

Agency Order and Bureau Resolution Summaries

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



January–June
2002

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 between January and June 2002. These resolutions and orders were issued after inquiries were made by the Bureau of Instructional Support and Community Services in response to formal complaints filed with the bureau, pursuant to Subsection 300.600–300.662 of Title 34 of the Code of Federal Regulations. Complete copies of the resolutions and orders are available from the bureau.

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

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

Early Resolutions

Lake County School Board Early Resolution Determination No. 2002-06ER April 19, 2002

On January 5, 2002, the Bureau of Instructional Support and Community Services received a formal complaint from the parents of a student with a disability alleging that the district had failed to provide special education services to the student when refusing to allow him to return to school. The timeline for the completion of all activities related to this complaint was established as March 6, 2001. The district however, requested and was granted a two-week extension. Subsequently, the district agreed to discuss granting compensatory time to the student. In keeping with the required procedures for early resolution, the parties met on March 12, 2001, and developed an agreement. An early resolution agreement was signed by the complainant and district representative on March 27, 2002. The early resolution provided for 72 hours of instructional services under the responsibility of South Lake High School.

Bureau Resolutions

Brevard County School Board

Bureau Resolution Determination No: BISCS 2002-010-RES

March 14, 2002

On September 12, 2001, the Bureau of Instructional Support and Community Services received a formal letter of complaint from the parent of two students with disabilities. Both students had been determined eligible for the special program for students who have specific learning disabilities. One student was in the ninth grade and the other was in the twelfth grade. The complainant alleged that the district had failed to provide her with a copy of the procedural safeguards notice for students with disabilities, follow the appropriate procedures when suspending her older son, and provide her with information from her older son's educational records upon request. The complainant also alleged that the district failed to provide the accommodations and modifications specified on her older son's IEP that was developed on March 5, 2001; involve her younger son in his IEP meeting in March, 2001; and consider her requests during her older son's IEP meetings during the 2000-2001 and 2001-2002 school years. The complainant concluded by alleging that the district failed to provide the special education services included on her older son's IEP that was developed on October 1, 2001, and conduct a behavioral assessment of her older son during the reevaluation process. Mediation was offered to the complainant but was declined.

In the first issue, the complainant alleged that the district failed to provide her with a copy of the procedural safeguards notice and explain these rights to her. Documentation indicated that the complainant was provided with several copies of the procedural safeguards notice during the 2000-2001 and 2001-2002 school years. In addition, documentation indicated that district staff took steps to ensure that the complainant understood the content of the notice. A corrective action was not required.

In the second issue, the complainant alleged that the district failed to followed the appropriate procedures when suspending her son. Documentation indicated that the assistant principal informed the complainant within 24 hours of her son's suspension and that a discipline meeting (rescheduled to ensure the complainant's attendance) was held on March 5, 2001. Documentation further indicated that the student was suspended for 12.5 days during the 2000-2001 school year, which constituted a change of placement. The district acknowledged that compensatory education was denied on the eleventh day. As corrective action the district was to provide educational services to the student if he is suspended and such a suspension constitutes a change of placement. In addition, the student's IEP team was to meet to decide his compensatory education needs due to denial of services. Evidence of the compensatory education was to be submitted to the Bureau.

In the third issue, the complainant alleged that the district failed to provide her with information from her children's educational records. District staff indicated that they were not aware of the request; however, the staff indicated that appropriate records were given to the complainant when she withdrew her son from school. Based on this information the bureau, has determined that there was insufficient evidence to indicate if the appropriate records were provided as requested. Corrective actions were not required; however, it was recommended that the district contact the complainant to inquire whether she would like a staff member to review her son's educational records with her.

In the fourth issue, the complainant alleged that the district failed to provide her son with the accommodations and modifications described on his March 5, 2001, IEP. Documentation indicated that the student's 2000-01 and 2001-02 IEPs contained the same modifications and accommodations and that these were implemented both years. The complainant asked that additional accommodations/modifications be added. The district invited the complainant to schedule an IEP meeting to discuss her requests. Records indicated that the complainant did not respond. It was concluded that decisions regarding accommodations must be discussed through the IEP process; therefore, no corrective action was prescribed.

In the fifth issue, the complainant alleged that the district failed to invite her high-school-age son to his March 2001, IEP meeting. Both the complainant and district staff indicated that the student was invited to his March, 2001, IEP meeting, but did not attend. Based on the information provided to Bureau staff, the reason why the student did not attend his IEP meeting could not be determined; however, the district provided documentation to indicate that the student's preferences and interests were considered. A corrective action was not required.

In issue six the complainant alleged that the district failed to consider the complainant's requests during his 2000-01 and 2001-02 school year IEP meetings. Documentation indicated that the IEP team discussed accommodations and modifications at the student's IEP meetings and that an informed notice of refusal was not necessary. The complainant attended these meetings. Modifications and accommodations were indicated on the IEPs but did not include all of the complainant's suggestions. It was concluded that the complainant's suggestions did not reflect directly on the identification, evaluation, or educational placement of the student; therefore a corrective action was not ordered.

In issue seven the complainant alleged that the district failed to provided the special education services described on the student's October 1, 2001, IEP. A review of the student's October 1, 2001, IEP described an assignment/organizational strategies log. The IEP did not specify an implementation date; however, the complainant indicated that this issue had been resolved. A corrective action was not required.

In the final issue, the complainant alleged that the district failed to conduct a behavioral assessment of the student during the reevaluation process. Documentation indicated that the student's three-year evaluation was due in June, 2001. Based on the complainant's statement, the issue had been resolved and corrective actions were not required.

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Broward County School Board
Bureau Resolution Determination No: BISCS 2002-012-RES
April 9, 2002

This complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students who are autistic and who are speech and language impaired. The student also received occupational therapy (OT) as a related service. The complainants alleged that the district failed to provide special education and related services based on the student's unique needs and determine an appropriate placement that provided their son with special education and related services in the least restrictive environment (LRE) appropriate for his unique needs.

