

Agency Order and Bureau Resolution Summaries

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



January–June
2001

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

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Introduction

Following are summaries of Florida Department of Education Early Resolutions, Bureau Resolution determinations, and Commissioner's Orders entered from January through June 2001. These resolutions and orders were issued after inquiries were made by the Bureau of Instructional Support and Community Services in response to formal complaints filed with the bureau, pursuant to Subsection 300.600–300.662 of Title 34 of the Code of Federal Regulations. Complete copies of the resolutions and orders are available from the bureau.

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

Early Resolutions

Hendry County School Board Early Resolution Determination No. 2001-05 ER May 30, 2001

On April 10, 2001, the Bureau of Instructional Support and Community Services received a letter from the parent of a student with a disability. In her letter, the complainant alleged that the district had failed to respond to the parent's request for an individual educational plan (IEP) meeting.

Upon review of the issue and the information provided, the bureau determined that the procedures for early resolution would be appropriate. In keeping with the required procedures for early resolution, the parties met on May 14, 2001, and developed an agreement. The agreement stated that the district would provide a functional behavior assessment by district staff; an independent functional behavior assessment; a referral for reevaluation to include sensory screening, achievement testing, social history update, speech-language testing if needed, adaptive behavior assessment, functional behavior assessments, and a psychiatric evaluation, if recommended by the independent behavior analyst or by district staff; an IEP meeting to be scheduled as soon as possible after the completion of the evaluations requested, but no later than August 3, 2001; a written behavior plan, if recommended by the teacher, the independent behavior analyst, or the IEP team; and consideration of the

student's possible participation in the Florida Comprehensive Assessment Test (FCAT) by the IEP team. The bureau received a copy of the signed agreement on May 18, 2001.

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**Highlands County School Board
Early Resolution Determination No. 2001-04 ER
March 1, 2001**

On January 2, 2001, the Bureau of Instructional Support and Community Services received a letter from the parent of a student with disabilities. In her letter, the complainant alleged that the district had failed to evaluate her child in a timely manner upon being referred for a suspected disability; follow procedures as described in the Special Programs and Procedures for Exceptional Students document regarding the determination of her child's eligibility for an exceptional student education program at the December 19, 2000, individual educational plan (IEP) meeting; and determine that her child was no longer in need of speech and language therapy and inform the parent of the discontinuation of services.

On or about January 25, 2001, bureau staff contacted the district and the complainant to discuss the early resolution process. Both the district and the complainant agreed to explore the early resolution process. On February 22, 2001, the district submitted an early resolution agreement and the complainant withdrew the formal complaint.

In keeping with the required procedures for early resolution, the parties met and developed an agreement and a plan for the implementation of the terms of the agreement. Both parties confirmed to bureau staff that they were in agreement with the early resolution and that the issues in the formal complaint were resolved. The bureau received a copy of the signed agreement on February 22, 2001.

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**Lee County School Board
Early Resolution Determination No. 2001-03 ER
February 12, 2001**

On January 11, 2001, the Bureau of Instructional Support and Community Services received a formal complaint from the parent of a student with a disability alleging that the district had failed to provide the student with the services specified by his individual educational plan (IEP). Upon review of the issue and the information provided, the bureau determined that the procedures for early resolution would be appropriate. In keeping with the required procedures for early resolution, the parties met and developed an agreement. An early resolution agreement was signed by complainant on February 2, 2001, and by the district representative on February 6,

2001. The early resolution provided that an assistant be hired and given ongoing training. The agreement also stipulated that the door alarm issue was to be resolved.

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Bureau Resolutions

Charlotte County School Board Bureau Resolution Determination No. BISCS 2001-015-RES June 25, 2001

On March 7, 2001, the Bureau of Instructional Support and Community Services received a formal complaint from the parent of a student with a disability enrolled in a charter school designed for alternative learning and the arts. The complainant's son was determined to be eligible for the special program for students who are physically impaired, specifically for students who are other health impaired. The complainant's son began attending the charter school in September, 1999, with his current individual educational plan (IEP) being developed on September 15, 2000. In the letter of formal complaint, the parent alleged that the district had failed to implement his son's 2000-01 IEP.

The complainant alleged that the services and modifications described on his son's IEP were not provided. Records provided by both the complainant and the district indicated that the student's IEP for the 2000-01 school year was developed on September 15, 2000, with all but two of the services and one of the modifications being provided. The modifications and services described on the IEP that were not specifically implemented during the 2000-01 school year included counseling in conflict resolution, accommodations and modifications during class time, and a behavior contract and point sheet. The investigator concluded that the district did not provide the complainant's son with these services and modifications during the 2000-01 school year. As corrective action the district was required to ensure that all modifications and services stated on the student's IEP are provided as described. The district was ordered to submit to the bureau on a quarterly basis documentation that the student's IEP was being implemented.

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Citrus County School Board
Bureau Resolution Determination No. BISCS 2001-012-RES
May 16, 2001

This complaint was filed by the parent of a student with disabilities. In the spring of 2000, the complainant's son enrolled in the Citrus County Schools from out of state. An eligibility staffing individual educational plan (IEP) placement meeting was held on April 27, 2000, in which he was dismissed from the special program for students who are physically impaired and was determined to be eligible for the special program for students who are emotionally handicapped (EH). In her complaint the parent alleged that the district failed to address counseling as a related service for her son; inappropriately disciplined her son; failed to provide the special education and related services as prescribed by the student's individual educational plan (IEP); and failed to include the parent in the January 9, 2001, IEP meeting.

The complainant in the first issue alleged that the district failed to address counseling as a related service for her son. A review of the student's IEPs indicated that counseling was not addressed as a related service; however, the parents, in 1997 and 1998, were given several community resources to contact to obtain counseling. Documentation further indicated that on the behavioral plan attached to the April 27, 2000, IEP, one "Accommodation" stated, "Assist family with exploration of individual/family counseling within school or community." There was no documentation presented supporting that this had occurred. As corrective action the district was required to reconvene the IEP team, including the parent, to determine whether the student requires counseling as a related service in order for him to benefit from his special education services and to explore individual/family counseling as prescribed by the behavior plan attached to his IEP. The district was required to provide documentation to the bureau to verify compliance.

In the second issue the parent alleged that the district inappropriately disciplined her son. It was determined that there was no documentation to support the allegation that the complainant's son was inappropriately disciplined by receiving suspensions of more than ten days in either the 1999-2000, or 2000-01 school years. No corrective action required was required.

In issue three, the complainant alleged that the district failed to provide the special education and related services prescribed on the student's 2000-01 IEP. The investigation concluded that the district did not provide the services as prescribed by the student's IEP from October, 2000, to January, 2001. As corrective action the district was required to ensure that the complainant's son received all of the services prescribed in his IEP. In addition the district was required to verify that the student received the special education and related services as prescribed by his IEP for the 2000-01 school year.

In the final issue the parent alleged that the district failed to include the parent in the January 9, 2001, IEP meeting. Documentation indicated that the district scheduled an IEP meeting on January 9, 2001. On January 9, 2001, the parent notified the district that she would not be able to attend and indicated that she wanted to be present at the meeting. On the afternoon of January 9, 2001, the meeting was held without the parent present. At that time the complainant's son was determined to be eligible for the special program for students who are emotionally handicapped, and his placement was changed from a fully mainstreamed placement in regular education to a separate class placement in an exceptional student education (ESE) classroom. It was determined that the district failed to include the parent in the January 9, 2001, staffing/eligibility and IEP review meeting. As corrective action the district was required to ensure that the parent has the opportunity to participate in all of her son's IEP meetings, including having the opportunity to request that the meeting be rescheduled for a mutually agreeable time and place. The district was required to submit documentation to the bureau verifying compliance throughout the 2001-02 school year.

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Collier County School Board
Bureau Resolution Determination No. BISCs 2001-016-RES
June 29, 2001

This complaint was filed by the parent of a student with a disability. In an August 21, 2000, letter, the complainant requested that the two complaints that she had filed earlier be reactivated. These complaints, filed by the complainant on April 7, 2000, and May 18, 2000, had been placed in abeyance pending the outcome of an earlier complaint that was then being investigated by the bureau. In the April and May, 2000, complaint letters, the complainant alleged that the decision regarding the assignment of a paraprofessional to work with her son was made by district-level staff, rather than by the individual educational planning (IEP) team; the parent was not considered an equal participant in the development, review, and/or revisions of her son's IEPs; and the parent was not provided with an informed notice of refusal to schedule an IEP meeting to discuss the parent's issues.

It was determined that not all of the complaint issues sent to the bureau by the complainant were appropriate for resolution through the state complaint procedures. The complaint that began on August 21, 2000, was placed in abeyance while the bureau determined which, if any, complaint issues should be included in the August complaint and which were more appropriately referred to other agencies or were, in fact, not violations of law. On October 27, 2000, the complainant and district were informed that the bureau was adding an issue to the complaint inquiry, specifically whether the behavior specialist evaluated the complainant's son without the parent's consent.

