

Agency Order Summaries

Resulting from Inquiries Conducted by the Bureau of
Exceptional Education and Student Services



**January–June
2004**

These summaries are available through the Bureau of Exceptional Education and Student 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:

325 W. Gaines St., Room 628
Tallahassee, Florida 32399-0400

Telephone: (850) 245-0477

Suncom: 205-0477

FAX: (850) 245-0987

Internet: **www.myfloridaeducation.com/commhome**

Table of Contents

Introduction3

Summaries of Early Resolution Agreements

Hillsborough County School Board3
Miami-Dade County School Board4

Summaries of Bureau Resolution Determinations

Broward County School District4
Hillsborough County School District5
Lake County School District7
Nassau County School District7
Volusia County School District8

Summaries of Commissioner’s Orders

Highlands County School District9
Leon County School District9
Volusia County School District10

Introduction

The following are summaries of Florida Department of Education Early Resolutions, and Bureau Resolution Determinations, and Commissioner's Orders entered from January through June 2004. These resolutions and orders were issued after inquiries were made by the Bureau of Exceptional Education and Student Services (Bureau) 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 Patricia Howell, Dispute Resolution Program Director, Bureau of Exceptional Education and Student Services, 614 Turlington Building, Tallahassee, Florida 32399-0400; (850) 245-0476; Suncom 205-0476; or via electronic mail at Patricia.Howell@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.

Summaries of Early Resolution Agreements

Hillsborough County School Board Early Resolution Agreement No. 2004-ER1 June 7, 2004

The Bureau of Instructional Support and Community Services (Bureau), currently known as the Bureau of Exceptional Education and Student Services, received a letter of formal complaint from the parent of a student with disabilities. In the letter, the complainant alleged that the district violated federal and state laws regarding confidentiality of records by distributing copies of the student's educational records without parental consent and providing the complainant with confidential information regarding other students.

Following contact from the Bureau, both the district and the complainant agreed to the early resolution process. The parties reached an agreement on [specific date] 2004, stating that the district would complete its current development of a student records manual for use with school district staff. The manual will explain federal, state, and district policies related to student records. In addition, the district agreed to conduct a staff inservice on the provision of the Family Education Rights and Privacy Act. The district also agreed to inform the complainant when consultants are contracted with to provide educational services to the student's classroom. The Bureau was to monitor the implementation of the terms of the agreement.

* * *

**Miami-Dade County School Board
Early Resolution Agreement No. 2004-ER2
June 7, 2004**

The Bureau of Instructional Support and Community Services (Bureau) received a letter of formal complaint from the parent of a student with disabilities. In the letter, the complainant alleged that the district failed to follow Child Find procedures for the 2003-04 school year in regard to the complainant's children. In addition, the complainant alleged that the district failed to consider and respond appropriately to the complainant's request for an evaluation of the complainant's children.

The Bureau contacted the district and the complainant and both agreed to the Early Resolution process. The parties reached an agreement which stated that the district will complete the evaluation of one child and convene an eligibility committee meeting on or before [specific date]. The agreement also stated that the district will complete the evaluation of the second student and convene an eligibility committee meeting on or before [specific date] 2004. The Bureau was to monitor the implementation of the terms of the agreement.

* * *

Summaries of Bureau Resolution Determinations

**Broward County School District
Bureau Resolution Determination No: BISCS 2004-005-RES
April 8, 2004**

This formal complaint was filed by the parent of a student whom the parent believed had a disability. In the letter, the complainant alleged that the district failed to respond appropriately to the complainant's request for a timely initial evaluation and identification of the complainant's child as a student with disabilities. The complainant further alleged that the district failed to reimburse the complainant for an independent educational evaluation (IEE) of the student.

Documentation indicated that the complainant made three written requests for an evaluation of the student. The district did not provide documentation indicating that the district responded to the complainant's request. Records also indicated that the complainant made a written request for reimbursement for an IEE of the student, which the district refused in a letter to the complainant. Based on the findings, it was concluded that the district did not appropriately respond to the parent's request for an evaluation. As corrective action, the district was required to provide a written "informed notice of refusal to take a specific action" whenever the district refused to grant a parental request regarding the identification, evaluation, or educational placement of or the provision of a free appropriate public education to the student. Documentation was required to be submitted to the Bureau indicating compliance through the end of the 2004-05 school year.

* * *

Broward County School District
Bureau Resolution Determination No: BISCS 2004-006-RES
April 26, 2004

This formal complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students with autism and speech and language impairment. In their letter, the complainants alleged that the district failed to evaluate appropriately, determine the eligibility of, and develop an appropriate individual educational plan (IEP) for the student in a timely manner. In addition, the complainants alleged that the district failed to implement the IEP developed for the student during the 2002-03 school year and ensure that the school employed certified teachers to implement the student's IEP.