In the first issue, the complainants alleged that the district had not provided the appropriate placement for their son for the past 3.5 years and that as a result of this alleged violation, he had made no educational progress between the second and the fifth grades. A review of the 1999-2000, 2000-01, and 2001-02 individual educational plans (IEPs) and educational records indicated that all three IEPs reflected annual goals and benchmarks that were observable, measurable, and prescriptive, and that they reflected the information provided in the present level of educational performance statement. Documentation, however, did indicate that the present level of educational performance statement was added at a later date on the 1999-2000 IEP. Documentation also indicated that during this time period the mother participated in all of the IEP meetings held for her son. The complainant also requested an IEP meeting on March 7, 2001. The requested IEP meeting was not held and the district did not provide the parent with a written informed notice of refusal. As a corrective action the district was required to ensure that the student's IEP includes relevant present levels of educational performance statements. The district was further required to provide the complainants with an informed notice of refusal form any time that they request a change in the identification, evaluation, or educational placement of their son and the district does not agree to their request.

In the second issue, the complainants alleged that the IEP team failed to determine the appropriate placement to provide their son with special education services in the least restrictive environment which was appropriate for his unique needs. A review of the documentation indicated that the IEPs written during the 1999-2000, 2000-01, and 2001-02 school years addressed the areas of curriculum and learning environment, independent functioning, social/emotional behavior, and communication. Behavioral issues

were addressed through goals and objectives on the IEPs and were documented in the full service team and IEP team conference notes. It was concluded that the IEP team considered all necessary information during the decision-making process. No corrective action was required.

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**Citrus County School Board
Bureau Resolution Determination No: BISCs 2002-011-RES
March 14, 2002**

This complaint was filed by the parent of two students with disabilities who had been determined eligible for the special program for students who are hard-of-hearing. The parent alleged that the district failed to provide qualified interpreters to students determined eligible for the special program for students who are deaf or hard-of-hearing.

A review of the documentation indicated that the district's policy required interpreters to have a high school diploma or equivalent and a quality assurance evaluation level certificate or an educational interpreter evaluation level certificate. Documentation indicated that the interpreters assigned to the complainant's children were not certified in accordance with the standards adopted by the district. As corrective action, the district was required to ensure that the interpreters who are assigned to students with hearing-impairments are certified in accordance with the school board policy.

* * *

**Collier County School Board
Bureau Resolution Determination No. BISCs 2002-007-RES
February 5, 2002**

This complaint was filed by the parents of a student who had been determined eligible for the special programs for students who are mentally handicapped, autistic, and speech and language impaired. The student also received occupational therapy (OT). The parents alleged that a local educational agency (LEA) representative who had the authority to commit district resources did not attend their son's individual educational plan (IEP) meetings held on May 15, 2001, and September 11, 2001. The complainants further alleged that the district did not provide their son with a transition period when changing from one paraprofessional to another, as required by his September 11, 2001, IEP.

In the first issue, the parents alleged that the district's LEA representative did not have the authority to commit resources at their son's May 15, 2001, and September 11, 2001, IEP meetings. A review of the documentation indicated that at the May 15,

2001, and September 11, 2001, IEP team meetings it was determined that the complainant's son required the services of a severity aide. Documentation indicated that the LEA representative who attended the student's IEP meetings did not have the authority to commit the resources necessary to provide a severity aide. As a result, the district revised its policy and procedures relating to the assignment of a severity aide. As corrective action, the district was required to submit to the bureau a revised copy of its policy and procedures for assigning a severity aide.

In the second issue, the parents alleged that the district did not provide their son with a transition period when changing from one professional to another, as required by his September 11, 2001, IEP. Records indicated that the IEP team had recommended that when a new paraprofessional was assigned to the complainant's son, a two-day overlap should be instituted. The bureau investigation determined that the two-day transition between paraprofessionals had not occurred as recommended by the IEP team, but that services were not denied the child during this period. No corrective action was ordered.

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Escambia County School Board
Bureau Resolution Determination No: BISCS 2002-018-RES
May 14, 2002

This complaint was filed by the parents of a student with disabilities 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 physical therapy (PT) and occupational therapy (OT). In their letter of formal complaint, the parents alleged that the district did not have a continuum of alternative placements available to meet the needs of children with disabilities for special education and related services. The parents continued by alleging that the individual educational plan (IEP) team was not sufficiently knowledgeable about the option of residential placement when the team denied the parents' request for their son to be placed in a residential setting and that their son's current IEP was not designed to provide him with a free appropriate public education (FAPE) in the least restrictive environment (LRE). In addition, the complainants alleged that the district had not made available the variety of educational programs and services available to nondisabled students, as required by Section 300.305 of Title 34 of the Code of Federal Regulations (Title 34); that the district has not provided their son with nonacademic and extracurricular services and activities, as required by Section 300.306 of Title 34; and that the district has not provided their son with appropriate assistive technology services, physical education services, and extended school year (ESY) services. The complainants, at a later date, added an additional issue. The complainants alleged that the district's refusal to pay for the residential placement of their son was a violation of Section 300.142 of Title 34.

An investigation of all issues determined that the district had an established continuum of alternative placements for students with special needs and that the IEP team appropriately placed the complainants' son in the least restrictive environment. However, the complainants did not received a written statement that explained the district's specific procedures regarding an IEP team's determination of whether and when a student requires a residential placement in order to receive FAPE. It was further concluded that the student's September 8, 2001, IEP contained all of the legal requirements. The complainants' son had available to him a variety of educational programs, services, and extracurricular activities that were appropriate for his functioning level, including assistive technology, physical education, and extended school year. It was concluded that the complainants' son did not require a residential program in order to receive FAPE.

As corrective action, the district was required to provide the complainants with a written description of its policy for determining the necessity for providing residential placement to children with disabilities. It was also recommended that the policy governing residential placement for students with disabilities be placed on the district's web site and that the IEP team document the complainants' concerns and how the team addressed each.

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Hillsborough County School Board
Bureau Resolution Determination No: BISCs 2002-006-RES
January 4, 2002

This complaint was filed by the parent of a student determined eligible for the special programs for students who are visually impaired and who are speech and language impaired. The student also required occupational therapy (OT). In her letter the parent alleged that the district had failed to provide her son with a free appropriate public education by denying him the services of a facilitative aide as prescribed by his individual educational plans (IEPs) for the 1998-99, 1999-2000, 2000-01, and 2001-02 school years.

A review of the student's IEPs for the four school years described a one-to-one aide to facilitate communication. Documentation indicated that facilitative communication aides were provided for the 1998-99, 1999-2000, and 2000-01 school years. However, it was concluded that the district failed to provide the complainant's son with a facilitative aide as prescribed by his IEP for three weeks during the 2000-01 school year and for the advanced placement chemistry course during the 2001-02 school year. As corrective action, the district was required to provide an aide to facilitate the student's communication for all of his courses as required by his current IEP or to reconvene the IEP team to determine alternative methods to meet his IEP goals and course schedule. The district was required to submit documentation verifying compliance with the resolution.