Prior to this inquiry, the complainant's son was a student with a disability who had attended Pelican Marsh Elementary School in the Collier County School District. Subsequent to the August 21, 2000, filing of this complaint, the parent withdrew him from the school district and provided home-schooling.

In the first issue, the parent alleged that the decision to assign a paraprofessional to work with her son was made by the district-level staff, rather than by the IEP team. Documentation indicated that a severity paraprofessional was requested by the parent to assist her son in the classroom. Upon the parent's request, the IEP team initiated the district's procedures for assigning a severity paraprofessional. The procedures required an observation by district-level staff and required that an administrator from the district office with the authority to commit resources be present at the IEP meeting to determine whether or not the student should be assigned a severity paraprofessional. Documentation further recorded that the IEP team determined that a functional behavioral assessment (FBA) was necessary and obtained the parent's consent for the FBA on January 26, 2001. The data gathered from observations and the behavioral assessments during the spring of 2000 was not used by the IEP team due to the implied procedure that the school-level IEP team did not have the authority to make this decision but instead deferred to an administrator from the district office who had the authority to commit resources. As corrective action it was required, in the event that the complainant's son re-enters the district and the parent requests that he be assigned a severity paraprofessional, that the IEP team complete the procedures necessary to determine his need for the severity paraprofessional. Any parental request for such assistance was to be immediately forwarded to the bureau.

The district was also required to revise section three of its "Severity Paraprofessional Procedures" by deleting the phrase, "with the authority to commit resources." This revision was designed to bring the policy into conformance with Section 300.344(a)(4) of Title 34 of the Code of Federal Regulations. The revised procedure was to be submitted to the bureau as evidence of compliance.

In the following two issues the complainant alleged that the district failed to consider the parent as an equal participant in the development, review, and/or revisions of her son's IEPs and failed to provide her with an informed notice of refusal to schedule an IEP meeting to discuss the parent's issues. A review of the documentation provided by the district and the parent indicated that there were meetings held in the spring of 2000 to discuss issues related to the student's IEP. The parent was invited and attended the meetings and was given an opportunity to participate in the meetings. Records further indicated that the district scheduled a meeting on April 26, 2000, to discuss the complainant's concerns about her son's IEP. The district canceled this meeting. The district did not provide documentation to indicate whether the parent had been given a written notice of refusal when the school determined that it was canceling the April 26, 2000, IEP meeting scheduled to review the parent's concerns. As corrective action the district was required, in the event that the

student re-enters the district, to address the parent's concerns about the special education and related services to be provided to her son, and to schedule the IEP meeting in a timely manner and at a mutually agreeable time or to provide the parent with a written notice of refusal with all of the required components, explaining why the IEP meeting would not be scheduled. The district was required to submit documentation to the bureau to verify compliance.

In the final issue the complainant alleged that the district behavioral specialist evaluated the complainant's son without the parent's consent. A review of the documentation provided by the complainant and district indicated that on January 26, 2000, the parents signed a consent form for a functional behavioral assessment to be completed as a result of the complainant's request for a full-time severity paraprofessional to work with her son. Documentation indicated that on September 18, 2000, the behavioral specialist presented data based on classroom observations collected in response to the parent's request for a paraprofessional. It was concluded that the behavioral specialist had not conducted a formal evaluation of the complainant's son as alleged by the complainant. A corrective action was not required; however, it was recommended that in the event the student re-enters the district, if the IEP team recommends interventions or assessments by the behavioral specialist, the team put in writing the specific activities and/or involvement that the behavioral specialist will have with the complainant's son so that the parent will clearly understand such activities.

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Duval County School Board
Bureau Resolution Determination No. BISCs 2001-008-RES
April 18, 2001

This complaint was filed by the parent of a student who had been determined eligible for the special programs for students who are physically impaired for students who are speech and language impaired. The student required occupational therapy. In her letter, the parent alleged that the district failed to provide her son with a free appropriate public education (FAPE).

The bureau investigation indicated that the complainant's son had a temporary IEP developed on October 26, 2000, which was based on his IEP that was developed in another state. A district statement indicated that the district did not provide services for the complainant's son during the period of time between the eligibility staffing on October 26, 2000, and placement on January 23, 2001. It was determined that the complainant's son did not receive FAPE. As corrective action the district was required to reconvene the IEP team to determine a plan to provide compensatory services for the time that the district failed to provide the complainant's son with FAPE. The district was further required to submit to the bureau a copy of that plan and evidence that the plan has been implemented.

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Hernando County School Board
Bureau Resolution Determination No. BISCS 2001-004-RES
February 12, 2001

This complaint was filed by the parent of a student who had been determined eligible for the special program for students with specific learning disabilities and who participated in exceptional student education (ESE) programs for approximately 25% of the school week. The parent had written a letter of formal complaint to the United States Department of Education, Office of Special Education Programs. The correspondence was forwarded to the Florida Department of Education. In his letter, the complainant alleged that the district failed to ensure that his son's individual educational plan (IEP) was implemented during the 1999-2000 and 2000-01 school years; ensure that a regular education teacher participated in the development and implementation of his son's 1999-2000 and 2000-01 IEPs; and appropriately place his son in a classroom environment that assisted him in progressing through the general curriculum.

In the first issue the parent alleged that the district failed to ensure that his son's IEP was implemented during the 1999-2000 and 2000-01 school years. A review of the records indicated that the complainant's son was receiving ESE services, modifications, and accommodations as described on his 1999-2000 and 2000-01 IEPs; however, there were no goals and objectives developed specifically for his general education curriculum. Based on a review of the complainant's son's report card grades for the 1999-2000 school year and the first nine weeks of the 2000-01 school year, he did not progress in the general education curriculum. Documentation did indicate, however, that the district made a good faith effort to assist the complainant's son to achieve the goals and objectives listed on his IEP. As corrective action, the district was required to ensure that the complainant's son has access to services that would enable him to progress through the general curriculum and toward his goals and objectives as described on his IEP. The district was ordered to reconvene an IEP meeting and review the student's educational services, goals, and objectives to determine if the IEP was appropriate to assist him in progressing through the general curriculum.

In the second issue the parent alleged that the district failed to ensure that the regular education teacher participated in the development and implementation of the student's 1999-2000 and 2000-01 IEPs. Records indicated that the 1999-2000 IEP meeting included two of the student's regular education teachers and one ESE teacher and that the 2000-01 school year IEP meeting included one of his regular education teachers and one ESE teacher. Documentation also indicated that the student's teachers participated in parent conferences that occurred throughout the 1999-2000 and 2000-01 school years regarding his academic progress. It was concluded by the bureau's investigation that the complainant's son's teachers made good faith efforts to implement the IEP during the 1999-2000 and 2000-01 school years. No corrective action was required; however, it was recommended that the

district ensure that all of the student's teachers, exceptional and general education teachers alike, provide information regarding his current academic and behavioral levels of performance for use in the IEP development process.

In the final issue the parent alleged that the district failed to ensure that his son was appropriately placed in a classroom environment that assisted him in progressing through the general curriculum. Records indicated that the complainant's son was enrolled in all general education classes during the 1999-2000 and 2000-01 school years and that he received special education services by participating in two general education classes taught by ESE teachers. A review of the evidence showed that the complainant's son was receiving special education services in the educational placement described on his IEPs for the 1999-2000 and 2000-01 school years. Corrective action requirements were referred to issue number 1.

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**Hillsborough County School Board
Bureau Resolution Determination No. BISCS 2001-002-RES
January 26, 2001**

The Bureau of Instructional Support and Community Services received a complaint on October 27, 2000, from the parent of a student determined eligible for the special program for students who are emotionally handicapped. The complainant alleged that the district failed to implement the student's individual educational plan (IEP) for the 2000-01 school year as written and to provide the student with appropriate instruction from qualified staff in the settings specified on the IEP.

Documentation indicated that the student's IEP specified exceptional student education (ESE) services to be provided in a self-contained varying exceptionalities (VE) classroom with the related services of a one-on-one aide. A review of the documentation indicated that the one-on-one aide was at times assigned as a substitute teacher. When the one-on-one aid was assigned as a substitute the student attended the class to which the aide was assigned. The bureau concluded that the student did not receive ESE services in the settings described by the IEP nor receive instruction from a qualified teacher when the student attended the class being taught by the aide. As corrective action, the district was ordered to provide compensatory services for the student relative to the services described on her IEP that she did not receive at the beginning of the 2000-01 school year. The district was required to submit documentation to the bureau to verify that the services had been delivered.

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Indian River County School Board
Bureau Resolution Determination No. BISCS 2001-003-RES
February 14, 2001

This formal complaint was received from the parent of a student who had been determined eligible for special programs for students who are mentally handicapped and who are speech and language impaired. The student also required occupational therapy (OT). In his letter of complaint the parent alleged that the district failed to provide him the opportunity to add information to the contents of his son's individual educational plan (IEP); provide him with the opportunity to participate in the review and development of his son's IEP dated September 25, 2000; provide adequate and timely staff training opportunities regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, and specifically the implementation of his son's IEP; schedule an IEP meeting for his son as requested by the parent in a timely manner; provide the parents with progress reports that include all of the required components as often as such are provided to parents of general education students, and as described on his son's 2000-01 IEP; and implement his son's IEP for the 2000-01 school year, specifically providing the "Yes, I Can Program" as stated on the IEP.

