooled during the 1998-1999 school year, he did not have a current IEP when he moved to St. Johns County in September 1999 nor when his parents made application for his admission to FSDB in August 1999. The complainant submitted the application directly to FSDB. FSDB evaluated the student in November 1999 and determined him to be ineligible for admission. No IEP was developed at that time. As a result of previous requests for due process hearings, the school and complainant had signed a settlement agreement stipulating that the student could attend FSDB on temporary assignment for the purpose of further evaluation. No IEP was developed at that time. There was no indication that the school referred the complainant to his home school district (St. John's County) before the November staffing for formal evaluation, exceptional student education (ESE) program eligibility determination, or IEP development. A cooperative agreement between FSDB and the district was signed in January 2000 indicating the parents had requested evaluations to be done at FSDB and that copies of the evaluation information would be provided to the district. The conclusions from issue 1 are also relevant here. It was determined that the school did not have a cooperative agreement with the district for the school to conduct the evaluations at the time the student sought admission to the school. It was also determined that the school did not direct the complainant to the local school district nor send a copy of the completed application to the district, as required by Rule 6D-3.002, Florida Administrative Code (FAC). The corrective actions for issue 1 also apply here. Further, the school was required to ensure that when the school completes evaluations on behalf of the applicant's local school district, as authorized by cooperative agreement, a copy of the completed application is sent to the school district in which the parents reside. The school was also required to ensure that when applicants have not been evaluated or had an IEP developed by their school district that the applicants will be directed to their local school district. The school was required to review and revise its internal procedures and materials to comply with the requirements of Rule 6D-3.002, FAC, and to send copies of these materials and their revisions to the bureau for review. The school was also required to provide training to its personnel regarding the procedures for admission and enrollment and to submit to the bureau the training materials to be used and documentation of the trainings held and the personnel who attended. Finally, the school was required for the rest of the 2000-2001 school year and for the 2001-2002 school year to notify the bureau when an application to the school is made directly to the school rather than through the applicant's local school district, and to send documentation to the bureau of the school's compliance with the requirements of Rule 6D-3.002(3), FAC.

In **issue 5**, the complainant stated that FSDB used in-house evaluations to determine the student's placement in contradiction of IDEA's requirement that school's use evaluations to develop an IEP and have the IEP team determine placement and services. In its response the district explained that FSDB uses assessments to determine if a student meets the criteria for admission to the school; the school's response cited state rule that provides for the school to determine eligibility and procedures for admission. The complainant also indicated that the student's assessment information from past placements was not considered by FSDB when it determined the student's eligibility. It appeared from the documentation that the school received medical records, IEPs for the 1997-98 school year, and past formal evaluation reports. The school also conducted various assessments of the student. The conclusions from issues 2, 3, and 4 also apply here. Additionally, it was determined that intake forms completed by FSDB in regard to the student noted information from and consideration of past educational and medical records, but did not contain information from his home school district. The corrective actions for issues 2, 3, and 4 also apply to this issue.

In **issue 6**, the complainant stated that the staffing specialist and president of the school refused to listen to his (the parent's) arguments for "fair and appropriate consideration" of the student's eligibility for admission and instead the staffing specialist carried out the president's "predetermined placement decision of temporary placement, without benefit of an IEP, and based on the same evaluative data that had previously resulted in absolute disqualification" and did not consider other pertinent evaluation information. In response, the district stated that program eligibility is determined by the student's local school district and that, initially, the school only determines whether the student is eligible for admission to the school. The IEP is developed after the student is admitted; an IEP was not developed for the student because he did not meet admission criteria. The school submitted documentation indicating that the parents participated in the "intake" process and in the "intake staffing" meeting at which the student was determined to be ineligible for enrollment. The parents disagreed with the intake staffing committee's decision. It was determined that there was insufficient documentation to determine whether the complainant had full participation in the "intake staffing." No corrective action was required.

**Hendry County School Board
Agency Order No. DOE-2000-605-FOF
December 13, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to provide the student with speech and language services as described on his individual educational plan (IEP); failed to develop goals and objectives to address the student's needs for occupational therapy (OT); failed to provide qualified personnel to instruct the student in speech and language and to provide the services listed on the IEP; and failed to develop and implement a behavior plan for the student as recommended by an independent evaluator. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student was eligible for programs for students who are autistic and for students who are speech and language impaired; the student also required occupational therapy. IEPs developed for the student on May 16, 2000, and September 27, 2000, indicated the student would receive, among other services, 60 minutes per week of language therapy and 60 minutes per week of speech therapy.

The complainants alleged that the district had a policy of not providing speech/language therapy during the first three weeks of school and the last few weeks of school. The district acknowledged that it did not begin speech services until the fourth week of the 2000-2001 school year but provided a record of the student's speech therapy sessions showing that he had received 125 extra minutes of speech and language therapy during the next month to make up for the sessions missed during the third week. The district also submitted "discrete trial data" indicating that the student had received speech and language services through the end of the previous school year and during summer school. It was determined that the student was provided with speech and language therapy as described on his IEPs. No corrective action was required.

The complainants alleged that the district failed to address OT goals and objectives for the student. The student was determined eligible for OT in September 1999. The district stated that at that time specific OT goals were not developed but that OT goals were incorporated into the student's academic goals. The district provided documentation showing that at a May 2000 IEP meeting, the parents requested the student receive an OT evaluation related to sensory integration and that OT goals be added after the evaluation. A review of the May IEP showed that it included daily living skills with an emphasis on fine motor movements. The September IEP included specific OT goals and objectives and therapy activities. It was determined that goals and objectives to address the student's OT needs were developed. No corrective action was required.

The complainants alleged that the student's speech therapy was not always provided by a qualified instructor. Documentation showed that the student received speech and language therapy from a certified, master's level speech/language pathologist and from a speech technician under the direction of the certified speech/language pathologist. It was determined that the student was provided instruction in speech and language by qualified personnel. No corrective action was required.

The complainants also alleged that the district failed to develop and implement a behavior plan for the student as recommended in an independent evaluation. The special factor "Need for positive behavior intervention or strategies" was checked on both the May and September IEPs. There was no other indication that a behavior plan or intervention strategies were considered or implemented. District staff stated that the IEP team did not further consider such because the student was not in need of more specific interventions beyond those provided in the classroom. It was determined that the IEP team failed to clearly indicate whether or not the student was in need of a behavior plan. As corrective action, the district was required to convene an IEP meeting to consider the student's need for positive behavioral supports. The district was also required to submit to the bureau documentation that this occurred.

Highlands County School Board
Agency Order No. DOE-2000-569-FOF
August 17, 2000

The parents of a student with disabilities filed this complaint alleging that the district failed to provide them with the opportunity to participate in individual educational plan (IEP) meetings; failed to provide them with informed notice of refusal of their IEP-related requests; failed to provide them with a list of independent evaluators; failed to provide them with accurate mid-term reports regarding the student's progress; evaluated the student without their consent; and failed to provide them with information regarding the results of the formal individual assessments. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student was a first grader whose eligibility for programs for students with disabilities had been the subject of another complaint and a due process hearing the previous school year. At the time of the current complaint, the student was receiving speech/language instruction, occupational therapy, and exceptional student education (ESE) instruction in math.

The complainants alleged that they did not have the opportunity to participate in IEP meetings because changes were made to an IEP developed January 31, 2000, resulting in a different version of the IEP for an IEP meeting held March 13, 2000. Conference notes showed that the complainants had made several specific requests. It was determined that the complainants' requests were incorporated into both the IEPs developed on the above-referenced dates, that the complainants' and district's copy of the March 13 IEP were the same, and that the parents were provided the opportunity to participate in both meetings. No corrective action was required.