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**Indian River County School Board
Bureau Resolution Determination No: BISCs 2002-013-RES
April 16, 2002**

This complaint was filed by the parents of a student with a disability who had been determined eligible for the special program for students with specific learning disabilities (SLD). In their letter of complaint, the parents alleged that the district provided exceptional student education (ESE) services to the complainants' daughter prior to determining her eligibility for exceptional education services and failed to provide an "informed notice of refusal" to the parents when a request was made to consider curriculum adaptations/modifications and special classes as part of her individual educational plan (IEP). In addition, the parents alleged that the district provided personally identifiable information to a tutor regarding the student's exceptionality; failed to identify, evaluate, and determine the eligibility of their daughter for a special education program in a reasonable time; and failed to provide ESE instruction only by qualified staff. Last, the parents alleged that the district provided ESE services to students with disabilities before determining their eligibility for ESE services.

The investigation was conducted through review of documentation, telephone interviews, and an on-site visit. It was determined that the complainants' daughter began receiving ESE services in October of 2000, approximately six months before she was determined eligible for ESE services. It was further determined that the district provided ESE services to other students prior to determining their eligibility for such services. The complainants' daughter was referred for ESE consideration on October 17, 2000, with the eligibility determination completed on March 14, 2001, indicating that the district violated its school board policy of completing the process within 45 days. An IEP meeting was held for the complainants' daughter on April 5, 2001, and April 30, 2001, and based on audiotapes supplied by both the complainants' and district, it was determined that all parental requests were met and an "informed notice of refusal" to the parents was not required. It was further determined that the complainants' daughter was provided with ESE services and basic education accommodations and instruction by qualified staff.

Finally, the parents alleged that the staff at their daughter's school shared confidential information regarding her disability with volunteer tutors; however, based on this information, the Bureau of Instructional Support and Community Services has determined that there was insufficient evidence to support a finding of a violation of law.

As a corrective action, the district was required to establish procedures to ensure that students do not receive ESE services prior to being determined eligible. The district was further required to ensure that it abides by its own school board policy and completes a student evaluation and staffing activity within 45 days of referral date.

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Lee County School Board
Bureau Resolution Determination No: BISCs 2002-016-RES
May 14, 2002

This complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students who are emotionally handicapped (EH) and who are gifted. The complainants alleged that the district provided exceptional education services to their son prior to appropriately identifying, evaluating, determining the eligibility of the student, and receiving parental consent for special education programs and services. In addition the parents alleged that the district failed to develop an appropriate individual educational plan (IEP) for their son and allow him to progress toward his goals as stated in his 2000-01 school year IEP. Finally, the parents alleged that the district failed to appropriately discipline their son and implement his IEP in the least restrictive environment.

Documentation indicated that the complainants' son was determined eligible for the gifted program during the 1997-98 school year. In December 1999, the complainants' son was placed full time in an EH classroom without the establishment of his eligibility as a student with a disability. His eligibility was determined on March 30, 2000, and an IEP and behavior intervention plan were developed. Evidence indicated that the district developed an appropriate IEP and behavior intervention plan on March 30, 2000, which allowed the complainants' son to progress toward his goals as stated on his 2000-01 school year IEP.

In October and November of 2001, the complainants' son was suspended twice for a total of 11 days. A manifestation determination hearing determined that the behavior was a manifestation of his disability. Records further indicated that the IEP developed for the 2001-02 school year reflected that the IEP team had placed the complainants' son in the least restrictive environment. Finally, there was no evidence given that the district provided the parents with an "informed notice of refusal" in response to the parents' request that their son be placed in a full-time gifted / EH classroom.

As corrective action, the district was required to establish procedures to ensure that students do not receive special education and related services for students with disabilities prior to being determined eligible for these services. In addition, the district was required to ensure that whenever the complainants make a request regarding the identification, evaluation, or placement of their son, or the provision of a free appropriate public education to their son, and the district refuses the request, the district provides

the parents with an "informed notice of refusal." It was also recommended that the IEP team review the complainants' son's behavior intervention plan on a regular basis (more often than annually) to determine if he is making adequate progress and that the IEP team make revisions to his plan as necessary to address his behavior needs.

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Leon County School Board
Bureau Resolution Determination No: BISCs 2002-015-RES
April 26, 2002

This complaint was filed by the parent of a student who had been determined eligible for the special program for students who are emotionally handicapped. In the letter of formal complaint the parent alleged that the district failed to evaluate her son in a timely manner and that the district held a meeting to discuss her son's reevaluation without inviting her, the parent.

A review of the records indicated that on November 13, 2001, the parent requested a reevaluation of her son. The parent signed the consent form on December 21, 2001, with the evaluations being completed by April of 2002. A meeting to review the results of the evaluations was conducted on April 22, 2002. It was concluded that the district reevaluated the complainant's son within a reasonable time because the Individuals with Disabilities Education Act (IDEA) does not prescribe specific timelines for a district to respond to a request for a reevaluation; therefore, no corrective actions were stipulated.

In the second issue it was concluded that the meeting on December 17, 2001, of the school's intervention team, which reviewed information provided by the parent regarding the reevaluation and existing data from the student's records, was not a formal individual educational plan (IEP) meeting. It was further concluded that the parent had input into the reevaluation review process as provided by law. Corrective actions were not prescribed.

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Leon County School Board
Bureau Resolution Determination No. BISCs 2002-020-RES
May 11, 2002

This complaint was filed by the parent of a student with a disability who had been determined eligible for the special program for students who have specific learning disabilities (SLD). In her letter of formal complaint, the parent alleged that the district failed to provide the parent with the educational records of her son in a timely manner and provide an independent educational evaluator access to her son's classroom for observations.

Documentation indicated that the complainant requested in writing her son's functional behavior assessment records. The district responded by stating that the complainant had the opportunity to review the records during a previously scheduled meeting; however, the complainant informed the district that she would not attend the meeting. In a letter dated April 25, 2002, the district offered the complainant the opportunity to review the records at the district office at no cost. On May 13, 2002, the district received a written request for these records from the complainant's independent evaluator. The district provided the records on May 13, 2002.