In the first issue the complainant alleged that the district failed to provide him with the opportunity to add information to the content of his son's IEP. Documentation indicated that on September 25, 2000, the father requested information be placed in his son's educational record. The district responded on October 2, 2000, allowing the request. Corrective action was not required.

In the second issue, the complainant alleged that the district failed to provide him with the opportunity to participate in the review and development of his son's IEP, dated September 25, 2000. A review of the records indicated that an IEP meeting occurred on September 25, 2000, with both parents in attendance; however, neither parent's signature appeared on the IEP form or conference notes indicating their participation. Documentation also indicated that the parent made a request of the IEP team that the team deferred to the director of exceptional student education. Following the action taken by the director, the team forwarded the copy of the IEP to the parent on September 27, 2000. The investigation indicated that there was insufficient information to determine whether the complainant was denied an opportunity to be a full participant in the IEP development process. The bureau resolution determination did not require corrective actions; however, it recommended that the district ensure that the IEP team clearly communicates to the parents the procedures that will be followed regarding the close and ending of an IEP meeting.

In the third issue the complainant alleged that the district failed to provide adequate and timely staff training opportunities regarding the implementation of IDEA, Part B, and specifically the implementation of his son's IEP. Documents indicated that the complainant requested the district require instructional staff to attend training

outside work hours. The district refused this request; however, instructional staff from the son's school attended the training suggested by the parent. A further review of the records showed that the district staff met with instructional staff to assist in the implementation of the modifications. The investigation indicated that the staff-development activities and consultation were available for instructional staff; however, activities were not in place during the fall to implement the modifications described on the son's IEP. As corrective action the district was required to ensure that the modifications described on the IEP are fully implemented in the classroom setting. In addition, the district was also required to ensure that instructional staff received the required support to implement the modifications as described on the IEP.

In issue four the complainant alleged that the district failed to schedule an IEP meeting for his son when requested by the parent. Records indicated that the parent requested the district to schedule an IEP meeting prior to November 6, 2000. The district submitted evidence indicating that an IEP for the child was completed on September 25, 2000, and at the time of the request for another meeting district staff did not feel that subsequent meetings were necessary. However, the district did not provide the parent with an informed notice of refusal. As corrective action the district was required to respond to the complainant in a timely manner with a written informed notice of refusal when denying his requests, stating the reasons why the request would be denied. The informed notice of refusal was to be provided to the complainant any time the district refused a request relating to the identification, evaluation, or educational placement of or the provision of free appropriate public education (FAPE) to his son. For the remainder of the 2000-01 school year and throughout the 2001-02 school year, the district was to verify compliance by submitting to the bureau a copy of the action taken.

The complainant alleged in the fifth issue that the district failed to provide him with progress reports, including all of the required components, as often as parents of general education students, and as described on his son's 2000-01 IEP. A review of the records indicated that general education students received report cards for the first quarter of the 2000-01 school year on November 6, 2000; however, the complainant did not receive his son's progress report until November 30, 2000. Documentation further indicated that the complainant received weekly reports regarding his son's progress on October 6, 12, 20, and 27, 2000. The investigation concluded that the parent received progress reports for his son, but did not receive the first quarter reports in a timely manner. No corrective actions were required; however, it was recommended that the district provide the parent with quarterly progress reports at the same time that the district provides progress reports to parents of students who do not have a disability.

In the final issue, the complainant alleged that the district failed to implement his son's IEP for the 2000-01 school year, specifically providing the "Yes I Can Program" as stated on his IEP. A review of the student's IEP indicated the goal of implement-

ing the "Yes I Can Program" was to be on a weekly basis; however, additional documentation indicated that the program was not implemented due to the lack of available instructional staff and lack of student interest. As corrective action the district was to ensure that the goals and objectives stated on the IEP are implemented as described. If the described goals and objectives cannot be implemented, the IEP team was to reconvene and determine other strategies that would assist complainant's son in achieving the goals stated on his IEP. The district was required to submit to the bureau documentation demonstrating the implementation of the IEP.

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**Indian River County School Board
Bureau Resolution Determination No. BISCS 2001-005-RES
February 14, 2001**

On November 13, 2000, the Bureau of Instructional Support and Community Services received a formal complaint from the parent of a student who had been determined eligible for the special program for students who are speech and language impaired and was being served in a prekindergarten speech/language classroom for one hour per day, five days a week. The parent subsequently withdrew her son from the district. In her letter of formal complaint, the parent alleged that the district had failed to provide her son with a free appropriate public education (FAPE).

As a result of the investigation it was determined that the parent believed that the district's speech pathologist had used "inappropriate discipline/excessive physical force" with her son and, therefore, the parent requested a change in her son's schedule. The district, at the IEP meeting dated October 19, 2000, reported that the change in the student's schedule was due to the child's "behavior problems." The district did not provide documentation that indicated that procedures such as referrals, conferences, observations, or behavioral assessments had occurred prior to conducting a meeting to discuss the child's behavioral problems. On January 11, 2001, the district and the parent met in mediation and as a result agreed to investigate the complainant's allegations of the use of "inappropriate discipline/excessive physical force" by the speech pathologist; however, the parent had since withdrawn her son from the district's school system. As corrective action the district was required to ensure that if the complainant's son re-entered the district's schools, the district was to follow district and state procedures for behavioral and/or discipline referrals if the complainant's son exhibited behavioral problems. In addition it was recommended that if the complainant's son re-enters the district's schools, the IEP team, including the parent, specify in his IEP any classroom management techniques or classroom discipline procedures that may applied.

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**Lee County School Board
Bureau Resolution Determination No. BISCs 2001-001-RES
January 26, 2001**

On October 23, 2000, the Bureau of Instructional Support and Community Services received a formal complaint from the parent of a student with disabilities who had been determined eligible for the special program for children three through five years old who are developmentally delayed and the special program for students who are speech and language impaired. The student also required occupational and physical therapies. The parent in her complaint alleged that the school had inappropriately disciplined her child and had held an individual educational plan (IEP) meeting without inviting the parent.

In the first issue the complainant alleged that the school had inappropriately disciplined the student. Documentation indicated that the IEP team decided to discontinue the October 5, 2000, IEP meeting to allow for a functional behavior analysis to be completed and to gather more information on the student. The IEP team reconvened on November 8, 2000, and concluded that the student had no inappropriate behaviors of serious concerns; however, behavioral goals were incorporated into the student's IEP. It was concluded that the student was not inappropriately disciplined; however, the district was required, as corrective action, to continue to monitor the student's behavior.

In the second issue the complainant alleged that the district held an IEP meeting without inviting the parent. Documentation provided by the district indicated that an oversight had occurred and that, as a result, the October 10, 2000, IEP meeting was discontinued and reconvened on November 8, 2000. It was concluded that the parent was not invited to attend the October 10, 2000, IEP meeting to determine the student's eligibility and placement; however, records showed that the parent was invited and participated in the November 8, 2000, meeting. As corrective action the district was required to ensure that the parent participate in all of her son's IEP meetings.

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**Miami-Dade County School Board
Bureau Resolution Determination No. BISCs 2001-009-RES
April 20, 2001**

This complaint was filed by a parent advocate on behalf of the parent of a student who had been determined to be eligible for the special program for students who are other health impaired. The complainant alleged that the district failed to follow appropriate procedures, including consideration of evaluations, assessments, and other relevant information, to determine whether the student was eligible for the special program for students who are speech and language impaired; consider the

related service of bus transportation at the January 8, 2001, individual educational plan (IEP) meeting; provide the parent with an informed notice of refusal when a request was made regarding the provision of the related service of transportation; include in the IEP developed on January 8, 2001, appropriate measurable goals with objective evaluation criteria that would accurately describe the amount of progress that the student was expected to make within specified segments of the year; consider, during the IEP meeting on January 8, 2001, the assistive technology recommendations made in the student's assistive technology evaluation report dated December 13, 2000.

In the first issue, the complainant alleged that the district failed to follow appropriate procedures, including consideration of evaluations, assessments, and other relevant information, to determine whether the student was eligible for the special program for students who are speech and language impaired. A review of the documentation indicated that an eligibility determination meeting was held on January 8, 2001, which found the student eligible for the program for students with other health impairments. Documentation further indicated the IEP team requested consent from the complainant to do further testing in the area of speech/language. It was determined that the district followed the appropriate procedures to determine the student's eligibility. No corrective action was required.

In the second issue the complainant alleged that the district failed to consider the related service of bus transportation at the January 8, 2001, IEP meeting and did not provide the parent with an informed notice of refusal when a request was made regarding the provision of the related service of transportation. Documentation submitted indicated that the parent requested and was granted an administrative assignment of her son to attend Charles Hadley Elementary School. The complainant argued that the lack of transportation was causing a hardship on the parent; however, it was the district's policy that parents provide transportation when a student is administratively assigned. The IEP team concluded that the student did not require specialized transportation and indicated so on his January 8, 2001, IEP. In addition the parent was provided an Informed Notice of Proposal or Refusal to Take a Specific Action. It was concluded that the IEP team meeting held on January 8, 2001, appropriately considered the need for transportation and determined that it was not needed in order for the student to benefit from special services. No corrective action was required.