In the first issue, records indicated that the evaluation and eligibility process was completed in approximately five months. An IEP was developed; however, the student's goals were not measurable. A new IEP was written with measurable goals. As corrective action, the district was required to ensure that the student's IEPs are appropriately written. Verification of compliance was required to be submitted to the Bureau.

Based on documentation, it was concluded that in the second issue direct instruction was not provided to the complainants' child in accordance with the student's IEP for the 2002-03 school year. As corrective action, the district was required to document that the student is receiving appropriate services in accordance with the student's IEP. Verification of compliance was required to be submitted to the Bureau on a quarterly basis through the end of the 2004-05 school year. In addition, the district was required to determine if compensatory services were to be provided. The IEP team's decision was to be provided to the Bureau.

In the final issue, a review of the documentation indicated that there was insufficient evidence to conclude that all of the student's teachers were appropriately credentialed. As corrective action, the district was required to ensure that the student's school employs appropriately certified teachers. Verification of compliance was required to be submitted to the Bureau on a bi-annual basis for two consecutive school years.

* * *

Hillsborough County School Board
Bureau Resolution Determination No: BISCS 2004-001
January 13, 2004

This formal complaint was filed by the parent of a student with disabilities who had been determined eligible for the special programs for students with autism and speech and language impairment. The student also required occupational therapy. In the letter of formal complaint, the complainant alleged that the district failed to provide a notice regarding procedural safeguards and conduct a manifestation determination review after contemplating a disciplinary removal that would result in a change of placement for the student during the fall of 2003.

A review of the documentation indicated that the district did not consider a disciplinary removal. A disciplinary removal of the student would have resulted in a change of placement and would have required the issuance of a procedural safeguards notice and the provision of a manifestation determination. Corrective actions were not required.

* * *

Hillsborough County School District
Bureau Resolution Determination No: BISCS 2004-002-RES
January 26, 2004

This formal complaint was filed by the parents of a student with a disability who had been determined eligible for exceptional student education based on a temporary out-of-state individual educational plan (IEP). In the letter, the complainants alleged that the district failed to provide special education and related services to the student in accordance with the student's IEP during the 2002-03 school year. The complainants also alleged that the district failed to ensure that the student was educated in the least restrictive environment (LRE) during the 2002-03 school year and provide the student with appropriate positive behavioral support in the student's educational setting.

In the first issue, a review of the documentation indicated that the student's IEP was not implemented in regard to the student's interaction with nondisabled peers in the regular education setting. The review further indicated that the district had provided the other special education and related services specified on the student's IEP and had made a good faith effort to assist him to achieve the goals and objectives or benchmarks listed on the IEP. In addition, the investigation showed that the district relied on a temporary IEP for more than the six months established by rule as the maximum duration of such temporary IEPs. As corrective action, the district was required to ensure that all of the educational services described on the student's IEP be provided. Verification of compliance was required to be submitted to the Bureau on a quarterly basis through the end of the 2004-05 school year. In addition, the district was required to ensure that all temporary IEPs that are developed for students who have transferred from out-of-state are replaced with permanent IEPs within the time established by law.

In the second issue, records indicated that the district had considered the out-of-state IEP when determining the student's placement. Corrective actions were not required.

In the final issue, documentation indicated that the student's out-of-state IEP contained a behavioral intervention plan (BIP). A functional behavioral assessment (FBA) was completed. Both the out-of-state BIP and results of the FBA were considered in the student's 2003 IEP. Corrective actions were not required.

* * *

Lake County School District
Bureau Resolution Determination No: BISCS 2004-003-RES
January 26, 2004

This formal complaint was filed by an attorney representing the parent of a student with disabilities who had been determined eligible for the special programs for students who are identified as profoundly mentally handicapped, deaf or hard of hearing, and language impaired. In the letter of formal complaint, the attorney alleged that the district failed to provide the parent with the opportunity to participate fully in meetings regarding the student and provide proper parental notices regarding the individual educational plan (IEP) meeting scheduled for [specific date] 2003. In addition, the attorney alleged that the district failed to develop the student's IEP appropriately with consideration to the student's unique needs and implement the student's 2003-04 school year IEP.

In the first issue, records indicated that the notice of the IEP meeting had been provided to the student's attorney. The district mistakenly believed the attorney was entitled to accept notices on behalf of the parent. It was concluded that the parent did not attend the IEP meetings because the district mistakenly provided the notices to the attorney. As corrective action, the district was required to submit documentation to the Bureau verifying that the student's parent was provided with proper advance notice of all IEP team meetings during the first year of enrollment. The district was also required to ensure that the student's parent was provided with the opportunity to participate fully in IEP team meetings.