In this issue the complainant alleged that she requested an independent educational evaluation for her son which required a classroom visitation by the independent classroom evaluator. The district described to the complainant the school board procedures for classroom visitation for an observer and offered to meet with the complainant to review the school board policy regarding access to a school site. The complainant declined the offer. The complainant did not make a public records request under Section 119.07, Florida Statutes, to access copies of the school board policy regarding access to school sites. The district agreed to pay for an independent educational evaluation for the complainant's son and subsequently provided the educational records to the private evaluator. No corrective actions were ordered.

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Martin County School Board
Bureau Resolution Determination No: BISCs 2002-003-RES
January 24, 2002

This complaint was filed by a parent of a child with disabilities. In her formal letter of complaint, the parent alleged that the district had failed to provide her child with a free appropriate public education. Subsequent to her filing the complaint with the Bureau of Instructional Support and Community Services, she and the Bureau were informed by the district that the parent's issue had been resolved. At that time, the parent informed the Bureau that she wanted to change the issue in her complaint. Specifically, she alleged that the district did not comply with the state procedures for responding to a formal local educational agency (LEA) complaint.

On October 22, 2001, the complainant wrote a letter to the superintendent of the district in which she referenced a violation of the Individuals with Disabilities Education Act (IDEA). Records indicated that the district completed an investigation and, based on the findings, resolved the parent's concerns. It was determined that the district did not notify the state education agency (SEA) of the receipt of the complaint alleging a violation of IDEA, nor was the parent informed that the district's decision concerning the parent's allegations could be appealed to the SEA. As corrective action, the district was required to follow Florida's State Complaint Procedures as set forth in the *Florida State Plan for Fiscal Years 1995-97 under Part B of*

the Individuals with Disabilities Education Act and to notify the parent of the right to appeal any decision of the district to the SEA.

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**Martin County School Board
Bureau Resolution Determination No: BISCS 2002-005-RES
January 23, 2002**

This complaint was filed by an attorney and counselor at law on behalf of the mother and the aunt of a student with disabilities who had been determined eligible for special programs for students who are deaf or hard-of-hearing and who are speech and language impaired. In August of 2001, the IEP team determined that the student's educational placement should be in a separate school and contracted with the National Deaf Academy, a charter residential school, to provide educational services. The complainant and her clients alleged that the district failed to provide the student with educational and related services, based on his present functioning level as indicated on his individual educational plans (IEP) developed for the 2000-01 school year. In addition, the complainant alleged that the district failed to consider information gathered from independent educational evaluations (IEEs) and all other evaluation data when developing his IEPs for the 2000-01 and 2001-02 school years and consider all of the student's needs, including those pertaining to his hearing impairment, during the 2000-01 school-year IEP's development and review process. Finally, the complainant alleged that the district failed to provide the mother with periodic reports concerning her son's progress in achieving the goals and objectives stated on his 2000-01 IEP and provide the parent with the opportunity to participate in the IEP meeting held on May 14, 2001, and include persons on the IEP team with special expertise.

A review of the documentation indicated that the student's 2000-01 school year IEP addressed the learning areas of communication, curriculum, independent functioning, and social-emotional, with goals and objectives for each. The student's IEP was implemented as described with educational and related services, based on his present level of functioning. Documentation further indicated that the district considered all current evaluation data available at the IEP review meetings held for the 2000-01 and 2001-02 school years with the parent attending the IEP meeting for the 2001-02 school year as evidenced by the mother's signature on the participants' section of the IEP document. However, documentation indicated she did not attend the 2001-01 IEP meeting. Additionally, the investigation indicated that the student was making some progress and that the district made a good faith effort to assist him in achieving the goals and objectives described on his IEP. Progress reports were provided to the parent on a quarterly basis, as was provided to students who did not have a disability. A corrective action was not required.

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Miami-Dade County School Board
Bureau Resolution Determination No: BISCS 2002-002-RES
January 23, 2002

This complaint was filed by a parent advocate representing the parents of a student with disabilities who was determined eligible for the special programs for students who are autistic and who are speech and language impaired. In her letter, the advocate alleged that the district had denied the student the related service of occupational therapy (OT) by failing to evaluate him and had not provided him with the language therapy services to which he was entitled.

The bureau was informed that the parties to this complaint were also involved in a due process hearing with the Division of Administrative Hearings. On February 21, 2001, both parties were informed that in accordance with federal and state requirements, the complaint was being placed in abeyance pending the outcome of the hearing. On July 31, 2001, the administrative law judge issued an order dismissing the hearing procedures. On August 27, 2001, the bureau received an additional issue alleging that the district had not provided the services required by the student's January 18, 2001, individual educational plan (IEP).

In this issue, the advocate alleged that the district denied the student the related service of OT by failing to evaluate him. A review of the documentation indicated that OT was discussed at the January 18, 2001, IEP meeting. A form entitled, "Physician's Referral for Occupational and Physical Therapy," was given to the parents to have completed by a physician in order for the district to evaluate their son for occupational therapy. The student was evaluated for OT, and annual goals for OT were added to his IEP on July 10, 2001. It was concluded that the district had a misconception that an OT evaluation required a physician's statement. As corrective action, the district was required to revise the form, "Physician's Referral for Occupational and Physical Therapy," and delete the reference that a physician's statement is required prior to a formal evaluation for occupational therapy.

The complainant further alleged that the district failed to provide the student with the language therapy services to which he was entitled. Based on documentation provided by the district, language services were not provided to the student between August 2000 and January 2001. It was agreed between the complainant and the district to provide the student with make-up language sessions. Further documentation indicated that the services were provided from February 2001 to June 2001. As corrective action, the district was to continue to document that the student was receiving the language services prescribed by his IEP and provide documentation through the 2001-02 school year.

In the final issue, the complainant alleged that the district had not provided the services required by the student's 2000-01 IEP. It was determined that the student had received the services prescribed by his IEP developed January 18, 2001. The

allegations were the result of the use of substitute teachers in the student's classroom; however, it was consistent with applicable state laws. There were no corrective actions required.

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Miami-Dade County School Board
Bureau Resolution Determination No: BISCS 2002-009-RES
March 8, 2002

This complaint was filed by the parent of a student with disabilities who had been determined eligible for special instructional programs for students who are gifted and who have specific learning disabilities. In her complaint, the parent alleged that the district failed to reevaluate her daughter in a timely manner and consider reevaluation results when developing her daughter's individual educational plan (IEP) on December 13, 2000. In addition the parent alleged that the district failed to provide the services prescribed by her daughter's 1999-2000, 2000-01, and 2001-02 IEPs.