In issue three, the complainant alleged that the district failed to include in the January 8, 2001, IEP appropriate measurable goals with objective evaluation criteria that would accurately describe the amount of progress that the student was expected to make within specified segments of the year. Records indicated that the IEP developed on January 8, 2001, included appropriate measurable goals and benchmarks with objective evaluation criteria and specified progress reports. Records further indicated that the parent requested a different method to develop her son's goals and short-term objectives; however, the district informed the parent that the re-

requested method was no longer used. The district did not provide the parent with an informed notice of refusal. As corrective action the district was required to provide the complainant with the appropriate form when the complainant makes a request regarding the identification, evaluation, or educational placement of, or the provision of FAPE to, the student and the district does not grant the request. A copy of any such notices was to be forwarded to the bureau to verify compliance with the bureau resolution determination.

In the final issue the complainant alleged that the district failed to consider, during the IEP meeting on January 8, 2001, the assistive technology recommendations made in the evaluation report dated December 13, 2000. Documentation indicated an assistive technology evaluation was completed on December 13, 2000, suggesting that the student did not have a need for specific technology or software. A review of the records further indicated that the assistive technology specialist attended the IEP meeting on January 8, 2001, and that the IEP team discussed the assistive technology needs of the student. No corrective action was required.

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Miami-Dade County School Board
Bureau Resolution Determination No. BISCS 2001-010-RES
April 25, 2001

On February 1, 2001, the bureau received a letter from a parent advocate representing the parents of a student with disabilities. The student had been determined eligible for the special program for students who are other health impaired and speech and language impaired. The student also required occupational therapy. On January 29, 2001, an IEP meeting was held to change the child's placement from a regular kindergarten class at Fescell Elementary School to a self-contained severely emotionally disturbed (SED) program at Palmetto Elementary School. The student began a home-schooled program following the January 29, 2001, IEP meeting.

The parent advocate made three specific allegations against the district: that the individual educational plan (IEP) meeting scheduled by the district for January 29, 2001, was held in violation of federal and state law; that the district changed the child's educational placement in violation of federal and state law; and that the district failed to provide the parents with a legible copy of the procedural safeguards in their native language.

In this issue the parent advocate alleged that the district scheduled and held an IEP meeting on January 29, 2001, in violation of federal and state law. Documentation provided by the district indicated that an IEP meeting was scheduled for the student on January 29, 2001, with the parents being notified on January 25, 2001. On January 26, 2001, the parents notified the district that they were unable to attend and requested the meeting to be rescheduled. However, because the district believed the

student to be a danger to other students and school personnel, the January 29, 2001, IEP meeting was held without the parents. It was determined that the parents did not receive the notice of meeting a reasonable time prior to the meeting and, therefore, were not given the opportunity to attend it. As corrective action the district was required to schedule an IEP meeting for the student. The district was required to provide the parents with a notice of this meeting early enough to ensure that they will have an opportunity to attend the meeting. At the meeting, the parents were to be given an opportunity to be participants in the discussion of their child's educational needs and the determination of an appropriate educational placement for her. The district was to verify compliance by providing the bureau a copy of the IEP and any resultant conference notes.

In the second issue the advocate alleged that the district changed the student's educational placement in violation of federal and state law. A review of the records indicated that the IEP team met on January 29, 2001, and determined that the student's educational placement was to be changed from a regular kindergarten classroom to a self-contained SED classroom. The records show that the parents did not participate in the decision to change their daughter's placement. The parents were provided with a prior written notice of the change; however, they were not given the prior notice in a reasonable amount of time before the district changed the educational placement. As corrective action the district was required to provide the parents within a reasonable time any prior written notice as required by federal and state law. A copy of any such prior written notice was to be submitted to the bureau as evidence of compliance.

In the final issue the advocate alleged that the district failed to provide the parents with a legible copy of the procedural safeguards in their native language. A review of a copy of the Spanish procedural safeguards provided to the bureau by the complainant showed that it was somewhat unclear, but was legible. Corrective actions were not required for this issue.

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Miami-Dade County School Board
Bureau Resolution Determination No. BISCS 2001-013-RES
May 30, 2001

This complaint was filed by a parent advocate on behalf of the parents of a student who had been determined eligible for the special program for students who are autistic. The complainant in her letter to the bureau alleged that the district failed to appropriately follow procedures, including consideration of evaluations, assessments, and other relevant information, to determine whether the student was eligible or ineligible for the special programs for students who are speech and language impaired.

Documentation indicated that the child received direct services in the special program for students who are speech and language impaired from November 12, 1991, until May 19, 1995, at which time he was dismissed from the program for speech and language impaired. However, he continued to remain eligible for the program for students who are autistic. The student was reevaluated on April 7, 1997, and again on November 30, 2000, to assess his abilities in the area of speech and language. Based on the evaluation reports, the IEP team determined that the student did not meet the eligibility criteria for special programs for students who are speech and language impaired. On January 16, 2001, the district agreed to provide an independent educational evaluation for the student. As corrective action the district was required to appropriately convene an eligibility determination meeting and determine the student's eligibility for the special program for students who are speech and language impaired. The team must consider whether he no longer meets the dismissal criteria for the program for speech and language impaired. The documentation that such an eligibility meeting occurred was to be submitted to the bureau.

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**Okaloosa County School Board
Bureau Resolution Determination No. BISCs 2001-007-RES
April 6, 2001**

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are autistic and speech and language impaired. The student also required occupational therapy (OT). The parent alleged that the district failed to provide his son with the OT services described on his 2000-01 school year individual educational plan (IEP); provide the parent with an informed notice when the district discontinued the OT services as described on the IEP; and provide the student with speech and language therapy as described on the IEP for the 2000-01 school year.

The parent alleged that the district failed to provide his son with the OT services described on his 2000-01 school year IEP. A review of the documentation indicated that the student was to receive OT services on a weekly basis in the regular classroom and the exceptional student education (ESE) classroom as described on the IEP. There was insufficient evidence to indicate the provision of these services from August, 2000, through December, 2000. As corrective action the district was required to ensure that the services stated on the student's IEP are provided as described and to develop a plan with the complainant that determined the need and extent of compensatory OT services for the student. The district was to submit to the bureau verification that a plan had been developed and the services had been provided.

The parent also alleged that the district failed to provide the parents with an informed notice when the district discontinued the OT services as described on the IEP. Documentation indicated that in October 2000, the occupational therapist who

had been providing OT resigned. The district submitted a letter, which was provided to the parents and interested parties, stating that the OT services had been temporarily discontinued until a licensed occupational therapist filled the position. The parent was not provided with an informed notice when the district initiated a change in the student's OT services. As corrective action the district was to provide the parents with an informed notice any time that the district proposes or refuses to change the educational services of their son. The district was required to verify compliance by providing the bureau a copy of the informed notice through the 2001-02 school year if the district proposes or refuses to initiate a change in the student's educational services.

The parent further alleged that the district failed to provide his son with speech and language therapy as described on his IEP for the 2000-01 school year. A review of the student's 2000-01 school year IEP indicated that speech and language services were to be provided three times per week through group instruction and one-on-one setting. A review of the speech and therapy logs indicated that the student received speech and language services three times per week from August 21, 2000, through December 10, 2000. Records further indicated that the complainant withdrew his son from school the week of December 11, 2000, and home-schooled him. On January 11, 2001, an IEP meeting was held and the speech and language services were resumed three times per week as originally described. It was determined that the complainant's son received the speech and language services as described on his IEP. No corrective action was required.

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**Orange County School Board
Bureau Resolution Determination No. BISCS 2001-006-RES
March 30, 2001**

The Bureau of Instructional Support and Community Services received a formal complaint from the parent of a student who had been determined eligible for special programs for students who are physically impaired and who are speech and language impaired. The student also required physical therapy and occupational therapy. The complainant's son used a Dynavox, an augmentative communication device, during his educational day. The complainant alleged that the district failed to appropriately implement her son's individual educational plan (IEP), specifically the use of the Dynavox, and failed to provide adequate and timely staff training opportunities regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, specifically the implementation of the student's IEP.

The parent alleged that the district failed to implement her son's IEP, specifically the use of the Dynavox. Documentation indicated that the student's IEP, developed April 5, 2000, described the use of assistive/augmentative technology, specifically the Dynavox. Documentation further indicated that the Dynavox was used during

the day; however, information was inconsistent in describing the regularly scheduled usage of the device and the support provided by school district personnel. Bureau investigators concluded that there was insufficient information to determine whether the student's IEP was appropriately implemented, specifically the use of the Dynavox. As corrective action the district was required to ensure that all aspects of the complainant's son's IEP are implemented as described. The district was further required to provide the bureau with documentation verifying the implementation of the IEP as described.