In the second issue, a review of the student's IEP indicated that the major concerns of the IEP team were addressed. In addition, a behavioral intervention plan was developed and implemented for the student to support the overall implementation of the goals specified on the IEP. It was concluded that the district identified the unique needs of the student and developed an appropriate IEP. Corrective actions were not required.

In the third issue, a review of the student's IEP and other records indicated that the student's goals and objectives listed on the IEP were addressed during the student's daily educational activities. It was concluded that the student's IEP was appropriately implemented as written. Corrective actions were not required.

* * *

Nassau County School District
Bureau Resolution Determination No: BISCS 2004-007-RES
May 17, 2004

This formal complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students with autism and speech and language impairments. In the letter, the complainants alleged that the district failed to follow appropriate discipline procedures when handling the situation leading to the student's arrest during the 2003-04 school year.

A review of the documentation indicated that an experienced teacher had determined that the student's behavior was presenting a danger to the student or to others in the student's proximity. It was concluded that the school resource officer (SRO) had the authority to remove the student and remand the student to the sheriff's office. Documentation further indicated that the SRO contacted the student's parent regarding the situation. The investigation concluded that the district's current policies and procedures lacked a written procedure that identified who would inform the sheriff's office about a student's special education and disciplinary record(s) following an arrest and when they would be informed. However, the district responded appropriately to the sheriff's request for further information about the student's educational and disciplinary history.

As corrective action, the district was required to develop a written procedure that explains the scope of the district's duty to communicate information and/or provide records regarding a student's special education and disciplinary history to law enforcement and judicial authorities. Verification of compliance was required to be submitted to the Bureau.

* * *

Volusia County School District
Bureau Resolution Determination No: BISCS 2004-004-RES
January 26, 2004

This formal complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students identified as gifted and emotionally handicapped. In the letter, the complainants alleged that the district failed to develop the student's individual educational plan (IEP) for the 2003-04 school year with all of the necessary components and address the student's unique needs based on the student's present levels of performance. The complainants also alleged that the district failed to conduct the student's IEP meeting with the required participants and to notify the complainants early enough to ensure that they would have an opportunity to attend the IEP meeting or to reschedule the meeting at a mutually agreed upon time and place.

In the first issue, a review of the records indicated that the student's IEP for the 2003-04 school year included all of the necessary components with the exception of measurable annual goals. As corrective action, the district was required to ensure that the student's IEPs contain all of the necessary components, including goals that are measurable. Verification of compliance was required to be submitted to the Bureau.

In the second issue, documentation indicated that the student's IEP meeting had all the legally required participants. Corrective actions were not required.

In the final issue, documentation indicated that the notice for the IEP meeting was sent to the complainants. Documentation further indicated that the complainants requested that the meeting be rescheduled. It was concluded that the complainants received invitations to all the meetings in a timely manner and that all the meetings had been scheduled at a mutually agreed upon time and place. Corrective actions were not required.

Summaries of Commissioner's Orders

Highlands County School District Agency Order No: DOE 2004-997-FOF April 27, 2004

This formal complaint was filed by the parent of a student with disabilities who had been determined eligible for the special programs for students identified as physically impaired/other health impaired and speech and language impaired. In the letter, the complainant alleged that during the 2003-04 school year, the district failed to provide special education and related services to the student in accordance with the student's individual educational plan (IEP) and make a good faith effort to assist the student to achieve the social skills and communication goals and objectives or benchmarks listed in the IEP.

A review of the documentation indicated that the district made a good faith effort to help the student to achieve the annual goals as specified on the IEP. However, documentation also indicated that the district did not provide the student with all of the speech-language therapy services described on the student's IEP. As corrective action, the district was required to ensure that the appropriate special education and related services are provided to the student in accordance with the IEP. Verification of compliance was required to be submitted to the Bureau.

* * *

Leon County School District Agency Order No: DOE 2004-998-FOF May 12, 2004

This formal complaint was filed by a concerned citizen who alleged that the district failed to evaluate, determine the eligibility of, and provide special education and related services to students with disabilities incarcerated in the district's county jail.

A review of the documentation indicated that the district properly evaluates, identifies, and provides special education and related services to minor students with disabilities in the county jail. In addition, the documentation indicated that the district did not properly evaluate, identify, and provide special education and related services to at least one adult student who was self-identified as having a disability during the period from [specific date] 2003, to [specific date] 2003. As corrective action, the district was required to ensure that a free appropriate public education is made available to adult students with disabilities who are incarcerated in the county jail. The district was also required to develop a written policy and procedure that will ensure the availability of special education and related services to adult students with disabilities and who are inmates in the county jail within the age criteria specified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students (SP&P) document. Verification of compliance was required to be submitted to the Bureau.