The complainants also alleged that the district did not provide them with an informed notice of refusal when the district made changes in the IEP at the March 13 meeting without informing the parent and refused to remove the changes as the parents requested. The district responded that it made all the changes requested by the parents. It was determined that the parents participated in the IEP meetings, that their requests were incorporated into the IEP, and that the district did not provide an informed notice of refusal because it did not refuse the parents' requests. No corrective action was required.

The complainants further alleged that the district did not provide them with a list of independent evaluators for therapies and for central processing disorders. Specifically, the parents wanted to select an evaluator from outside the county. The district responded that it had provided the parents with a list of independent evaluators for occupational therapy and that the parents rejected the list. The district conducted a hearing screening and auditory processing assessment in January, in compliance with the due process hearing order mentioned above. There was no documentation that the complainants had requested independent evaluations in the areas of physical or speech/language therapies or central auditory processing. It was determined that the district provided the complainants with a list of potential independent evaluators in the local area. It was also determined that the district had conducted the

required hearing screening and auditory processing assessment. It was also determined that the complainants had not requested independent evaluations in physical or speech/language therapies or central auditory processing. No corrective action was required.

The complainants also alleged that the district failed to provide them with accurate mid-term reports of the student's educational progress. The district provided documentation that it had provided nine-week report cards, mid-nine-weeks progress reports, IEP progress reports, and monthly reports regarding academic goals, and that a daily log passed between teacher and parents. It was determined that the complainants were regularly informed at least as often as were parents of nondisabled students.

The complainants also alleged that the district evaluated the student without their consent when they administered a "Woodcock-Johnson" and a "Brigance" without parental consent. The district responded that these instruments were administered to all students in the ESE classes to determine their progress and not to determine the identification, evaluation, or placement of the student. No corrective action was required.

The complainants further alleged that the school staff would not go over the results of the assessments mentioned above with them. The district submitted daily logs in which the teacher indicated that copies of each assessment had been enclosed in the log. The conference notes for the January 31 IEP meeting indicated that the Woodcock-Johnson was reviewed. It was determined that the complainants received copies of the assessments and that the results were reviewed at the IEP meeting, which the parents attended. No corrective action was required.

**Hillsborough County School Board
Agency Order No. DOE-2000-573-FOF
September 1, 2000**

The parents of a student with disabilities filed this complaint alleging that the district failed to provide them with appropriate notice inviting them to their son's individual educational plan (IEP) meetings and failed to provide the parents, prior to the IEP meetings, with the evaluations and reports that would be discussed at the meetings. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The parents alleged that the IEP meeting invitation should have contained all the elements of prior written notice required by the Individuals with Disabilities Education Act (IDEA), Part B, when the district proposed a change in a student's evaluation, eligibility, or placement, or in the provision of a free appropriate public education (FAPE) to the student. It was determined that the district was not required to include in the IEP meeting invitation the elements of written notice required when the district proposes a change in a student's evaluation, eligibility, placement, or FAPE. It was also determined that the invitation did not indicate that one purpose of the meeting was to develop a statement of the transition services needs of the

student, although the student was older than age 14. As corrective action, the district was required to revise invitations to list by name and title the individuals who will attend IEP meetings and to indicate that one purpose of the IEP meetings is to discuss transition services for the student (who was approaching his 16th birthday). The district was also required to convene an IEP meeting to develop a statement of the student's transition services needs and to provide to the bureau a copy of the invitations and the IEP developed. The district was also required to provide to the bureau a copy of the invitations to any IEP meetings held for the student during the 2000-2001 and 2001-2002 school years.

The complainants also alleged that the district failed to provide them, before the IEP meetings, with evaluations and reports that would be discussed at the meetings. As stated above, the district indicated on the invitation that one purpose of the meeting was to discuss recommended changes in therapies. It was determined that while the district is required to provide parents with copies of completed evaluations used for initial eligibility determinations and is required to permit parents to review their child's educational records, there is no requirement that school personnel create reports from the informal information participants will share at IEP meetings. No corrective action was required.

Hillsborough County School Board
Agency Order No. DOE-2000-574-FOF
December 1, 2000

The parents of a student with disabilities filed this complaint alleging that the district failed to provide the student with appropriate educational and related services based on his present functioning level, as indicated on his individual educational plans (IEPs); failed to provide appropriate accommodations to assist his progress in the general curriculum; failed to provide assistive technology (AT) and to implement related goals and objectives as indicated on the IEP; denied the student the opportunity to participate in an after-school tutoring program and did not provide accommodations needed for the student to participate; failed to provide the complainants with informed notice before making a change in the student's evaluation reports and a change in educational services; improperly changed the student's evaluation reports; failed to provide adequate staff development regarding the Individuals with Disabilities Education Act (IDEA) and the implementation of the student's IEP; failed to provide the student with a timely assistive technology evaluation; failed to identify the child in a timely manner; and failed to assess the student in all areas of suspected disability. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student was a fifth grader at the time of the complaint. Following issuance of the order in this complaint, the complainant withdrew the student from the district's schools and enrolled him in a private school. The corrective actions were then revised to reflect federal requirements regarding the provision of educational services to children with disabilities enrolled in a private school by their parents.

In **issue 1**, the complainants alleged that the district did not provide the services listed on the student's IEP. IEPs developed in 1999 and 2000 specified services including participation in the specific learning disabilities (SLD) program, various modifications, AT assessment and training for teachers and parents, assessment accommodations, and other services. A review of the student's schedule, attendance record, work samples, and lesson plans indicated that the student did receive the services listed on his IEP and was working toward his goals and objectives, including having the opportunity to use computer software and hardware as listed on his IEP. No corrective action was required.

In **issue 2**, the complainants alleged that the district did not provide accommodations needed to assist the student to progress in the general curriculum. Documentation provided by the district showed that the student experienced difficulties in math over a three-year period and experienced a decline in math performance, and that the modifications specified on the IEP were inadequate to enable the student to progress in the general curriculum in the area of math. As corrective action, if the student reenrolls in a district school, the district must ensure that appropriate accommodations are provided to enable the student to progress through the general curriculum. If the student reenrolls, the IEP team must convene to address the student's needs in math and determine related goals, objectives, and accommodations. The district was further required to submit to the bureau a copy of any such revised IEP and any accompanying documentation.

In **issue 3**, the complainants alleged that the district did not provide AT devices and services listed on the student's IEP. Following an AT assessment, the IEP was revised to include AT goals related to instruction in AT, training for teacher and parents, use of a "computer/Alphasmart," and use of software to practice keyboard and writing skills. Documentation provided by the district indicated that the hardware and software were provided, that the student had the opportunity to use the technology, that teachers incorporated it into the student's assignments, and that school personnel received training in use of the technology. It was determined that assistive technology devices and services were provided as described in the IEP. No corrective action was required.

In **issue 4**, the complainants alleged that the student was invited to participate in after-school tutoring for general education students and that the district did not provide accommodations and modifications in the after-school program. The complainant also alleged that the district offered tutoring in early November 1999 but had not provided it. It was determined that the student participated in the tutoring program during the second-nine-week period, that it was not listed as a service on the IEP, that there was insufficient evidence to determine if the student was denied the opportunity to participate in the program during the third nine weeks, and that there was insufficient evidence to determine if the student was provided accommodations in the program. No corrective action was required.

In **issue 5**, the complainants alleged that the district did not provide them with informed notice before making a change to the student's evaluation reports and before making a change in services. Specifically, they stated that subset scores on an evaluation were edited and the parents were not notified or asked for consent. The complainants stated that the district maintained educational files for the student in three locations and that the evaluation

reports in them were not identical. The district explained that a typing error had appeared in a district-generated evaluation report housed in the district office and that that report was later corrected to match the report the evaluator had generated and that was kept at the school site. The district also stated that the student's general education language arts teacher had been changed during the school year, that exceptional student education services remained unchanged, and that the complainant was aware of the change in teachers; however, informed notice of a change in placement was not provided since this was not a change in placement. It was determined that neither the clerical error nor the change of teachers constituted a change in the identification, evaluation, or placement of the student, so informed notice was not required. No corrective action was required.