The parent also alleged that the district failed to provide adequate and timely staff training opportunities regarding the implementation of IDEA, Part B, specifically the implementation of the son's IEP. The district provided evidence that training for staff was provided through school board policies and procedures. In addition, records indicated that five exceptional student education (ESE) teachers participated in two separate training sessions pertaining to the use of the Dynavox and specifically its use with the complainant's son. It was determined that staff training opportunities were provided. No corrective action was required; however, it was recommended that all staff who are responsible for the implementation of the student's IEP be adequately trained in the use of the Dynavox.

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**Orange County School Board
Bureau Resolution Determination No. BISCS 2001-014-RES
June 18, 2001**

This complaint was filed by the parent of a student with a disability. On April 13, 2000, the complainant's son was temporarily assigned to the special programs for students who are autistic and speech and language impaired. The student also required physical and occupational therapies. His temporary placement was based on a prior out-of-state individual educational plan (IEP). On December 10, 2000, the complainant informed the district that her son would be moving from the district. In the complaint, the parent alleged that the district failed to provide her with the opportunity to participate in the IEP meeting held on April 13, 2000, to discuss services for her son for the 2000-01 school year; implement the IEP developed on April 13, 2000, for her son at the beginning of the 2000-01 school year; appropriately convene an eligibility staffing and IEP development meeting to determine her son's eligibility to receive special educational services; and provide the complainant with an informed notice prior to a change in her son's education services that occurred in the beginning of the 2000-01 school year.

In the first issue the complainant alleged that the district failed to provide her with the opportunity to participate in the IEP meeting held on April 13, 2000, to discuss services for her son for the 2000-01 school year. A review of the documentation indicated that the student's temporary IEP for the 1999-2000 school year was devel-

oped on April 13, 2000, with the parent's signature appearing on the notification letter, the IEP, and the IEP team notes. Sometime after April 13, 2000, the April 13, 2000, IEP was altered to reflect services for the 2000-01 school year. Evidence further indicated that the complainant did not receive a notification specifying an IEP meeting nor did the complainant sign the IEP that was developed for her son for the 2000-01 school year. It was concluded that the complainant did not participate in the development of her son's IEP for the 2000-01 school year. In the event that the complainant's son returns to the district the district was required, as corrective action, to ensure that one or both of the parents are present at each IEP meeting, and are afforded an opportunity to participate in such meetings. Throughout the 2001-02 school year, the district was also required to submit documentation to the bureau verifying compliance.

In the next issue the complainant alleged that the district failed to implement the IEP developed on April 13, 2000, at the beginning of the 2000-01 school year. An examination of the student's records indicated that the IEP developed on April 13, 2000, for the 1999-2000 school year specified that occupational therapy (OT) and physical therapy (PT) services for the complainant's son would begin on April 14, 2000, and have a frequency of 30 to 45 minutes per week; however, beginning on August 14, 2000, he was receiving OT and PT services at a frequency of one time per month in accordance with the 2000-01 IEP. The investigation ascertained that the complainant's son did not receive the services described on the original IEP developed April 13, 2000, that included the participation of his parent. As corrective action, the district was required, in the event that the student returns to the district, to meet with the complainant for the purpose of discussing a plan to provide compensatory services for her son relative to the OT and PT therapies described on his IEP that he did not receive at the beginning of the 2000-01 school year. The district was to submit the plan to the bureau and, through the 2001-02 school year, the district was to submit appropriate documentation to the bureau that established that the services required by the plan were provided.

In issue three the complainant alleged that the district failed to appropriately convene an eligibility staffing and IEP development meeting to determine her son's eligibility to receive special educational services. Documentation indicated that the complainant's son was temporarily assigned on April 13, 2000, with the IEP team meeting again on November 13, 2000, to determine the student eligible for exceptional student education. Records further indicated that at the same meeting, November 13, 2000, the team reviewed and revised the IEP, and permanently assigned the complainant's son to a special program for students with disabilities. The investigation determined that the district appropriately convened an eligibility staffing and an IEP team review for the complainant's son. A corrective action was not required for this issue.

In the final issue, the complainant alleged that the district failed to provide the complainant with an informed notice prior to a change in her son's education ser-

vices that occurred in the beginning of the 2000-01 school year. An inspection of the records indicated that the student's IEP developed on April 13, 2000, with parent participation, was not implemented at the beginning of the 2000-01 school year. It was determined that the parent was not provided with an informed notice of the change of services at the beginning of the 2001-01 school year. As corrective action, in the event that the complainant's son returns to the district, the district was required to provide the parents with appropriate informed written notice of any proposal or refusal to take action by the IEP team regarding her son's identification, evaluation, or educational placement. The district was required to provide documentation to the bureau to verify compliance throughout the 2001-02 school year.

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**Pinellas County School Board
Bureau Resolution Determination No. BISCS 2001-011-RES
May 9, 2001**

This complaint was filed by the parent of a student with disabilities who had been determined eligible for special programs for students who are severely emotionally handicapped and who are speech and language impaired. The student also required occupational therapy. The complainant alleged that the district failed to provide his son with educational services in the least restrictive environment as determined by his individual educational plan (IEP) team and provide adequate and timely staff training regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, and, specifically, the implementation of his son's IEP in the area of behavior management.

The parent alleged, in this issue, that the district failed to provide his son with educational services in the least restrictive environment as determined by his IEP team. Documentation indicated that six IEP meetings occurred during the 1999-2000 and 2000-01 school years. At each meeting, the records indicated, the IEP team made decisions regarding the student's educational placement in the least restrictive environment. The parent requested that his son receive his special education services in a residential setting; the district refused and provided the parent with an informed notice of refusal to take a specific action. The IEP team determined that given the student's individual educational needs, as described on his IEP, the most appropriate placement was a separate school. It was determined that the complainant's son was provided with educational services in the least restrictive environment. No corrective action was required.

The parent further alleged that the district failed to provide adequate and timely staff training regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, and, specifically, the implementation of his son's IEP in the area of behavior management. Records indicated that the student's IEP had stated goals and objectives in the social and emotional, independent functioning,

and language domain, that addressed behavioral concerns. Records further indicated that training was provided to all ESE teachers during the 2000-01 school year regarding the implementation of IDEA, with specific training being provided in the area of functional behavioral assessment and behavior intervention plans. Crisis Intervention Institute (CPI) training was also provided. It was determined that adequate and timely staff training opportunities regarding the implementation of IDEA and, specifically, the implementation of the student's IEP in the area of behavior management were provided. No corrective action was required.

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Commissioner's Orders

Alachua County School Board
Agency Case No. DOE 2001-624-FOF
February 15, 2001

The parent of a student with a disability originally filed this complaint with the United States Department of Education alleging that the district failed to provide educational services to her son. The issues relating to the education of students with disabilities were forwarded to the Office of Special Education Programs, who in turn forwarded the issues to the Florida Department of Education. Specifically, the complainant alleged that the district failed to appropriately expend state and federal funds for exceptional student education (ESE); appropriately develop her son's individual educational plan (IEP) for the 1999-2000 school year, to include current levels of performance and appropriate goals and short-term objectives; provide transition services as described on his IEP; explain and discuss all diploma options with her and her son; provide an opportunity for full parental participation in IEP meetings; consider behavioral interventions when developing her son's IEPs; provide the parent with an invitation to the IEP meetings with all the required components and schedule the meetings at a mutually agreeable time; provide the parent with the opportunity to review her son's educational record; and provide the parent with progress reports as often as such reports were provided to parents of general education students.

The child was a middle-school student who had been determined eligible for the special program for students with specific learning disabilities. The bureau conducted an inquiry that included review of records and contact with the complainant and district staff.

The complainant alleged that the district did not expend federal and state funds appropriately; however, a review of cost reports regarding ESE programs for the 1997-98 and 1998-99 school years indicated that the district had exceeded the re-

quirement to expend 80% of the state funds generated through the FEFP in the ESE program and all federal funds as appropriated. It was determined that the district expended state and federal funds in an appropriate manner for students with disabilities.

The parent further alleged that the district failed to appropriately develop her son's 1999-2000 school year IEP to include current levels of performance and appropriate goals and short-term objectives. A review of the student's IEP developed for the 1999-2000 school year indicated that it contained current levels of performance that reflected the student's evaluation data. The measurable goals and objectives addressed the student's needs and appeared to relate to the stated levels of performance. The investigation concluded that the student's IEP for the 1999-2000 school year was appropriately developed.

In the third issue the parent alleged that the district failed to provide transition services for her son as was described on his IEP. Documentation indicated that the district completed a transition IEP for the student on September 13, 1999, that included a statement of transition services needs. The student was age 13 at the time of the meeting, therefore, neither federal nor state legal provisions specifically addressed this issue.

The parent, in issue four, alleged that the district failed to explain and discuss all diploma options with her and her son. Records indicated that the student was pursuing a standard diploma. The parents acknowledged that the diploma options were discussed with them by their signature on the Exceptional Student Education Diploma Option form that was completed on September 28, 1999. The findings indicated that the district explained and discussed all diploma options with the student's parents.