The complainant alleged that she had requested the district conduct an evaluation regarding her daughter by a neuropsychologist in 1998. The district received the written request in August 1999, with the evaluation being completed in November 2000. It was concluded that the district did not reevaluate the complainant's daughter within a reasonable time period. As corrective action, the district was required to provide documentation regarding the timely completion of any reevaluations of the complainant's daughter.

The complainant further alleged that the district failed to consider the reevaluation results when developing her daughter's IEP on December 13, 2000. A review of the documentation of the December 13, 2000, IEP meeting indicated that the results of the reevaluation were discussed and the goals and objectives were reviewed based on the reevaluation. Findings indicated that the IEP team considered her reevaluation results when developing her IEP and, therefore, no corrective actions were prescribed.

In the final allegation, the complainant alleged that the district failed to provide the services prescribed by her daughter's 1999-2000, 2000-01, and 2001-02 IEPs. Records indicated that each of the three IEPs referenced teacher training which was provided during the 1999-2000 and 2001-02 school years but not during the 2000-01 school year. Documentation further indicated that accommodations, including extended time and use of a laptop computer, were described on her IEP. Alternative assignments were not stated as accommodations on the 1999-2000 and 2001-02 IEPs. As corrective action, the district was required to ensure that services prescribed by her IEP were provided as determined by the IEP team. Documentation verifying the

provision of services was to be provided to the bureau at the conclusion of each grading period throughout the remainder of 2001-02 school year.

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Okaloosa County School Board
Bureau Resolution Determination No: BISCS 2002-021-RES
June 19, 2002

This complaint was filed by the parent of a student with disabilities who had been determined eligible for the special program for students who have specific learning disabilities. The complainant in her letter alleged that the district failed to implement the student's individual educational plan (IEP) as developed by the IEP teams for the 2000-01 and 2001-02 school years and provide the complainant's son with qualified teachers to instruct him and implement his IEP as written.

A review of the records indicated that the complainant's son was provided special education and related services via a resource room delivery model during the 2000-01 and 2001-02 school years. The student was further to be provided with accommodations according to his IEP in his resource room and in his regular education classrooms. Based on the records, he did not receive all of the accommodations listed on his IEP in his regular education classrooms. It was concluded that the district did not implement the student's IEP as developed by the IEP team for the 2000-01 and 2001-02 school years. As a corrective action, the student's IEP team was to ensure that all of his regular education teachers were familiar with the accommodations listed on his IEP and were instructed as to how to implement them in their respective classrooms. The district was required to provide verification of compliance to the bureau at the conclusion of each grading period during the 2000-03 school year.

A review of the documentation indicated that the complainant's son was provided with instruction by certified teachers in regular education courses, and when these teachers were absent, they were replaced with substitutes in accordance with district guidelines. It was concluded that the district provided the complainant's son with qualified teachers to instruct him and implement his IEP as written. No corrective action was required.

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Orange County School Board
Bureau Resolution Determination No: BISCS 2002-004-RES
January 23, 2002

This complaint was filed by a parent of a student with disabilities who had been determined eligible for special programs for students who are speech and language impaired and who are physically impaired. The complainant alleged that the district failed to develop individual educational plan (IEP) goals and objectives for her daughter that were based on her unique needs and present levels of performance; provide the transition services described on her daughter's IEP during the 2000-01 school year; provide the parent and the other attendees with the opportunity to participate in the development of the IEP during the May 22, 2001, IEP review meeting; and include the required participants at the IEP team meeting on May 22, 2001, including an agency representative and a local educational agency (LEA) representative.

In the first issue, the parent alleged that the district failed to develop IEP goals and objectives for her daughter that were based on her unique needs and present levels of performance. A review of the child's IEP dated May 22, 2001, indicated that she was not performing at her chronological age or grade level in the area of written expression but had mastered skills not dependent on writing and spelling. Her IEP further indicated that it addressed communication, written expression, and math skills at age-appropriate skill levels. The parent requested that internet access be included as a goal, but it was determined by the IEP team to be a methodology and, therefore, not included. The investigation determined that the IEP team developed goals and objectives for the 2001-02 school-year IEP based on her educational needs and present levels of performance. A corrective action was not required.

In the second issue, the parent alleged that the district failed to provide the transition services described on the daughter's IEP during the 2000-01 school year. Documentation indicated that the IEP developed on May 16, 2000, described six areas of needed transition services for the 2000-01 school year. A review of the documentation further indicated that, of the six areas, three were not provided. It was determined that the district did not provide the transition services described on her IEP for the 2000-01 school year. As corrective action, the district was to ensure that the transition services that are stated on the IEP are provided. The district was also required to reconvene and determine the appropriate transition services for the complainant's daughter. Documentation must be submitted to the bureau to demonstrate the implementation of the transition services described on the IEP.

In issue three, the parent alleged that the district failed to provide the parents and the other attendees with the opportunity to participate in the development of the IEP during the May 22, 2001, IEP review meeting. Documentation indicated that both parents attended the May 22, 2001, IEP meeting and made several requests for services for their daughter, including the request for internet access. The IEP team

determined that internet access was a methodology. It was concluded that the IEP team did not provide the parents with an “informed notice of refusal” form regarding their request. As corrective action, the district was required to provide the complainant with an “informed notice of refusal” form any time that the complainant requests a change in the identification, evaluation, or educational placement of the complainant’s daughter or the provision of a free appropriate public education (FAPE) to her and the team does not grant the request. The district must provide verification of compliance to the bureau.

In the final issue, the parent alleged that the district failed to included the required participants at the IEP team meeting on May 22, 2001, including an agency representative and a local educational agency (LEA) representative. A review of the IEP dated May 22, 2001, indicated the signatures of the five participants: three school board employees, one of whom was the designated LEA representative; the complainant; and an individual knowledgeable about the complainant’s daughter’s needs. Records further indicated the absence of a regular education teacher; however, the complainant’s daughter did not attend regular education classes. Finally, an agency representative likely to be responsible for providing or paying for transition services was neither invited to nor attended the IEP review meeting on May 22, 2001. As corrective action, the district was to ensure that all appropriate agency representatives are invited to the IEP meeting that are held in the future. All invitations to IEP meetings for the complainant’s daughter and the resulting IEPs developed during the 2001-02 and 2002-03 school years shall be submitted to the bureau.