In **issue 6**, the complainants indicated that they had received a letter and attachment that had been placed in the student's educational record but that the attachment had been changed in the record. This information was not part of the IEP. As indicated above, the district maintains three files for the student in three separate locations, but considers the file kept at the school to be the official file. The district indicated that the attachment had been updated in the official file but an updated copy was not placed in either of the other files. It was determined that the district did not alter the student's educational records. No corrective action was required.

In **issue 7**, the complainants alleged that the district did not provide adequate training regarding IDEA and the implementation of the student's IEP—specifically that the student's teachers and parents did not receive training in the use of the Alphasmart and computer software referenced in issue #3. It was determined that the teachers working with the student were trained, but that the parents had not been provided with training as of the date the complaint was filed. As corrective action, if the student reenrolls, the district must develop a plan to provide the complainant training as described in the student's new IEP. The district must also submit to the bureau a copy of the plan and documentation that the training has occurred as specified in the plan.

In **issue 8**, the complainants alleged that the district did not provide an AT evaluation for the student in a timely fashion. The district responded that the parents requested an evaluation based on a screening and that the AT team found that no formal assessment was warranted. The district further reported that the complainants contacted the technology team again in May 1999 to request that the student be allowed to use a calculator and were told that the use of a calculator was an IEP team decision. On September 28, 1999, the complainants gave their consent for an AT evaluation, which was conducted on December 14, 1999. Two IEP meetings were held in January to review and revise the IEP based on that evaluation information. It was determined that the district conducted a timely AT evaluation. No corrective action was required.

In **issue 9**, the complainants alleged that the district failed to identify the student as a child with a disability in a timely manner. Before the 1992-93 school year, the student was evaluated and found to be eligible for programs for students who are speech-language impaired. During the 1995-96 school year, because of lack of academic progress, the student was

referred and evaluated and found not to be eligible for additional programs. A “504 plan” was developed for the student due to his diagnosis of attention deficit disorder (ADD). During the 1997-98 school year the student was evaluated by the University of South Florida and, based on those results, the child study team referred the student for additional district testing. In May 1998, the student was found to be eligible for programs for students with SLD and he was dismissed from the speech-language program. It was determined that the district determined the student’s eligibility in a timely manner. No corrective action was required.

In **issue 10**, the complainants alleged that the district did not assess the student in all areas of suspected disability, including the use of assessment instruments that are appropriate to evaluate all areas of learning, including math and written language. A review of documentation showed that in spring 1998 the student was evaluated using an intelligence test, written language test, and test of cognitive ability. Progress reports indicated that the student was experiencing difficulty in math beginning in the 1995-96 school year. The student’s IEP addressed math and written language. It was determined that the district did not evaluate the student in all areas of suspected disabilities, including math, before determining his eligibility. As corrective action, if the student reenrolls and is in need of a comprehensive assessment, the district must evaluate him in all areas of suspected need. The district was required to submit to the bureau the results of any such assessments through the second school year of the student’s reenrollment.

**Leon County School Board
Agency Order No. DOE-2000-606-FOF
December 13, 2000**

The parents of two students with disabilities filed this complaint alleging that the district failed to provide the complainants with an opportunity to challenge the contents of one student’s educational records; failed to provide the complainants with informed notice of proposal to initiate or change the student’s identification; failed to consider all of both students’ needs, including needs in the area of health, during the individual educational plan (IEP) process; and failed to provide the complainants with an informed notice each time one of the students’ educational placement was changed. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

Student #1 had been determined eligible for special programs for students with autism and for students who are speech and language impaired. Student #2 had been determined eligible for programs for students who are speech and language impaired.

The complainants alleged that the district failed to provide them with an opportunity to challenge the contents of the educational records of student #1. However, they raised no specific issue in this regard. The district stated that the complainants were provided with a complete copy of the records on September 15 (the day the bureau received this complaint)

and that there was no documentation indicating the complainants were challenging the contents of those records. No corrective action was required.

The complainants alleged that the district failed to provide them with an informed notice of proposal to change the identification of student #1. They stated that student #1 had been identified as “profoundly mentally delayed” and that later they had been asked to sign an IEP stating he was autistic. The district stated that when the student was initially identified in 1995, a clerical error resulted in his being identified as “Profoundly Mentally Handicapped (Autistic)” and that at a reevaluation staffing in 1999, the student’s eligibility was “reconfirmed” as autistic and language impaired. The complainants received an informed notice of this change in identification, as evidenced by their signatures on the eligibility staffing form. It was determined that the district changed the student’s eligibility category through an appropriately constituted staffing meeting and provided the complainants with informed notice. No corrective action was required.

The complainants alleged that the district failed to consider the health needs of both students in the IEP process. They stated that they had been contacted about both students’ excessive absences, which were due to allergies. The district stated that other than student #1’s dairy allergy, there was no indication that the students had significant health or medical needs that should have been addressed by the IEP team. The district indicated it had requested the parents’ consent to contact the children’s physicians but the parents had refused that request. A review of documentation indicated that the students’ IEPs for the 2000-2001 school year addressed neither health care needs nor the students’ excessive absences. As corrective action, the district was required to ensure that all of the students’ educational needs are addressed by their IEP teams, including needs related to excessive absences and health care issues. The district was required to convene both students’ IEP teams to consider these needs. The district was further required to submit to the bureau documentation that all areas of need were considered.

Finally, the complainants alleged that the district did not provide them with informed notice each time student #2’s educational placement was changed. It was determined that each time the IEP team proposed a change of placement during the 1999-2000 and 2000-2001 school years, the complainants were provided with informed notice that met all legal requirements. No corrective action was required.

Manatee County School Board
Agency Order No. DOE-2000-581-FOF
October 4, 2000

An advocate for parents of students with disabilities filed this complaint alleging that the district failed to provide a written notice of refusal when parents of students with disabilities made specific requests for services during individual educational plan (IEP) meetings and that school district representatives made the final IEP decision regarding services for students with disabilities, regardless of the recommendations of other IEP team members. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff. The bureau also sent a written survey to 450 parents of the district's students with disabilities, to which the bureau received 127 written or telephone responses. The bureau also conducted about 30 parent interviews. Further, the bureau sent a questionnaire to six of the 12 district exceptional student education (ESE) specialists who served as district representatives on IEP teams; five of the ESE specialists responded.

The complainant alleged that she had observed a general practice of the district failing to provide parents with written notices of refusal when parents were denied services they requested at an IEP meeting. From the surveys and interviews cited above, the following was determined: More than 50% of parents surveyed indicated they had made specific requests for services; however, the district representatives surveyed indicated they were not familiar with situations in which parents made specific requests and none of them indicated that they brought a form for a written notice of refusal to IEP meetings. Two of the district representatives said they were prepared to complete such a form if necessary. It was determined that parents who made specific requests for services at IEP meetings did not always receive a written notice if the district refused the request. As corrective action, the district was required to ensure that parents who make requests for specific services at IEP meetings receive written notice if their request is refused. The district was required by January 31, 2001, to provide its school-based and district-based representatives with training on meeting this requirement. The district was also required to provide to the bureau the dates of the training sessions and names and titles of those who attended.

The complainant further alleged that district representatives made most of the placement decisions despite recommendations of other IEP team members. A review of the parent surveys showed that most of the parents agreed that the IEP team listened to their input and that the IEP was developed by the team. Of those who indicated the decisions were not made by the team, only a small percentage felt that the district representative made the decisions. Also, most of the parents who disagreed with the IEP team's decisions did not express the concern that one particular person on the team was making the decisions. Further, all the district representatives who responded to the questionnaire indicated that the team, with parent input, made the final decisions as to services and placement. There was insufficient evidence to indicate that the district staff made the final IEP decisions regardless of the recommendations of other team members. No corrective action was required.