In issue five the parent alleged that the district failed to provide an opportunity for full parental participation in the IEP meeting. A review of the documentation indicated that both parents signed as participants on their son's September 28, 1999, and April 26, 2000, IEPs. In addition, records showed parental participation in the present level of educational performance section on both IEPs. Both parents' signatures were noted on the IEPs that indicated they participated in the conferences held on February 29, 2000, March 22, 2000, September 1, 2000, and September 29, 2000. Meeting notes also indicated their participation. It was determined that the district provided the parents with the opportunity to participate in their son's IEP meetings during the 1999-2000 and 2000-01 school years.

In this issue the parent alleged that the district failed to consider behavioral interventions when developing her son's IEPs. Evidence indicated that the parent requested a behavior plan for her son during the September 28, 1999, IEP meeting. A review of the IEP indicated that behavior strategies were incorporated into the goals and objectives. The behavior goals were further addressed during the February 29,

2000, and March 22, 2000, IEP meetings. Records for the 1999-2000 school year indicated that following the implementation of the behavior plan the student received no further suspensions. It was determined that behavioral interventions were developed and implemented during the 1999-2000 school year.

In issue seven, the complainant alleged that the district failed to provide the parents with an invitation to the IEP meetings with all the required components and to schedule the meetings at a mutually agreeable time. There were six documented IEP meetings for the complainant's son during the 1999-2000 school year. Records indicated that the parents were invited to each of these meetings. A review of the notices determined that they contained the required components, including the purpose of the meeting, the time and the place, and the persons by name and title invited to participate in the meetings. Documentation indicated that on two occasions the parents requested a change in the meeting time to which the district agreed. It was determined that the parents were invited to all meetings, and the meetings were scheduled at a mutually agreed upon time and place.

The parent also alleged that the district failed to provide the parents with the opportunity to review their son's educational records. Documentation indicated that the parents requested copies of their son's educational records, which the district provided on December 17, 1999, and January 4, 2000.

In the final issue the complainant alleged that the district failed to provide the parents with progress reports as often as such reports were provided to parents of general education students. A review of the student's IEP goal page indicated that the parents were to receive a progress report every nine weeks. Records further indicated that the parents received this progress report three times during the 1999-2000 school year. In addition, the IEP was reviewed in April 2000, and a report of progress toward meeting the goals was provided to the parents at the end of the school year. It was determined that the parents received progress reports regarding their son's achievement as often as parents of general education students did.

There were no corrective actions ordered for any of the allegations.

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Broward County School Board
Agency Case No. DOE 2001-657-FOF
June 12, 2001

On March 6, 2001, the Bureau of Instructional Support and Community Services received the first in a series of five letters of formal complaint from the parents of five students with disabilities enrolled in the district. The students were attending Country Isles Elementary School for the 2000-01 school year. Each of the five complainants alleged the district failed to provide speech and language services for

students with disabilities who were in attendance at Country Isles Elementary School during the 2000-01 school year, in accordance with their individual educational plans (IEPs).

Following a review of the evidence it was determined that 34 students attending Country Isles Elementary, who were identified as students with disabilities and who had speech and language services described on their IEPs, were not receiving those services during a portion of the 2000-01 school year. A written statement from the district explained that the speech and language pathologist who provided services to the 34 students at school resigned. The district conducted a diligent search for a master's level certificated speech and language pathologist as required by school board policy. The district offered compensatory services to these students in the area of speech and language. As corrective action the district was required to submit documentation to the bureau that the proposed compensatory education services had been offered and provided to the 34 students by June 30, 2001.

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**Indian River County School Board
Agency Case No. DOE 2001-645-FOF
April 24, 2001**

On November 13, 2000, the Bureau of Instructional Support and Community Services received a letter of formal complaint from the parent of a student with disabilities who had been determined eligible for the special program for students who are emotionally handicapped. The complainant in her letter alleged that the district failed to appropriately discipline students who attend the Sebastian Charter Junior High School; appropriately implement her son's IEP while he was attending Sebastian Charter Junior High School; and provide adequate and timely staff-development opportunities regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, and, specifically, the implementation of discipline procedures at Sebastian Charter Junior High School.

The complainant in this issue alleged that the district failed to appropriately discipline students at the school. A review of the documentation submitted by the district indicated that the complainant's son was suspended from school for four days in the fall of 2000, and that the parent received a notice prior to the day(s) of the suspension. Discipline referral forms were also completed on the student; however, they did not address "suspendable" behaviors. Further, it was determined that the complainant's son did not have an individual behavior plan, either as a separate plan or as part of his IEP. The district reported one other student suspension; however, no documentation was provided regarding that student or any other student who had been disciplined. It was concluded that insufficient information was submitted to make a determination regarding the discipline of students with disabilities. As corrective action the district was to ensure that the Sebastian Charter Junior High

School appropriately discipline students with disabilities in accordance with their IEPs and the approved code of student conduct handbook. The district was also required to submit to the bureau a list of all students disciplined at Sebastian Charter Junior High School during the 2000-01 school year and the action taken regarding the discipline. Upon review of the submitted information, the bureau was to decide if further corrective actions would be appropriate.

The parent further alleged that the district failed to appropriately implement the student's IEP while he was attending Sebastian Charter Junior High School. Documentation indicated that the student's IEP included goals, objectives, and instructional strategies that related to organizational skills, social skills, and appropriate behavior. Records further indicated that the complainant's son received A's and B's in academic areas and I's (needs improvement) in the areas of behavior and social skills; however, it was determined that insufficient information was submitted to determine whether the student's IEP was implemented as written. As corrective action the district was required to ensure that the student's IEP was implemented as written. The district was also required to submit to the bureau documentation that the goals, objectives, and instructional strategies described on the student's IEP were being implemented.

The parent further alleged that the district failed to provide adequate and timely staff development opportunities regarding the implementation of IDEA, Part B; and, specifically, the implementation of discipline procedures at Sebastian Charter Junior High School. It was concluded that insufficient information was submitted to determine whether adequate and timely staff development opportunities were provided regarding the implementation of the IDEA and, specifically, the implementation of discipline procedures at Sebastian Charter Junior High School. As corrective action the district was required to ensure that staff-development activities regarding the implementation of discipline procedures are provided to staff at Sebastian Charter Junior High School. In addition, the district was required to submit to the bureau a plan, with a timeline, to ensure that personnel employed by the Sebastian Charter Junior High School are provided with staff development activities regarding discipline. The district was also required to submit evidence that the plan has been implemented.

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Lee County School Board
Agency Case No. DOE 2001-619-FOF
January 26, 2001

The Bureau of Instructional Support and Community Services received a letter of formal complaint from the parent of a student who had been determined eligible for the special programs for students who are autistic and who are speech and language impaired. The student also required occupational therapy (OT). In the letter of

formal complaint, the complainant alleged that the district failed to consider extended school year (ESY) services for her daughter; consider an independent speech evaluation when developing her daughter's individual educational plan (IEP) for the 1999-2000 and 2000-01 school years; provide the complainant with an independent functional behavior assessment (FBA), as requested; provide the complainant with an informed notice of refusal when requests were made regarding the development of her daughter's IEP; develop appropriate goals and objectives to meet her daughter's educational needs during the 1999-2000 and 2000-01 school years; properly implement the IEP as written for the 1999-2000 school year, providing instruction relative to the described goals and objectives, including ESY services if indicated on the IEP; and provide adequate staff-development activities regarding the implementation of the Individuals with Disabilities Education Act (IDEA), Part B, and, specifically, the implementation of her daughter's IEP, including the functional behavior plan.

In the first issue of this complaint the parent alleged that the district failed to consider ESY for her daughter. The documentation indicated that the complainant's daughter attended summer school for the 1998-99 school year and the 1999-2000 school year; however, there was no evidence that the IEP team considered ESY services for the 1998-99 school year. Evidence did indicate that the IEP team developed goals and objectives for the 1999-2000 school year. Letters dated June 5, 2000, and June 14, 2000, substantiated the complainant's request for ESY services for her daughter beyond summer school for the 1999-2000 school year. There was no evidence that the district responded to either of the requests. As corrective action the district was to ensure that ESY is considered and documented on an annual basis for the complainant's daughter. That the district considered ESY for the complainant's daughter must be verified prior to the end of the 2000-01 and 2001-02 school years.

In the second issue the parent alleged that the district failed to consider an independent speech evaluation when the 1999-2000 and 2000-01 IEPs were developed for the complainant's daughter. Documentation indicated that the complainant's daughter had an independent speech evaluation completed on January 19, 2000. The IEPs dated May 26, 2000, and September 12, 2000, included goals that were suggested in the independent speech evaluation, indicating that the IEP team considered the information provided in the evaluation. There were no corrective actions required.

The parent, in issue three, alleged that the district failed to provide an independent FBA, as she had requested. Documentation indicated that the complainant requested an independent FBA for her daughter on October 1, 1999. Records showed that the independent FBA was completed in September 2000. Corrective actions were not required.