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**Osceola County School Board
Bureau Resolution Determination No: BISCS 2002-001-RES
January 14, 2002**

This complaint was filed by the parent of a student with a disability who had been determined eligible for the special program for students who have specific learning disabilities (SLD). The complainant in her letter alleged that the district failed to identify, evaluate, and determine the eligibility of her daughter for an exceptional student education program in a reasonable time; implement her daughter’s individual educational plan (IEP) as developed by the IEP team for the 1999-2000, 2000-01, and 2001-02 school years; provide the parent with an opportunity to participate in the development of her daughter’s IEPs for the 1999-2000, 2000-01, and 2001-02 school years; and provide an “informed notice of refusal” to the parent when a request was made to consider curriculum adaptations/modifications and special classes as part of the IEP.

In the first of four issues, the parent alleged that the district failed to identify, evaluate, and determine the eligibility of her daughter for the special education program in a reasonable time. Documentation indicated that the complainant’s daughter was

referred to the child study team in April 1999. It was also indicated that the child was screened in the sensory areas and vision on May 10, 1999, with a formal assessment being completed in November 1999. The complainant's daughter was found eligible for special programs for students who have specific learning disabilities. It was, therefore, concluded that the district identified, evaluated, and determined her eligibility in a reasonable time and corrective actions were not required.

In this issue, the parent alleged that the district failed to implement her daughter's IEP as it was developed by the IEP team for the 1999-2000, 2000-01, and 2001-02 school years. Records indicated that the student's IEP was developed on December 13, 1999, and was implemented by the district as described for the 1999-2000 and 2000-01 school years. In the fall of 2001, service delivery changed and a consultation model was provided. The parent requested the change and the district did not provide the parent with an informed notice of change of placement. As corrective action, the district was required to ensure that any services described on the student's IEP are provided as described or shall reconvene the IEP team to determine what services are necessary. Documentation verifying the completion of the corrective action was to be provided to the bureau.

In issue three, the parent alleged that the district failed to provide the parent with an opportunity to participate in the development of her daughter's IEP for the 1999-2000, 2000-01, and 2001-02 school year. Documentation indicated that between December 13, 1999, and September 25, 2001, thirteen IEP meetings were held regarding the complainant's daughter. Records further indicated that the district provided the parents with an opportunity to participate in the development of each IEP. No corrective action was required.

In the final issue, the parent alleged that the district failed to provide her an "informed notice of refusal" when a request was made to consider curriculum adaptations/modifications and special classes as part of the IEP. Documentation indicated that the parents made a request for their daughter to receive training in a specific reading program. The request was not incorporated into the student's IEP, and the district failed to provide the parents with a written "informed notice of refusal." As corrective action, the district was required to ensure the parents receive a written "informed notice of refusal" if they request a change to the identification, evaluation, educational placement, or provision of FAPE and the district refuses their request.

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Pinellas County School Board
Bureau Resolution Determination No: BISCS 2002-017-RES
May 31, 2002

On March 1, 2002, 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 programs for students who are physically impaired and who are visually impaired. The complainant's son also received speech and language therapy. The complainant specifically alleged that the district failed to appropriately identify, evaluate, and determine his son's eligibility for special education programs and services in a timely manner during the 2000-01 school year and develop an appropriate individual educational plan (IEP) for the student based on evaluation data after considering all areas related to his disability for the 2000-01 and 2001-02 school years.

The complainant alleged that the district did not determine his son's eligibility for special education programs in a timely manner. However, the investigation indicated that the consent for evaluation was provided on May 31, 2001, and that the evaluation occurred during the summer of 2001 and additional assessments were conducted during November of the same year. The complainant's son was determined eligible for a special education program on December 20, 2001. The complainant further alleged that his son's IEP was not appropriate. A review of the records indicated that evaluation data, school-based information, information from the parent, and medical reports in all areas related to the son's disability were considered when developing his initial IEP on December 20, 2001. It was determined that appropriate IEPs had been implemented for the complainant's son for the 2000-01 through 2001-02 school years. No corrective action was required.

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Seminole County School Board
Bureau Resolution Determination No: BISCS 2002-014-RES
April 16, 2002

This complaint was filed by the parents of a student with a disability enrolled in the Seminole County School District. Records indicated that the complainants' daughter had been determined eligible for the special programs for students who are physically impaired and that she also received occupational and physical therapy. In their complaint the parents alleged that the district had failed to provide them with a written notice of refusal at their daughter's December 14, 2001, individual educational plan (IEP) meeting; implement their daughter's 2001-02 school-year IEP based on her present levels of performance; and inform their daughter's physical education teacher of his responsibilities related to her 2001-02 school-year IEP.

In the first issue, the parents alleged that the district did not agree to preview field trip sites in person to determine wheelchair accessibility. Staff recorded this information on a summary form at the complainants' daughter's December 14, 2001, IEP meeting. It was determined that the summary form did not contain all of the required components of an "informed notice of refusal." As corrective action, the district was required to ensure that if the district refuses a request regarding identification, evaluation, educational placement, or the provision of a free appropriate public education, the district must provide a written notice of refusal that contains all of the required components to the parents in a timely manner.

In the second issue, the complainants alleged that their daughter's IEP did not address the services and, program modifications adequately so that she could participate in field trips. A review of their daughter's IEP, developed on April 9, 2001, indicated that she participated in the general curriculum with modifications. The IEP also stated that she needed access to information to complete field trip assignments. It was concluded that her IEP was implemented based on her present levels of performance. Corrective actions were not required.

The complainant alleged in the final issue that their daughter's physical education teacher was not informed of his responsibilities related to her IEP. Documentation indicated that the student's physical education teacher was informed regarding general responsibilities for the implementation of IEPs; however, no documentation was provided to indicate that the complainants' daughter's physical education teacher had been informed of his specific responsibilities related to the implementation of her IEP. As corrective action, the district was to ensure that the student's physical education teacher had been informed of his specific responsibilities related to the implementation of her IEP.