Martin County School Board
Agency Order No. DOE-2000-592-FOF
October 19, 2000

The parent of a student with disabilities filed this complaint alleging that the district determined the student's eligibility for an exceptional student education program before the eligibility staffing meeting and that the district failed to provide the student's parents with the opportunity to participate in his individual educational plan (IEP) meeting. 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 with specific learning disabilities; he also receives occupational therapy and language services.

The complainant alleged that at a staffing meeting on May 23, 2000, district staff told her that her son would be eligible for the special program for students who are mentally handicapped, but the eligibility staffing form indicated that the student's exceptionality was specific learning disabilities (SLD). The complainant further stated that at the IEP meeting on June 5, the school staff said that the paperwork she had received was a draft. She stated that "They labeled my child before the IEP meeting had ever taken place." District staff reported that an eligibility decision was not made at the staffing meeting because further evaluation was necessary. The district submitted copies of documents generated at the May 23 meeting that were not consistently completed. A conference form from a June 5 IEP meeting stated that no eligibility decision had been made yet. The complainant indicated that when she reviewed her child's records, she found that the May 23 documentation labeling the student SLD was missing. The district responded that those documents were drafts. As corrective action, the district was required to clearly specify any eligibility decisions made in documents generated at meetings and communicate the decisions to the parents. If the team uses draft documents, they must be clearly marked "draft." The district was further required to provide to the bureau copies of staffing documents, conference forms, and IEPs developed for the student during the rest of the school year.

The complainant also alleged that when she attended the May 23 meeting, she was asked to leave while the school staff "discussed numbers." The district responded that the parent had entered the meeting room before the meeting officially began and so was asked to wait in the lobby while the staffing committee members assembled. The district indicated that no formal meeting occurred before the meeting, which the parent did attend. It was not possible to determine whether district staff discussed relevant information about the student's educational needs prior to the meeting and while the parent was excluded. No corrective action was required.

**Miami-Dade County School Board
Agency Order No. DOE-2000-578-FOF
September 18, 2000**

An advocate for the parents of a student with disabilities filed this complaint alleging that the district failed to review current evaluative data when developing the student's January 26, 2000, individual educational plan (IEP); failed to develop an IEP at the January 26, 2000, meeting that contained all the components required by law; and failed to inform the parents of all participants in the May 3, 2000, IEP meeting. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student was a fourth-grader who had been determined eligible for programs for students who are speech and language impaired. At the January IEP meeting, it was determined that he would participate in all academic activities with his regular class and receive 60 minutes of speech/language therapy per week.

The complainant alleged that the district failed to review all the student's evaluation reports and that none of the recommendations noted in those reports were included in the IEP developed in January 2000. The district provided copies of the January and May IEPs, both of which referenced both the district evaluation and an independent evaluation, and a copy of a January multidisciplinary team report that referenced the independent evaluation. It was determined that the IEP team did review the student's evaluations and included portions of the evaluation results in the "present levels of performance" section of the IEP. No corrective action was required.

The complainant also alleged that the student's January IEP did not contain an academic goal with short-term objectives; that no modifications or accommodations were identified on the IEP for the general curriculum or state and district assessments; that the IEP did not provide consultation between the language therapist and the regular education teacher; and that conference notes were not included with the IEP. It was determined that the IEP goal was not measurable, nor were the accompanying objectives. It was also found that the IEP did not contain a statement of how the parents were to be informed of the student's progress toward his annual goals and the extent to which that progress would be sufficient for him to meet his goals by the end of the year. (The IEP did contain a preprinted statement: "Parent will receive progress towards annual goals four times per year.") It was determined that the January IEP did not contain all the components required by law. As corrective action, the district was required to ensure that IEPs developed for the student contain all required components. The district was required to send to the bureau a copy of all IEPs written or revised for the student during the 2000-2001 school year.

The complainant also alleged that the district failed to inform the parents that the school principal would attend the May IEP meeting and that the principal refused to leave the meeting as the parents requested. The district acknowledged that the invitation to the meeting did not indicate that the principal would attend. It was determined that the district failed to inform the parents of the people who would attend the IEP meeting. As corrective action, the

district was required in future to provide the parents with meeting notices that specify by name and title all the individuals who will attend the meeting. The district was required to provide to the bureau a copy of all invitations to IEP meetings sent to the parents during the 2000-2001 school year.

**Miami-Dade County School Board
Agency Order No. DOE-2000-579-FOF
September 18, 2000**

An advocate for the parents of a student with disabilities filed this complaint alleging that the district changed the student's eligibility identification without providing the parents' with "reasonable" prior informed written notice. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

Documentation showed that on September 21, 1998, the student was found to be eligible for programs for students who are trainable mentally handicapped (TMH). At an individual educational plan (IEP) meeting on the same date, the parents disagreed with that eligibility category. At a second eligibility staffing/IEP meeting held on October 2, the team changed the student's eligibility to educable mentally handicapped (EMH), the parents gave consent for placement, and services were initiated. On December 3, the team met and changed the student's eligibility back to TMH. The parents objected to this change. Throughout these changes, the student remained in the same placement.

The complainant alleged that because the parents were only informed of the change in eligibility during the December meeting, when the change actually took effect, they were not given reasonable prior notice. The district provided a copy of an "informed notice of change in program eligibility and/or placement of an exceptional student" form for the student dated December 3, 1998. The district also submitted copies of notifications of the meetings sent to the parents which stated that the purpose of the meeting was to discuss eligibility. The parents attended all the meetings. It was determined that the parents were informed of the meetings at least five days in advance, that the parents attended the meetings, that the team changed the student's identification, and that the parents received informed notice of the change in identification. It was also determined that the district did not provide the parents with an informed notice of refusal when they requested that the student's eligibility remain EMH. As corrective action, the district must provide the student's parents with informed notice when the district refuses the parents' request to change the student's identification, evaluation, or educational placement or the provision of a free appropriate public education to the student. The district was further required to provide to the bureau a copy of any such notice provided during the 2000-2001 school year.

Miami-Dade County School Board
Agency Order No. DOE-2000-593-FOF
October 19, 2000

An advocate for the parents of a student with disabilities filed this complaint alleging that the district failed to properly conduct an individual educational plan (IEP) meeting at the parents' request, including scheduling the meeting at a mutually agreed upon time and place, inviting a regular education teacher to the meeting, and providing the parents with the opportunity to participate in the meeting; failed to include measurable annual goals, objective evaluation criteria, and modifications and adaptations in the student's IEP; failed to consider the delivery of the student's educational services in the least restrictive environment (LRE); and failed to consider the student's native language at his IEP meeting. 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 orthopedically impaired.

The complainant alleged that the student's mother and the advocate both sent letters to the district requesting that a proposed IEP meeting be rescheduled until upcoming evaluations were completed but that the district held the IEP meeting at the originally scheduled time anyway, without parent participation. The complainant also alleged that the first notice of the IEP meeting did not include a regular education teacher or the student's ESE teacher in the list of participants, although the second notice did include the participants. The district responded that it did reschedule the meeting but did not wait until the evaluations were completed because that would have put the district in violation of the IDEA requirement to hold an IEP meeting at least every 12 months. The district agreed that the first notice did not include all required participants, but submitted documentation to show that the second notice was complete and that a regular education teacher signed the IEP to document she had attended the meeting. It was determined that the district's first invitation to the IEP meeting did not indicate that a regular education teacher would attend the meeting. As corrective action, the district was required to reconvene the IEP team and to provide meeting invitations that reflect that the required participants were invited to the meeting. The district was further required to submit to the bureau copies of the meeting invitations and IEPs developed during the rest of the school year.