In issue four, the complainant alleged that the district did not provide her with an informed notice of refusal when requests were made regarding the development of her daughter's IEP. A review of the documentation indicated that the complainant

requested an independent educational evaluation including a psychoeducational evaluation, behavior analysis, speech evaluation, and transition assessment. In addition, the complainant requested the consideration of a particular behavior specialist and a list of qualified individuals from which to choose an evaluator. Evidence showed that an independent speech evaluation was completed on January 19, 2000; an independent functional behavioral assessment was completed in September 2000; and the district had contracted for the completion of an psychological evaluation. In addition, the district had considered the requested behavior specialist and had provided the complainant with a list of qualified individuals to complete the evaluation.

Records also indicated that the complainant requested an increase in hours of speech services, a one-on-one student-to-teacher ratio, a therapist fluent in sign language, and ESY services beyond summer school for the 1999-2000 school year. Evidence did not indicate an increase in speech hours, nor was a one-on-one student-to-teacher ratio documented. There was no documentation that the district responded to the request for ESY services beyond summer school; however, the district provided supporting evidence that a therapist was assigned for 30 minutes per week. The evidence did not indicate that the district provided the complainant with any notice of refusal form in response to four of the complainant's requests. As corrective action the district was required to meet with the complainant to discuss the need for transition assessment and ESY beyond summer school. The district was ordered to provide a copy of the outcome of the meeting to the bureau, including any informed notice of refusal forms. In addition, the district was required to provide a written response to any complainant request.

In issues five and six the parent alleged that the district failed to develop appropriate goals and objectives to meet her daughter's educational needs during the 1999-2000 and 2000-01 school years and to implement her IEP as written for the 1999-2000 school year. Records indicated that the IEP team appropriately developed goals and objectives for the 1999-2000 and 2000-01 school years and for the 1999-2000 summer term; however, there were no goals and objectives specifically developed for the 1998-99 summer term. Following a review of the documentation, it was concluded that there was not enough evidence to determine the adequacy of the implementation of the 1999-2000 IEP. As corrective action the district was required to ensure that the IEP goals and objectives are implemented as indicated on the most recent IEP. The district was required to document that appropriate instruction was provided to the complainant's daughter during the 2000-01 school year.

In the final issue, the parent alleged that the district failed to provide adequate staff-development activities regarding the implementation of IDEA, Part B, and, specifically, the implementation of her daughter's IEP, including the functional behavior

plan. A review of the student's 1999-2000 and 2000-01 IEPs indicated that the IEPs listed several specific instructional strategies. In addition, records indicated that staff attended several district-wide inservice trainings targeted toward teachers working with students who are identified as autistic, with one-on-one training provided to some instructional staff for "Mandt" (use of nonphysical methods of de-escalating situations by helping people to manage their own behavior) to assist school personnel in implementing the functional behavior plan for the complainant's daughter. Corrective actions were not required; however, it was recommended that the district ensure that the staff working with the complainant's daughter have the skills necessary to adequately implement her IEP.

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Orange County School Board
Agency Case No. DOE 2001-649-FOF
May 1, 2001

This complaint was filed by the parent of a student who had been determined eligible for the special program for students who have specific learning disabilities. The complainant's son had been assigned to all regular classes and, according to his IEP dated August 23, 2000, received monthly consultative services. In her complaint the parent alleged that the district failed to evaluate her son in a timely manner; conduct annual individual educational plan (IEP) reviews for the 1998-99, 1999-2000, and 2000-01 school years and appropriately notify the parents of the meetings in a timely manner; address certain components of the IEP as required by the Individuals with Disabilities Education Act (IDEA); ensure that the parent was an equal participant on the IEP teams for the 1998-99, 1999-2000, and 2000-01 school years; and appropriately implement her son's IEPs during the 1999-2000 and 2000-01 school years.

In the first issue the parent alleged that the district failed to evaluate her son in a timely manner. A review of the documentation indicated that the complainant requested an evaluation of her son in April of 1996, with the evaluation report completed by August 6, 1996. Following the evaluation, the complainant's son was determined to be not eligible for an exceptional student education program. During the student's fifth-grade and sixth-grade years, his results in the standardized district testing fell in the lowest quartile. The complainant's son was evaluated again in February of 1998 and, on March 3, 1998, the staffing committee determined him to be eligible for special services for students with learning disabilities. A corrective action was not ordered for this issue.

In the second issue, the parent alleged that the district failed to conduct annual IEP reviews for the 1998-99, 1999-2000, and 2000-01 school years and that the parents were not appropriately notified of the meetings in a timely manner. Documentation indicated that there were four IEP meetings held: March 30, 1998; September 3, 1998;

April 20, 1999; and August 23, 2000. The complainant received a written notification and attended each of the IEP meetings. It was determined that the complainant's son did not have a current IEP in place at the beginning of the 2000-01 school year. As corrective action the district was required to ensure that the complainant's son has a current IEP at the beginning of each school year. To verify compliance the district was to submit to the bureau copies of the student's 2001-02 and 2002-03 school year IEPs.

In the third issue, the parent alleged that the district failed to address certain components of the IEP as required by the IDEA. A review of the IEPs dated March 30, 1998; September 3, 1998; April 20, 1999; and August 23, 2000, indicated that they were missing components as required by IDEA, Part B. As corrective action the district was required to revise the district's IEP forms, before the beginning of the 2001-02 school year, to include all the components of the IEP required by IDEA. The district was to submit to the bureau copies of the revised forms and copies of all IEPs written for the complainant's son covering the 2001-02 school year.

In issue four the complainant alleged that the parent was not an equal participant on the IEP teams for the 1998-99, 1999-2000, and 2000-01 school years. Documentation indicated that there were four IEP meetings held: March 30, 1998; September 3, 1998; April 20, 1999; and August 23, 2000. The complainant received a written notification and attended each of the IEP meetings. The complainant signed each of the IEPs as a participant except the September 1, 1998, IEP, when she signed the "Planning Conference Form." No corrective action was required.

In issue five the complainant alleged that the district failed to appropriately implement the student's IEPs during the 1999-2000 and 2000-01 school years. A review of the documentation indicated that the complainant's son failed two courses and passed the remaining courses. An assistive technology evaluation was completed and the recommendation followed. Records further indicated that the complainant's son passed all of his courses in the 2000-01 school year. It was determined that the district appropriately implemented some of the components of the student's IEP for the 2000-01 school year. As corrective action the district was required to ensure that the student's IEP is implemented as described. The district was to submit to the bureau on a quarterly basis documentation that supported the implementation of the IEP.

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Polk County School Board
Agency Case No. DOE 2001-625-FOF
February 15, 2001

This complaint was filed by the parent of a student with disabilities who had been determined eligible for special programs for students with specific learning disabilities and who are speech and language impaired. The student also required occupational therapy (OT). The complainant's son attended a school of choice; prior to that he attended a private school. The complainant alleged that the district failed to schedule an individual educational plan (IEP) meeting(s) requested by the complainant at a mutually agreed upon time and date; assess the complainant's son in a timely manner when the complainant requested that a functional behavioral assessment (FBA) be administered; ensure that the child's IEP goals and objectives, specifically in the area of behavior, for the 2000-01 school year were meeting his needs so as to enable him to progress in the general curriculum; and provide appropriate accommodations and supports to school personnel to assist the student's progression through the regular education curriculum.

In the first of four issues the complainant alleged that the district failed to schedule an IEP meeting(s) requested by the complainant at a mutually agreed upon time and date. A review of the documentation indicated that the complainant made a minimum of 11 requests for an IEP meeting beginning August 29, 2000; however, the district did not convene a meeting until all evaluation data and behavior assessment information had been collected. Evidence indicated that the district responded to the complainant's requests, but did not provide the complainant with an informed notice of refusal to each request for an IEP. No corrective actions were required; however, it was recommended that the district respond to the complainant in a timely manner with a written informed notice of refusal when denying her requests, stating the reasons why the request would not be granted.

In the second issue the complainant alleged that the district failed to assess her son in a timely manner when she requested that an FBA be administered. Documentation indicated that the complainant requested an FBA on April 19, 2000; however, the IEP team postponed the FBA due to the end of the 1999-2000 school year and the fact that the complainant's son was not enrolled in public school. The FBA was concluded on December 6, 2000. As corrective action the district was to ensure that students with disabilities who attend private schools are identified and evaluated in a timely manner. In the event that the complainant requests an evaluation, the district was required to provide the evaluation without undue delay.

The parent alleged in the third issue that the district failed to ensure that the student's IEP goals and objectives, specifically in the area of behavior, for the 2000-01 school year, were meeting his needs so as to enable him to progress in the general curriculum. A review of the student's IEP, dated April 19, 2000, and completed May 16, 2000, indicated that behavior intervention was considered by the IEP team and

was addressed through annual goals and short-term objectives. It was determined that the district made an effort to assist the complainant's son in achieving his goals. Corrective actions were not required; however, it was recommended that the district ensure that all areas of the student's needs are addressed through the IEP process and implemented in his educational placement, including the implementation of a timely behavior- management plan.