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Volusia County School Board
Bureau Resolution Determination No. BISCS-2002-019-RES
May 6, 2002

This complaint was filed by the parent of a student with disabilities who had been determined eligible for the special program for students with specific learning disabilities. At the time of this complaint, the student was enrolled in a private school as a result of receiving a John M. McKay Scholarship for Students with Disabilities; however, during the 2000-01 school year, the complainant's son had been enrolled in the Volusia County School District. In his letter, the complainant alleged that his son's 2000-01 individual educational plan (IEP) did not contain present levels of performance and measurable annual goals and objectives that were appropriately based on the student's evaluation results, and that the evaluation criteria were not adequate to measure the student's progress toward goal completion. The complainant further alleged that the district had not reviewed and revised the IEP to ensure

that his son was making adequate progress towards the IEP goals, provided special education instruction based on his son's individual needs, nor provided the accommodations and modifications that were prescribed by his son's 2000-01 IEP. Finally, the complainant alleged that the appropriate personnel were not in attendance at the March 9, 2001, IEP meeting; the district did not provide his son with special education instruction in the least restrictive environment; the district did not provide the parent with a prior written notice of a change of placement; and the district did not appropriately respond to the parent's request for a tutoring program. In response to the draft findings of fact the complainant stated that the bureau failed to investigate an issue in the original complaint. As a result, a new issue was added, specifically that the district was in violation of the law by failing to identify his son as a student with a disability during the 1998-99 and 1999-2000 school years.

The bureau investigation indicated that an IEP was developed for the complainant's son on September 21, 2000. The present level of performance statements on the student's IEP were based on the IEP team's review of various evaluations and information; however, the annual goals in the student's IEP were not independently measurable but rather referred to the short-term objectives for specificity and measurement. Evidence further indicated that the district held frequent conferences and meetings with the parents to discuss the student's progress and to review his program as prescribed by his IEP. It appeared that the district provided special education services to the complainant's son based on his IEP, but the list of accommodations and modifications for the regular classroom was not added to the IEP until the May 3, 2001, IEP meeting. The IEP section pertaining to participation in the state-wide and district-wide standardized assessment was also not completed.

A review of the records further indicated that an IEP meeting was held on March 9, 2001, to discuss the complainant's son being transferred to another school. The evidence indicated that the appropriate people attended the meeting, including a regular education teacher and the exceptional student education (ESE) teacher from the receiving school. The conference records did not indicate the meeting to transfer the student was designed to change the student's placement into a self-contained classroom; however, on two previous occasions the district changed the placement portion of the IEP without providing the parents an informed written notice or convening an IEP meeting.

It was also determined that the parents sent a written request to the district, dated October 20, 2000, requesting an after-school tutoring program by an ESE certified and trained instructor. Documentation indicated that originally the district denied the request, but the complainant's son was eventually placed in an after-school tutoring program taught by a regular education teacher. The parents did not receive a written notice of refusal in regards to the initial refusal by the district to provide tutoring instruction.

In the final issue, the parent alleged that the district was in violation of the law by failing to identify his son as a student with a disability during the 1998-99 and 1999-2000 school years. Records indicated that at the beginning of the student's first-grade year, 1999-2000, his teacher had concerns regarding the student's reading; as a result an academic improvement plan (AIP) was recommended. The plan was signed by the parent on January 26, 2000. In February, the district began prereferral activities for an evaluation to determine if the student was a student with a disability. The district requested parental consent; however, the parent did not consent but indicated that he was considering a private evaluation. A private evaluation was completed; the district received consent to evaluate at a later date. On September 21, 2000, the complainant's son was determined to be eligible for special education services. As corrective action, the district was required to ensure that the IEP developed for the complainant's son included a statement of measurable annual goals, benchmarks or short-term objectives, and all necessary accommodations and modifications, included those needed to enable his participation in statewide and district-wide assessments. In addition, the district was required to ensure that any change of placement is the result of an IEP team meeting and is reflected in the IEP document and to ensure that the parent is provided with a notice of refusal if the district receives a written request from the parent asking for a change in the evaluation, identification, or placement of the complainant's son or the provision of a free appropriate public education to the student and the district determines that the request will be refused. The district was required to provide evidence of compliance.

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Commissioner's Orders

Clay County School Board
Agency Order No: DOE 2002-749-FOF
May 2, 2002

This complaint was filed by an individual regarding the education of students with disabilities. The complaint was investigated through telephone interviews, a review of the documentation, and an on-site visit. The on-site visit consisted of reviewing 21 students' educational records that were randomly selected. In addition, interviews were conducted with exceptional student education (ESE) teachers and regular education teachers, as well as school and district administrators. The complainant alleged that the district failed to provide the students with disabilities who attended Clay Hill Elementary School with educational and related services as indicated on their individual educational plans (IEPs) that were developed for the 2000-01 school year, and provide the parents of students with disabilities who attended Clay Hill Elementary with an in-

formed notice prior to changing the students' educational placements during the 2000-01 school year.

The investigation indicated that all students at Clay Hill Elementary School participated in a school-wide reading program. The district reported the time students with disabilities spent in the reading program with regular education teachers as exceptional student education program time. The provision of special education services reported in the frequency of minutes per week was not accurately recorded on the students' IEPs. Documentation further indicated that each time a change of placement occurred, with a corresponding increase or decrease of minutes per week, parents were provided with an "informed notice" of the change of placement. Corrective actions were not required because the district now records special education services for students with disabilities in ways other than "minutes per week" on the IEPs.

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Lee County School Board
Agency Order No. DOE 2002-757-FOF
June 3, 2002

This complaint was filed by the parent of a student with disabilities who had been determined eligible for the special programs for students who are physically impaired and who are speech and language impaired. In her letter, the complainant alleged that the district failed to offer the parents the opportunity to participate in her daughter's individual educational plan (IEP) meeting held on November 13, 2001; and implement her daughter's IEP developed for the 2001-02 school year, specifically those components relating to her health plan, assistive devices, participation in general education classes with her nondisabled peers, and participation in state and district-wide assessment; review her daughter's IEP in June of 2000; and maintain a current IEP throughout the beginning of the 2001-02 school year. The complainant further alleged that the district failed to provide her daughter's educational information to IEP team participants as requested by the parent during the 2001-02 school year and incorporate all of the IEP team's decisions into her daughter's IEP document developed on August 30, 2001. In addition the complainant alleged that the district failed to obtain parental consent prior to disclosing confidential information regarding her daughter during the 2000-01 through 2001-02 school years. The complaint was placed in abeyance until a related Federal Office for Civil Rights complaint was resolved.