The complainant also alleged that the IEP developed by the district did not include measurable annual goals, objective evaluation criteria, and modifications and adaptations. The IEP included goals such as "The student will demonstrate improved transitional skills and mobility skills in the educational environment" and "The student will demonstrate fine motor skills." The IEP included evaluation criteria for each goal, such as "3/5 trials" and "75% accuracy" and evaluation procedures such as "teacher observation" and "therapist observation." Modifications and adaptations were not included in the IEP. It was determined that the IEP contained annual goals that were not measurable and that modifications and adaptations were not addressed on the IEP. It was also determined that the IEP did include information on how the student's progress toward his annual goals would be measured. As corrective action, the district was required to revise the student's IEP to include measurable annual goals and to

address whether modifications or accommodations were needed. The district was further required to submit to the bureau copies of any IEPs developed for the student during the rest of the school year.

The complainant also alleged that the district did not consider delivery of the student's educational services in the LRE because the IEP removed the student from the regular education program for 100% of the school day except assemblies. The district submitted the student's IEP, which stated that the student could not participate in the regular class and other nonacademic activities because the student required a highly structured curriculum with maximum support from the teacher. The IEP indicated the student would participate with regular education students in assemblies. It was determined that the IEP team did address the LRE and explained why the student could not participate with regular education students. No corrective action was required.

Finally, the complainant alleged that although the student's recent evaluations addressed his Spanish-language dominance, the team did not consider his native language in developing his IEP. It was determined that the IEP indicated that the student was no longer receiving services in the English for Speakers of Other Languages (ESOL) program and that limited-English-proficient services would be addressed in the ESE program. It was also determined that the "assurances" section of the IEP indicated that "Language needs for students with limited English proficiency" were considered by the team. No corrective action was required.

**Miami-Dade County School Board
Agency Order No. DOE-2000-607-FOF
December 18, 2000**

An advocate for the parent of a student with disabilities filed this complaint alleging that the district failed to provide the student with special education and related services in the least restrictive environment (LRE); failed to include the student's parents in the specific learning disabilities (SLD) multidisciplinary team; failed to provide the parents with appropriate participation notices when inviting them to the eligibility/placement meeting; failed to provide the parents with an appropriate notice of refusal to remove the student's eligibility for the SLD program; failed to develop an individual educational plan (IEP) that contained the required components; and failed to have a local educational agency (LEA) representative who could commit district resources at the IEP meeting. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The child was a prekindergarten student who had been determined eligible for programs for students who are developmentally delayed, who are language impaired, and who require occupational therapy (OT). At a May 2000 IEP meeting, the student was determined to no longer qualify for the program for students who are developmentally delayed; he was determined to be eligible for programs for students with specific learning disabilities (SLD), who are speech impaired, who are language impaired, and who require OT. At that meeting, the

IEP team decided the student would participate in all activities with his regular class and receive OT 30 minutes per week, language services 45 minutes per week, and speech services 45 minutes per week. The parents objected to the SLD eligibility classification and asked that he receive all services under his “label” of language impaired.

The complainant alleged that for two years the child had been segregated in an exceptional student education (ESE) prekindergarten program with no interaction with nondisabled peers during the academic day. The IEPs for the 1998-1999 and 1999-2000 school years included a preprinted checklist that had been marked to indicate which factors the team considered in selecting the LRE. In another preprinted list, “regular classroom” had been checked as a placement previously attempted or considered. On another page the team described the student’s participation in nonacademic activities with regular students as “assembly, lunch, field trips.” The written explanation for the student not participating in the regular class was “[The student] requires a structured environment to master educational objectives due to his distractibility and need for a lower pupil-to-teacher ratio.” It was determined that the IEP team had documented its consideration of alternative placements for the student. No corrective action was required.

The complainant alleged that the parents were not involved in the multidisciplinary team report that showed the student was eligible for the SLD program. The district explained that in the Miami-Dade school district, eligibility determination and IEP development occur at the same meeting and that this meeting was held on May 31, 2000. The district explained that the report was completed by the evaluating psychologist, who could not attend the meeting, and was provided to assist the team in its eligibility determination. The district provided documentation that the parent was present at that meeting and that the “Informed Notice of Change in Program Eligibility” was completed at that meeting. It was determined that the parent was part of the SLD multidisciplinary team. No corrective action was required.

The complainant alleged that the district did not provide the parents with appropriate notice of the IEP meeting. The first meeting notice failed to list a regular education teacher and, instead of listing all invitees, stated “Any other person deemed appropriate.” The second notice did not list the principal, who attended the meeting. It was determined that the district failed to provide the parents with appropriate notices. As corrective action, the district was required in future to provide the parents with participation notices that meet all requirements. The district was required for the rest of the school year to submit to the bureau copies of any IEP meeting notices sent to the parents.

The complainant alleged that the district did not provide the parents with an appropriate notice of refusal to remove his eligibility for the SLD program. A review of the refusal notice revealed that the notice was not clear or was silent as to the action refused, the other options considered, why the options were rejected, and other factors relating to the refusal. It was determined that the district failed to provide the parents with an appropriate notice of refusal. As corrective action, the district was required to provide the parents with appropriate notice when proposing or refusing to take a specific action related to the student’s identification, evaluation, or educational placement or the provision of a free appropriate public education

to the student. The district was required for the rest of the school year to submit to the bureau a copy of any request by the parents, along with the district's response. (This corrective action also applies to an issue below. **See ***.)

The complainant alleged that the IEP did not contain measurable goals or modifications/adaptations to the general curriculum. A review of the IEP revealed no section that specifically related to accommodations or modifications. The section for recording accommodations for participation in assessments had not been completed. It was determined that most of the student's annual goals were not measurable and that one annual goal had only one short-term objective. It was also found that the IEP did not address accommodations or modifications for the classroom or assessments. It was determined that the IEP did not contain all required components. As corrective action, the district was required to hold an IEP meeting to develop an IEP that contains all required components. The district was required to submit to the bureau a copy of that IEP and any other IEPs developed for the student during the rest of the school year, including the student's 2001-2002 IEP.

The complainant further alleged that the district did not have an LEA representative at the IEP meeting who could commit the district's resources. At the meeting, the parent and advocate requested that the student be provided with a full-time paraprofessional. The complainant stated that the LEA representative wrote the request down but explained that it had to be approved by the region office. The district responded that the request for the paraprofessional was made after the IEP team had dispersed and only the LEA representative, assistant principal, parent, and advocate were present, so that although the LEA representative had the authority to allocate resources in conjunction with the IEP team's recommendations, there was no team present at the time of the request. It was found that the district and the complainant were not in agreement as to who was present or what the LEA representative said regarding the procedure for requesting a paraprofessional. It was determined that there was no indication that the district responded to the parental request for a paraprofessional to assist the student. The corrective action for this issue is embedded in the corrective action above (**see ***), in which the district was required to provide the parents with appropriate notice of proposal or refusal to take an action.

Finally, the complainant alleged that the district failed to provide the parents with prior written notice before changing the student's eligibility classification to SLD. The district stated that both the invitations to the IEP meeting indicated that a purpose of the meeting was to consider the need for other program or placement options and asserted that both notices served to provide the parents with prior written notice of possible changes in eligibility and placement. The district again noted that in Miami-Dade County Public Schools, eligibility and placement determinations usually occur at the same IEP meeting. The district also responded that an "Informed Notice of Change in Program Eligibility" was completed at the IEP meeting with the parent present. It was determined that the parents were provided with notice of the change in the student's eligibility classification. No corrective action was required.

Okaloosa County School Board
Agency Order No. DOE-2000-603-FOF
December 11, 2000

The parents of a student with disabilities filed this complaint alleging that the district failed to implement the student's individual educational plan (IEP); failed to develop a plan for compensatory education services for the student; and failed to implement accommodations in the regular classroom, in accordance with the student's IEP. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff. The bureau also sent a survey to each of the student's seven teachers.