In the final issue the complainant alleged that the district failed to provide appropriate accommodations and supports to school personnel to assist her son's progression through the regular education curriculum. The student's IEP, dated April 19, 2000, and completed May 16, 2000, indicated that support for school personnel would be provided. Following an examination of the documentation, the frequency of the consultations and the extent of the opportunities provided for participation in staff-development activities could not be determined. As corrective action the district was required to ensure that school personnel working with the complainant's son are provided with adequate support to assist him in the progression through the regular education curriculum as described on his IEP. The district was further required to submit a plan to the bureau describing the support school personnel will receive while working with the complainant's son throughout the remainder of the 2000-01 school year.

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Polk County School Board
Agency Case No. DOE 2001-642-FOF
April 12, 2001

On December 4, 2000, the Bureau of Instructional Support and Community Services received a complaint from the parent of a student who had been determined eligible for the special programs for students with specific learning disabilities and who are speech and language impaired. The student also required occupational therapy. The parent, in her letter of formal complaint, alleged that the district failed to provide the complainant with a notice of the individual educational plan (IEP) meeting with the required components for the meeting set for December 6, 2000; provide the complainant with educational information regarding her child prior to the December 6, 2000, IEP meeting; and provide the complainant with the opportunity to participate in the IEP meeting held on December 6, 2000, including permitting the complainant to present information regarding her son at the meeting.

The parent alleged that the district failed to provide her with a notice of the IEP meeting with the required components for the December 6, 2001, IEP meeting. A review of the documentation indicated an IEP meeting was scheduled for December 6, 2000, with the parent being provided a notice of conference form dated November 15, 2000. The form, it was determined, contained all the legally required components. No corrective action was required.

The parent also alleged that the district failed to provide her with educational information regarding her son prior to the December 6, 2000, IEP meeting. Documentation indicated that a functional behavior assessment (FBA) of the complainant's son was conducted during the fall of 2000, with the written report dated December 5, 2000. The complainant requested a copy of the report prior to the December 6, 2000, IEP meeting. The written report was provided to the IEP team and the parent at the December 6, 2000, IEP meeting. Corrective actions were not required; however, it was recommended that the district ensure that evaluation reports are provided to the IEP team in advance of IEP meetings.

The parent further alleged that the district failed to provide her with the opportunity to participate in the IEP meeting held on December 6, 2000, including permitting her to present information regarding her son. Both the conference notes and the IEP indicated that the parent participated in the development of her son's December 6, 2000, IEP, including the presentation of information regarding her son. Corrective actions were not ordered.

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Sarasota County School Board
Agency Case No. DOE 2001-646-FOF
April 24, 2001

This complaint was filed by a parent advocate on behalf of her two sons and also made a allegation of systemic violations. In her letter of formal complaint she alleged that the district failed to provide written notices of refusal to parents of students with disabilities in response to their specific requests for services during their children's individual educational plan (IEP) meetings; use notice of refusal forms that include the required components; appropriately address special education services, related services, modifications, and supplementary aids and services on IEPs; and appropriately use ranges of time on IEPs to describe the delivery of special education services.

The complainant alleged that district personnel did not provide prior written notice when they refused to provide services requested by the parent(s) at an IEP meeting, unless the parent specifically requested the notice. The complainant also noted that her request for parent and staff training as a related service was not addressed on the notice of refusal dated October 13, 2000. Documentation indicated that the complainant was provided with a notice of refusal and an attached letter on October 16, 2000, within four days of her child's IEP meeting. The form indicated that district staff refused to change her child's IEP as the complainant had requested. The letter addressed staff training, but did not address parent training.

A parent survey to discover possible systemic violations relating to the provisions of written notices of refusal was conducted. There was no information that indicated

that the district routinely failed to provide written notice of refusal to parents of students with disabilities in response to their specific requests for services during their children's IEP meetings. No corrective action was required; however, it was recommended that the district continue to provide notices of refusal to the complainant regarding multiple requests. It was also recommended that extra care be taken to specifically respond to all of the parents' requests.

The complainant also alleged that the prior written notice form used by the district did not contain the required components because some of the information was pre-printed. A review of the informed notice of refusal form provided by the district indicated that it contained the required components.

The complainant further alleged that the IEPs developed by the district did not list special education services, related services, modifications, and supplementary aids and services in accordance with federal law. She also indicated that writing "direct instruction" as a service on the IEP did not provide her with enough information about the service. Records indicated that the complainant's child's IEP was developed on May 12, 2000, by the complainant and district staff. The areas in which direct instruction was provided could not be determined because the projected dates for the beginning of the services and the anticipated frequency, location, and duration were not listed in the Supplementary Services, Aides or Equipment or Modifications and Accommodations sections.

Through a survey of 46 IEPs from 9 different schools in the district, it was determined that the statement of the special education, related services, and supplementary aids and services was appropriately addressed on 41 of the IEPs. Direct instruction was listed as a service on approximately half of the IEPs; however, when the student was receiving multiple services, it was difficult to determine the areas in which the student was receiving direct instruction when this was listed as the service. All the IEPs included a statement of the program modifications or supports for school personnel that were to be provided for the student. Documentation also indicated that the projected dates for the beginning of the services and modifications described and the anticipated frequency, location, and duration of those services and modifications were not adequate on any of the IEPs reviewed. As corrective action the district was required to ensure that the IEPs developed in the district contain the required components. The district was also required to provide the bureau with evidence that the IEP form had been revised to include the projected date for beginning supplementary aids, services, and modifications and the anticipated frequency, location, and duration of supplementary aids and services, and /or that training had been provided to staff regarding how to appropriately write in these missing components on IEPs. In addition, it was recommended that the district provide a detailed description of services on IEPs to ensure that parents clearly understand the services.

In the final issue the complainant alleged that the district failed to appropriately provide the range of time on IEPs to describe the delivery of special education services. A review of the student's IEP, dated May 12, 2000, indicated that the IEP team did not base the range of time on the student's individual needs. A further review of 46 IEPs from 9 different schools indicated that approximately 3 percent contained a range of time to describe the amount of services, which were all related services. There were 6 IEPs that listed related services without indicating a range of time. District staff did not provide any documentation from IEP teams that indicated that the ranges of time were based on individual needs. As corrective action the district was required to ensure that if IEPs developed in the district contain a range of time to describe the amount of services, the IEP team document how the determination of the range was based on the individual needs of the student. The district was also required to verify compliance by providing the bureau with evidence that school staff have been informed of this requirement.

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Seminole County School Board
Agency Case No. DOE 2001-620-FOF
January 26, 2001

This complaint was filed by the parent of a student who had been determined eligible for special programs for students who are speech and language impaired and who have specific learning disabilities. The complainant in her letter of formal complaint alleged that the district failed to evaluate her son in a timely manner; notify her of the district's refusal to evaluate her son when requested; and appropriately provide transportation for her son to and from school.

The parent's allegations that her son was not evaluated in a timely manner and that the district failed to notify her of the district's refusal to evaluate her son were part of the inquiry. A review of the records indicated that the first request by the complainant for an evaluation of her son occurred on April 20, 1999, with the psychological evaluation being completed on August 25, 1999. The complainant's son was determined eligible for programs for students with learning disabilities on November 9, 1999. Corrective actions were not required; however, it was recommended that the district respond to all written and verbal requests for an evaluation made by the parent.

In addition, the parent alleged that the district failed to appropriately provide her son with transportation to and from school. Documentation indicated that the parent transported her child to and from school during the 1999-2000 school year and was reimbursed for travel expenses on August 17, 2000. The district provided transportation for the 2000-01 school year. There were no corrective actions issued.

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Volusia County School Board
Agency Case No. DOE 2001-622-FOF
January 29, 2001

This complaint was filed by the parent of a student with a disability who had been determined eligible for the program for students who are physically impaired and who are being served in a self-contained exceptional student education (ESE) classroom. In her letter, the parent alleged that the district failed to provide her son with a job coach or with community-based instruction (CBI) as prescribed by his 1998-99 and 1999-2000 individual educational plans (IEPs) and provide an appropriate aide to assist him.

A review of the documentation indicated that the complainant's son needed vocational training and assistance in completing the transition from school to the work place. Evidence also indicated that the student's IEP described such services as the assistance of a job coach, individual supported employment, and supported competitive employment with the assistance of Vocational Rehabilitation, Developmental Services, and the Association for Retarded Citizens. There was no evidence that the district provided any of these services, nor that outside agencies provided the transition activities. It was concluded that the district did not provide the complainant's son with any specific training in job-related skills. Documentation indicated, however, that the complainant's son was provided with an assistant.

As corrective action the district was ordered to continue the enrollment of the complainant's son in the Volusia County School District through the end of the 2000-01 school year. In addition, the district was to continue to provide the related services needed in order for him to access the vocational training being provided by the district and other agencies. Documentation that this was completed was to be forwarded to the bureau by the end of May 2001, and at the end of June 2001. It was also recommended that the district ensure that the assistant assigned to the student is properly trained to meet the complainant's son's specific needs.

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The New Department of
Education

Jim Horne, Commissioner

ESE 312333