The bureau's review of the evidence indicated that the complainant requested an IEP meeting that was refused by the district due to the student having a current IEP for the 2001-02 school year. The findings indicated that the "notice of refusal" did not contain all the required components. The investigation further indicated that the district staff and the complainant did not agree on certain parts of her daughter's

IEP; however, according to the records, the complainant provided information that was considered by the IEP team and reflected the final decision of the IEP team. The district staff and complainant provided conflicting information regarding her health plan, assistive devices, participation in general education class, and participation in the statewide and district-wide assessment. Interviews with district staff and a review of the documentation could not conclusively establish whether the student's health plan was implemented or whether she used the assistive technology as required by her IEP and participated in general education classes. It was determined that an alternate assessment was provided, but part of the assessment sections were blank. Written summaries of assessments were given to the complainant during the IEP team meeting; however, the investigation concluded that the quarterly progress reports provided to the complainant did not contain all of the required components.

In the final issue, the complainant alleged that the district staff disclosed confidential information regarding the complainant's daughter without consent. Based on conflicting information provided to bureau staff, it could not be conclusively established whether the district disclosed confidential information without consent. As corrective actions the district was required to ensure that the complainant's daughter was provided with physical therapy, access to general education services, and assistive devices as required by her IEP. In addition, the IEP team was to meet to review her health plan and entire IEP, including the assessment section. Also, if the district was to deny the complainant's request to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to her, the district shall ensure that her parents are provided with a notice of refusal that contains the required components. Finally, the district was required to ensure that the quarterly progress reports provided to the parent contain all of the required components. Verification of compliance was required through the 2002-03 school year.

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Orange County School Board
Agency Order No. DOE 2002-754-FOF
February 27, 2002

This formal complaint was filed by the Barry University College of Law on behalf of a parent of a student with disabilities. The complainant's son had been determined to be eligible for special programs for students who are emotionally handicapped, specifically, for programs for students who are severely emotionally disturbed. In the complaint, it was alleged that the district failed to place the student in the most appropriate educational placement as determined by the individual educational plan (IEP) team, assess the student in all areas related to his disability when conducting educational evaluations after June of 1997, develop appropriate IEPs for the student during the 1999-2000 and 2000-01 school years that allowed him to make progress toward his stated goals, and provide the parent with the opportunity to participate in the development of her son's IEPs for the 1998-99, 1999-2000, and 2000-01 school years.

Originally, the complainant's allegation was investigated under the Bureau Resolution Determination action level. However, due to the corrective action that required the school district to provide compensatory education to the child, the level of investigation was changed to a Commissioner's Order.

The first issue alleged that the district failed to place the student in the most appropriate educational placement as determined by the IEP team. The student in question was enrolled as a full-time student at a school for students in need of full-time exceptional student education services due to their social and emotional needs. While enrolled, the student began exhibiting disruptive behavior when being transported. The IEP team determined the student required one-on-one transportation, therefore shortening his school day to provide transportation. It was concluded that the student's school day was not shortened to meet his educational needs. As corrective action, the district was required to compensate the student for the amount of time he lost while on the shortened school day and reconvene an IEP team meeting and determine appropriate services based on the student's needs. The district was further required to conduct or review his functional behavioral assessment and develop a behavioral intervention plan if a shortened day is needed to meet his educational needs. The district was required to provide evidence of compliance.

In the second issue, the allegation stated that the district failed to assess the student in all areas related to his disability when conducting educational evaluations after June of 1997. During the 1997-98 school year, the district was informed of the student's reading problems and, therefore, included reading strategies on the 1998-99 school year IEP. Records indicated that the strategies were not successful, in part due to the student's behavior. A reevaluation was initiated during the 2000-01 school year. Based on the evaluation data, the eligibility committee determined the student was eligible for the special program for students who have specific learning disabilities. It was concluded that the student was not assessed in all areas related to his suspected disabilities. Corrective actions were not issued; however, it was recommended that the district ensure that the student is evaluated in all areas of concern and ensure that all evaluation data are reviewed prior to the development of any future IEPs.

The next issue alleged that the district failed to develop appropriate IEPs for the student during the 1999-2000 and 2000-01 school years that allowed him to make progress toward his stated goals. A review of the documentation indicated that the student was exiting the fourth grade in June 2000 and achieving academically at the mid-second grade level in the area of reading. A further review of the student's 2000-01 school year IEP indicated that he achieved one of five reading objectives. The investigator concluded from the evidence that the student did not make documented progress toward his IEP goals during the 1998-99, 1999-2000, and 2000-01 school years as described on his IEP. As corrective action, the district was required to reconvene an IEP meeting to review the student's current evaluation data and develop an IEP appropriate to his needs. In addition, the district must submit to the

bureau a copy of the student's progress report that is provided to parents of students with disabilities as often as parents of nondisabled peers. Evidence of compliance was required.

In the final issue, it was alleged that the district failed to provide the parent with the opportunity to participate in the development of the son's IEPs for the 1998-99, 1999-2000, and 2000-01 school year. Evidence indicated that the parent had participated in all but one IEP meeting and in five educational planning conferences. It was concluded that the district provided the parent with the opportunity to participate in the development of her son's IEP. Corrective actions were not prescribed.

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Sarasota County School Board
Agency Order No: DOE 2002-702-FOF
January 2, 2002

The Bureau of Instructional Support and Community Services received a formal complaint alleging that the district failed to consider behavioral strategies and supports as a special factor for students with disabilities whose behavior impedes their learning, and employ qualified persons to conduct functional behavior assessments and/or to develop positive behavior support plans for students with disabilities.

The findings were based on a review of randomly selected student records, interviews with district staff and complainant, and a review of pertinent records. Data from the records indicated that the district considered strategies and supports as a special factor for students with disabilities whose behavior impedes their learning. Each of the records reviewed indicated that student behaviors were considered regardless of their disabling condition, but that only those students whose behaviors were severe enough to warrant individualized attention had behavioral goals identified in their IEPs. The investigation further indicated that students with severe behavioral issues had behavioral intervention plans developed regardless of their disabling condition.

In the final issue regarding the employment of qualified persons to conduct functional behavior assessments and/or to develop positive behavioral support plans for students with disabilities, it was determined that there was no state or federal provision that requires a certification of persons employed by a school district to conduct functional behavioral assessments and develop behavioral intervention plans. The district, however, had developed an extensive inservice program to train district-level and school-based staff in the protocols related to functional behavioral assessments and behavioral intervention plans.

There were no corrective actions required by the order.

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The New Department of
Education

Jim Horne, Commissioner

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