The complainants alleged that the district failed to implement the student's IEP since his teachers did not receive a copy of the IEP or a list of his accommodations until four weeks after school began. Based on the teacher survey and other documentation, it was determined that a plan to provide accommodations in the regular classroom was not put into place until the fourth week of school. It was also found that the student's IEP was not revised to reflect his participation in the ESE English class. It was determined that the district failed to implement accommodations as stated on the student's IEP for the first three weeks of the school year. As corrective action, the district was required to submit to the bureau a copy of the student's IEP that addresses his need to participate in an ESE English class. Further requirements also applied, as described in the next section.

The complainants also alleged that the district failed to develop a plan for compensatory education services for the accommodations the district acknowledges that the student did not receive during the first three weeks of school. Documentation showed that an IEP meeting was held on October 5 at which after-school tutoring and opportunities for the student to make up his work were offered. No documentation was provided to verify that the compensatory education had been provided. As corrective action, the district was required to submit to the bureau documentation that compensatory education was provided as agreed at the October 5 IEP meeting.

The complainants further alleged that the district failed to implement the student's accommodations in the regular classroom as stated on his IEP. Responding to the survey cited above, all the teachers described accommodations they provided to the student, but two of them did not identify the particular accommodations listed on the IEP, and three teachers identified some but not all of the accommodations listed on the IEP. It was determined that the district was not implementing accommodations in the regular classroom in accordance with the student's IEP. As corrective action, the district was required to submit to the bureau documentation that the student's regular education teachers have been informed of the accommodations needed and that those accommodations have been implemented.

Orange County School Board
Agency Order No. DOE-2000-572-FOF
September 1, 2000

The parents of a student with disabilities filed this complaint alleging that the district failed to implement the student's individual educational plan (IEP), including providing instruction relative to his goals and objectives; failed to provide the services described on the IEP, including speech and language services; failed to provide the parents with periodic progress reports; failed to employ instructional staff who were certified to instruct the student and implement his IEP; and failed to provide adequate staff development activities regarding the implementation of the student's IEP. The bureau conducted an inquiry that included review of records and contact with the complainants and district staff.

The student was a high school student who was described by the complainants as mentally handicapped with autistic tendencies.

The complainants alleged that the student's teacher did not work with him to help him achieve his annual goals. A review of the IEP indicated that the student's goals focused on survival and functional communication skills, the use of a communication board, prevocational skills, daily living skills, and social/emotional skills. The student's progress reports indicated he was not progressing toward achieving his IEP goals. It was determined that available documentation did not demonstrate that appropriate instruction was provided relative to all of the student's goals and objectives. As corrective action, the district was required to ensure that instruction provided to the student is based on his IEP goals and to submit to the bureau documentation to that effect.

The complainants alleged that the district did not provide the weekly language therapy listed on the student's IEP. Three IEP goals addressed communication and language. It was determined that the student did not receive language therapy as indicated on his IEP. As corrective action, the district was required to meet with the complainants to discuss a plan to provide compensatory language therapy services to the student and to submit the plan to the bureau. The district was also required to later provide to the bureau documentation that the services required by the plan were provided.

The complainants alleged that the district failed to provide them with periodic reports about the student's progress. A review of documentation indicated that the complainants were provided "IEP status reports" each nine-week grading period and that parents of all students at the school received report cards every nine-week grading period. It was determined that the student's parents were notified as often as were the parents of nondisabled students. No corrective action was required.

The complainants alleged that the district failed to employ instructional staff certified to instruct the student and implement his IEP. The complainants stated that the student's teachers were not certified and were not knowledgeable in ESE, and that one of the teachers had stated that she knew nothing about autism. The district submitted the professional certificates

of the student's two teachers. One was certified in the area of mentally handicapped. The student's teacher of record held a temporary certificate in psychology. There was no documentation that the school board had approved her as an out-of-field teacher. The complainants also stated that the district did not notify the parents of students who were being taught by the out-of-field teacher until the complainants inquired about the school's responsibility to notify parents. It was not possible to determine if the district employed a certificated teacher to instruct the student. As corrective action, the district was required to submit to the bureau evidence the student's teacher of record is a certified teacher employed in-field or that the school board has assigned the teacher out-of-field and that parents were notified of the teacher's out-of-field assignment.

The complainants also alleged that the district did not adequately train the student's teachers regarding the implementation of his IEP and of the Individuals with Disabilities Education Act, Part B, in general. The complainants stated that the student had made progress in middle school where his teachers understood his needs and how to meet them. The district submitted a schedule of staff development activities that did not include any indication that staff working directly with the student were trained regarding his specific needs. It was determined that the district employed an out-of-field teacher to instruct the student and that there was insufficient information to determine if that teacher participated in the staff development activities or whether the teacher was provided instruction in the implementation of the student's IEP goals and objectives. As corrective action, the district was required to ensure that the student's IEP is implemented as written and that staff providing instruction to the student receive the supports necessary to appropriately implement his IEP. The IEP team was required to reconvene to determine whether supports are necessary for school personnel to implement the IEP. The district was further required to provide to the bureau documentation that the IEP team made this decision and implemented it as necessary.

Orange County School Board
Agency Order No. DOE-2000-591-FOF
October 19, 2000

The parent of a student with disabilities filed this complaint alleging that the district failed to provide the student with accommodations and modifications, including paraprofessionals, as described on his individual educational plan (IEP); failed to consider the provision of extended school year (ESY) services; and failed to provide the parent with informed notice of refusal regarding her request for ESY services. 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 other health impaired. He was enrolled in all general education classes during the 1999-2000 school year.

The complainant alleged that the district failed to provide the student with the accommodations and modifications listed on his IEP—specifically that the aide assigned to the student

was not appropriately trained and that although her son had received the laptop computer recommended by the IEP team, he had not received any training regarding the software that accompanied the computer. The district did not submit the IEP or documentation supporting the implementation of the accommodations and modifications, including the paraprofessional. It was determined that there was no documentation to support that the student was provided the accommodations and modifications, including the paraprofessional, that may have been listed on his IEP. As corrective action, the district was required every two months during the remainder of the 2000-2001 school year to submit to the bureau documentation that indicates that accommodations, modifications, and other services described on the student's IEP are being provided. The district was further required to submit to the bureau documentation to show that supports are being provided to school personnel to assist the student to advance toward his annual goals.

The complainant also alleged that the IEP team did not make a recommendation concerning ESY services, specifically summer school programming, for the student and that the parent was told that the student's one-on-one support person was not available for summer school. The district said the student may have been eligible for regular summer school but the parent had indicated she did not want the student to attend summer school. It was determined that the IEP team did consider ESY services for the student. No corrective action was required.

The complainant further alleged that the district did not provide her with an informed notice of refusal regarding her request for ESY services, specifically summer school programming. She stated that at an IEP meeting she had requested that the student enroll in an American history class in summer school and was told that one-on-one assistance was not available for the student over the summer. District staff responded that they did not have a record of refusing any request of the parent, and hence had not provided a notice of refusal. It was determined that the complainant's request for the student to enroll in a summer class was refused by the IEP team and that she was not provided with an informed notice of refusal. As corrective action, the district was required to provide the complainant with informed notice of refusal any time the district refuses the parent's request to change the student's identification, evaluation, or placement. The district was further required to submit to the bureau a copy of such notice any time during the 1999-2000 school year that the complainant made such a request and it was refused.

Pinellas County School Board
Agency Order No. DOE-2000-559-FOF
July 13, 2000

The parent of a student with disabilities filed this complaint alleging that the district failed to implement her son's behavior intervention plan as described on his individual educational plan (IEP); failed to provide appropriate services to assist her son in attaining his IEP goals and objectives; failed to provide her son with educational and related services as indicated on his IEP; predetermined her son's placement before his IEP was developed; failed to complete an independent educational evaluation for her son at her request; failed to appropriately discipline her son and consider his disability in regard to disciplinary action taken; denied her access to her son's educational records; failed to consider her request for extended school year services; and failed to provide her son with the testing accommodations and classroom accommodations and modifications described on his IEP. 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 emotionally handicapped, speech and language impaired, and other health impaired, and who require occupational therapy. The student was enrolled in a middle school and then reassigned to an alternative school for committing battery on a school board employee.

In **issue 1**, the complainant alleged that the district did not implement the behavior intervention plan as indicated on his 1999-2000 IEP. The district submitted daily behavior charts, data summary sheets, and other documentation to show the plan was implemented. It was determined that the district did implement the behavior intervention plan. No corrective action was required.

In **issue 2**, the complainant alleged that the district did not help the student achieve his 1998-1999 IEP goals and objectives. The district provided documentation to show that services were provided; that the student was progressing toward his goals; and that the student was promoted to the next grade. It was determined that appropriate services were provided. No corrective action was required.

In **issue 3**, the complainant alleged that the district did not provide the student with educational and related services, including speech therapy, as indicated in his 1999-2000 IEP. The district provided documentation that services were provided as indicated on the student's IEP. The district also provided documentation of the student's absences and missed assignments during the 1999-2000 school year. It was determined that the student's excessive absences affected his progress and that he was provided the services listed on his IEP. No corrective action was required.

In **issue 4**, the complainant alleged that the district predetermined the student's 1999-2000 placement before development of his IEP. In response the district listed the dates of numerous preplanning and planning meetings held in the late spring and early summer of 1999. The district indicated that the student had been served in two exceptional student education

classes during the 1998-1999 school year and that at an August 23, 1999, IEP meeting the parent was provided with a “prior written notice of change of ESE services form” indicating the student’s placement would be changed so he would be served in all general education courses with therapy and consultative services. The team reconvened twice in the next two months and determined that the placement was appropriate. The complainant attended all three meetings. It was determined that the IEP team did not predetermine the student’s placement prior to the development of his IEP. No corrective action was required.

In **issue 5**, the complainant alleged that the district failed to provide an independent educational evaluation (IEE) she requested at district expense. In response, the district stated that it could not find any record of such a request or any district staff who recalled the request. It was not possible to determine whether the complainant made a request for an IEE. No corrective action was required.

In **issue 6**, the complainant alleged that the district failed to appropriately discipline the student and failed to consider his disability when he was reassigned to an alternative school in response to his battery of a staff member. On October 14, 1999, the student was suspended for 10 days in this incident with a recommendation he be assigned to an alternative school. The district submitted documentation that a manifestation determination meeting was held on October 21, at which the IEP was reviewed and the team determined that the behavior was a manifestation of the student’s disability, that his IEP was appropriate, and that supplementary aids and services were being provided, as were behavioral interventions. It was determined that a manifestation determination was made, that the student was appropriately disciplined, and that his disability was considered in regard to the disciplinary action taken. No corrective action was required.

In **issue 7**, the complainant alleged that school staff denied her access to her son’s educational records in a timely manner. The district responded that the mother had verbally requested copies of all his records in October 1999 and that the school was in the process of copying the records when the parent said she wanted to review the records first and then receive copies of selected documents. The district stated that the complainant had agreed to schedule appointments to review the records but had never done so. It was determined that the district did provide copies of the records free of charge to the complainant. No corrective action was required.

In **issue 8**, the complainant alleged that the district did not consider her request for extended school year (ESY) services. The district submitted documentation indicating that the IEP team recommended services in several areas and that services were provided during that summer. The district stated that the complainant requested summer camp and tutoring as ESY services and the team refused that request. The district provided the complainant an informed notice of refusal indicating the reason for the refusal. It was determined that the district did provide services during the summer of 1999. It was also determined that the notice did not include “sources for parents to contact to obtain assistance in understanding the provisions.” As corrective action, the district was required to submit to the bureau a copy of an informed notice of refusal to take action that included all required components. The district was also

required to provide the complainant with informed notices with required components, when appropriate, and to submit to the bureau copies of any such notices provided to the complainant during the 2000-2001 school year.

In **issue 9**, the complainant alleged that the student was not given the accommodations or modifications during classroom and testing situations described on his IEP. The district submitted documentation indicating that the student did receive accommodations such as extra time and reduced assignments, use of a note taker and assistance of an aide, and testing accommodations. It was determined that the district provided the student with the accommodations and modifications described on his IEP. No corrective action was required.

**Pinellas County School Board
Agency Order No. DOE-2000-595-FOF
November 9, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to consider the student's need for extended school year (ESY) services; failed to provide the parent with an informed notice of refusal in response to her request for ESY services; failed to consider evaluation data from all available sources when considering ESY services for the student; and failed to seek parental input before the individual educational plan (IEP) team's decision regarding the student's need for ESY services. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The student was five years old at the time of this inquiry and had been determined eligible for programs for students who are speech and language impaired.

The complainant alleged that the district did not consider the student's needs for ESY services. She stated that the district had not evaluated the student to support their claim that he would not regress during the summer and that she was told the prekindergarten speech program was being dropped altogether for the summer. A review of the IEP indicated that the section that referred to ESY services was completed and that the service was to be a home program with phone consultation with the speech-language therapist twice during the summer. The "consideration of Extended School Year" form indicated that the team felt the student would not regress with a two-week break but would regress during a 10-week break, and that the home program and phone conversations referred to above would ensure that the student received a free appropriate public education. It was determined that the IEP team did consider ESY services for the student. No corrective action was required.

The complainant alleged that the district did not provide her with informed notice of refusal when she requested her child receive twice-weekly itinerant speech therapy as an ESY service. The district submitted as documentation a copy of an informed notice form provided to the complainant and a letter from the district exceptional student education director to the complainant, both of which met the requirements of law. It was determined that the district

provided the complainant with a proper informed notice of refusal. No corrective action was required.

The complainant alleged that the IEP team did not consider data from a private evaluation in making the ESY determination. A review of the notes for the IEP meeting included the statement "Private evaluation showed similar results..." It was determined that the IEP team did consider the private evaluation. No corrective action was required.

The complainant alleged that the district did not seek parental input into the IEP team's ESY decision. A review of the conference notes for the three IEP meetings held during the period in question revealed that the complainant participated in the discussions regarding ESY services. It was determined that the complainant provided input into the IEP team's decision regarding ESY services. No corrective action was required.

**Seminole County School Board
Agency Order No. DOE-2000-567-FOF
August 11, 2000**

The parent of a student with disabilities filed this complaint alleging that the district failed to reevaluate the student in a timely manner, failed to develop an appropriate transition plan for the student, failed to provide the student and his parents with appropriate notice regarding changes to parent and student rights when the student attains the age of majority, and failed to include the student in statewide assessment by refusing to allow him to take the Florida Comprehensive Assessment Test (FCAT). 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 have specific learning disabilities and who are speech and language impaired. The complainant explained that the student's reevaluation was due by January 25, 2000, and that on January 20, 2000, he had requested a complete evaluation related to the student's future career and adult life activities. The complainant stated that as of March 9, 2000, the evaluation had not been scheduled nor had any meeting been scheduled to discuss the student's transition to adult life. The district responded that the student was reevaluated in February 2000 and that the parent had been invited to a meeting to discuss reevaluation and had given permission for reevaluation. It was determined that the district did not reevaluate the student in a timely manner; did not inform the parents of the reevaluation or obtain their written consent; and did not provide a reevaluation with the components requested by the parents, nor did it provide a notice of its refusal to do so. As corrective action, the district was required to conduct timely reevaluations of the student as required by law and when requested by the parents or teachers; to provide notice of reevaluation to the parents with all required components; and to provide the parents with informed notice if the district refuses to conduct a reevaluation that the parents have requested. The district was also required to provide to the bureau until the year in which the student gradu-

ates, copies of any reevaluation notices, reevaluation reports, and parental requests for reevaluation and district responses to those requests.

The complainant also alleged that the district failed to develop an appropriate transition plan for the student. In response the district provided a copy of the individual educational plan (IEP) completed in May 1999 that included an "IEP transition statement," an "IEP transition objective," and a "desired post-school outcome" statement. It was found that the invitation to the IEP meeting did not indicate that transition planning was a purpose of the meeting and that no representative from another agency attended the meeting. It was determined that the district failed to develop a transition plan for the student that met the requirements of Rule 6-6.03028, Florida Administrative Code. As corrective action, the district was required to hold an IEP meeting to discuss a transition plan for the student and to indicate in the invitation that the purpose of the meeting was to develop a transition plan. The district was required to invite representatives of other agencies to this meeting, as appropriate. The district was further required to send to the bureau a copy of this and all other IEPs developed for the student during the 2000-2001 school year.

The complainant further alleged that the district failed to provide appropriate notice to the parents and the student regarding the rights that would transfer to the student when he attains the age of majority. A review of the IEP developed on May 6, 1999, revealed that the IEP team did not explain these rights to student because he was not yet 17 years old at the time of that meeting. The district responded that the student and parents were given written notice of the transfer of rights soon after the student turned 17 in March, 2000. Federal law requires that the IEP include a statement regarding the transfer of rights beginning at least one year before the child reaches the age of majority (18 years in Florida). It was determined that the district failed to provide the student and his parents with appropriate notice at the IEP meeting regarding the transfer of rights. As corrective action, the district was required to explain the transfer of rights at the IEP meeting required in the corrective action described above.

Finally, the complainant alleged that the district refused to allow the student to take the FCAT because the school staff claimed the student was not "registered" at the school. The IEP developed on May 6, 1999, indicated the student would be in grade ten during school year 1999-2000 and would participate in the FCAT. The district informed the bureau that because of a lack of credits, the student was classified as a ninth grader at the beginning of the 1999-2000 school year and was later given the ninth-grade FCAT. It was determined that conflicting information was provided regarding the student's grade level, but that subsequent to the filing of this complaint the student was administered the ninth-grade FCAT. A corrective action was considered moot.

Volusia County School Board
Agency Order No. DOE-2000-599-FOF
December 1, 2000

The complainant, who is employed by a mental health agency in Volusia County, filed this complaint on behalf of 11 students, hereafter referred to as A.O., J.G.(1), J.G.(2), C.Y., M.L.(boy), P.O., L.P., M.L.(girl), G.B., A.H., and C.E. The bureau conducted an inquiry that included review of records, contact with the complainant and district staff, and an on-site visit.

Seven of the 11 students had been determined eligible for various special programs; four had been determined ineligible for special education and related services.

In **issue 1**, the complainant alleged that the district failed to provide A.O., J.G.(1), J.G.(2), C.Y., and M.L.(boy) with educational and related services, including implementation of the goals and objectives, transition planning, and accommodations in the regular classroom, as indicated on their individual educational plans (IEPs). A review of documentation submitted by the district lead to the following determinations: education services were provided as described on A.O.'s IEP; appropriate goals and objectives, based on A.O.'s, J.G.(1)'s, and C.Y.'s present levels of performance, were described in their IEPs; accommodations were provided for A.O. and J.G.(2) in the regular classroom as described on their IEPs; A.O. was on temporary assignment from May 1999 until January 2000 and three IEP reviews occurred for A.O. between those dates; transition plans were in place for A.O. and C.Y; C.Y's transition plan lacked a statement of needed transition services and interagency responsibilities and linkages; and educational and related services were provided to all five students as indicated on their IEPs. As corrective action, the district was required to ensure that students placed on temporary assignment upon arrival from out-of-state have their eligibility determined within six months. The Florida Department of Education was to review the Florida Education Finance Program surveys for 1999 to determine if A.O. was reported as an ESE student during those times and, if so, was to adjust the funds accordingly. The district was also required to convene an IEP meeting for C.Y. and develop a transition plan that contains all required components and submit a copy of that plan to the bureau.

In **issue 2**, the complainant alleged that the district failed to appropriately record and report the progress of J.G.(1) and C.Y. toward their IEP goals and objectives. It was found that while the students' parents were provided with progress reports as often as were the parents of nondisabled students, the reports did not indicate whether that progress was sufficient to enable the students to achieve their goals by the end of the year. As corrective action, the district was required to include in the students' progress reports the extent to which progress was sufficient to enable them to meet their IEP goals by the end of the year. The district was required to submit to the bureau copies of progress reports for the time period in question and the rest of the school year.

In **issue 3**, the complainant alleged that the district failed to provide an informed notice of proposal or refusal when refusing parents' requests or making a change in eligibility category. It was determined that the district did not provide documentation that the parent had received informed notice of this change of placement or that a comprehensive court-ordered evaluation had been completed. As corrective action, the district was required to ensure that M.L.'s parents are provided with appropriate notice any time it proposes or refuses to take an action regarding the student's identification, evaluation, or education placement. In the future, if the student is considered for formal evaluation or potential identification for an ESE program, the district must submit to the bureau evidence that the parents were provided informed notice. It was determined that C.Y.'s parent was apparently provided with informed notice of the proposal to reevaluate him, since the parent gave consent.

In **issue 4**, the complainant alleged that the district failed to invite the parents of A.O., P.O., and J.G.(1) to IEP meetings and failed to clearly indicate the purpose of the meetings on the invitation. It was found that the district provided the parents of all three students with written and telephone notices of IEP meetings; that the purposes of the meetings were indicated on the written notices; that when the parents asked that meetings be rescheduled, the district obliged; and that the parents attended each of their children's IEP meetings during the 1999-2000 school year. No corrective action was required.

In **issue 5**, the complainant alleged that the district failed to seek the participation of parents and a regular education teacher in the development of IEPs for A.O. and J.G.(1). It was found that a regular education teacher participated in the review and revision of A.O.'s IEP during a meeting held in January 2000. There was insufficient documentation to determine if a regular education teacher participated in the student's September IEP meeting. It was also determined that A.O.'s parent participated in the meetings. It was also found that a regular education teacher participated in two of three IEP meetings for J.G.(1). It was also determined that J.G.(1)'s parent participated in the meetings. No corrective action was required.

In **issue 6**, the complainant alleged that the district failed to provide the student records of A.O., M.L.(boy), and L.P. to the parents as they requested. It was determined that the parents made written requests via a district form for their children's educational records and that the records were provided, as evidenced by the parents' signatures on receipts. There was insufficient documentation to determine whether the records were provided to the parents within 45 days of their requests. It was recommended that the district implement additional strategies to ensure that educational records are provided to parents within 45 days and to document that the requests were granted within that time frame.

In **issue 7**, the complainant alleged that the district failed to appropriately identify students, including M.L.(boy), M.L.(girl), G.B., L.P., A.H., and C.E., who may be in need of ESE services. It was determined that the district conducted appropriately constituted eligibility determination staffings for M.L.(boy), M.L.(girl), L.P., and C.E. There was insufficient documentation to determine if A.H. was formally evaluated for the purpose of determining eligibility for an ESE program. There was also insufficient documentation to determine if the recommendation for a reevaluation for G.B. and the subsequent review of his past evalua-

tions occurred due to the child study team's consideration of G.B. as a potential exceptional student. No eligibility staffing occurred as a result of the evaluation; however, a 504 plan was developed. It was recommended that the district implement additional strategies to ensure that following a formal evaluation process for a student suspected of being disabled, an appropriately constituted eligibility staffing committee convenes to determine whether the student is eligible for an ESE program.

In **issue 8**, the complainant alleged that the district did not employ certified teachers to address the needs of C.Y. The complainant stated that C.Y.'s teacher was not certified to teach students with severe emotional disturbance. It was determined that C.Y. attended two school sites during the 1999-2000 school year, that his teacher of record at each site was a certified teacher appointed to serve out-of-field by the district, and that both teachers were participating in alternative add-on certification programs. It was determined that the district employed certified teachers to address C.Y.'s educational needs. No corrective action was required.



The New Department of
Education

Jim Horne, Commissioner

ESE 311288