* * *

Volusia County School District
Agency Order No: DOE 2004-973-FOF
January 30, 2004

This formal complaint was filed by the parents of a student with disabilities who had been determined eligible for the special programs for students identified as gifted and who are emotionally handicapped. The complainants alleged that the district failed to provide the student with an evaluation that was sufficiently comprehensive to identify all of the student's special education and related services needs; provide an independent educational evaluation (IEE) at public expense when the student's parents expressed their disagreement with the district's evaluation; provide appropriate special education and related services to the student in accordance with the student's individual educational plan (IEP) and to make a good faith effort to assist the student to achieve the goals and objectives listed in the IEP, during the 2002-03 school year; provide special education and related services to students with disabilities and/or gifted students in accordance with their IEPs or educational plans (EPs) while such students are attending the Halifax Behavioral Center; ensure that the student was educated in the least restrictive environment (LRE) during the 2000-01 through the 2002-03 school years; ensure that the student's IEP was accessible to each of the student's teachers and that each teacher was informed of his or her specific responsibilities regarding the implementation of the student's IEP, during the 2002-03 school year; change the student's IEP when the student's placement was changed during the 2002-03 school year; provide the student with the opportunity to participate in the regular physical education program for nondisabled children when the student was placed in the homebound program; schedule an IEP meeting at a mutually agreed upon time and place; provide informed notice with all of the required components regarding the identification, evaluation, or educational placement of the student, specifically in response to the complainants' request for specific evaluations and the student's application for the hospitalized or homebound (H/H) program for the 2003-04 school year; and follow the appropriate discipline procedures regarding the student's behavioral incidents and referrals during the 2000-01 through 2002-03 school years.

In the first issue, the complainants alleged that the district failed to provide the student with an evaluation or reevaluation comprehensive enough to identify all of the student's special education and related services needs. Evidence indicates that the district evaluated the student on three occasions, including comprehensive reevaluations during the student's fifth- and sixth-grade school years. It was concluded that district provided the student with evaluations that were sufficiently comprehensive to identify all of the student's special education and related services needs. Corrective actions were not required.

In the second issue, the complainants alleged that they had informed the district of their disagreement with the results of the student's evaluation during the student's kindergarten school year, had asked for a re-test, and were refused further evaluation of the student at that time. Neither party provided documentation regarding the complainants' alleged request for a re-test or an IEE. Corrective actions were not required.

In the third issue, the complainants alleged that the district failed to provide the educational services needed by the student, and consequently, the student suffered an emotional crisis. A review of the documentation indicated that the district had provided special education and related services to the student in accordance with the student's IEP and had made a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the 2002-03 school year IEP. Corrective actions were not required.

In the fourth issue, the complainants alleged that the district failed to provide special education and related services to students with disabilities and gifted students in accordance with their IEPs or EPs while such students were attending the Halifax Behavioral Center. Based on a review of the records, it was found that the district provided special education and related services to students with disabilities and gifted students in accordance with their IEPs while such students were attending the Halifax Behavioral Center. Corrective actions were not required.

In the fifth issue, the complainants alleged that the district failed to educate the student in the LRE during part of the student's 2000-01 through the 2002-03 school year due to the student's behavior because the district had failed to give consideration to the use of supplementary aids and services that would have enabled the student to have full participation with the student's nondisabled peers. A review of the documentation indicated that the student was placed in a regular class with exceptional student education consultation services from [specific date] 2001, through [specific date] 2002, at which time the student withdrew from public school to attend a non-public school. Documentation further indicated that the student withdrew from the non public school and reentered the district public school system. The IEP team placed the student in a regular class with ESE consultation. H/H services were provided to the student, pending the student's reevaluation; however, the complainants were not provided with an informed notice regarding this change of placement. It was concluded that the student was not educated in the educational placement specified on the student's IEP. As corrective action, the district was required to ensure that the student is educated in the placement specified on the student's IEP and that an informed notice is provided to the complainants regarding any change to the student's educational placement. Verification of compliance was required to be submitted to the Bureau.

In the sixth issue, the complainants alleged that the student's teachers failed to read the student's IEP at the beginning of the 2002-03 school year. Records indicated that the student's teachers were aware of the student's IEP and their responsibilities regarding the implementation of the IEP during the 2002-03 school year. Corrective actions were not required.

In the seventh issue, the complainants alleged that the district failed to redo the student's IEP to reflect the H/H services. Documentation indicated that the IEP team met and developed an IEP that specified a regular class placement. The student began receiving H/H services, but the IEP did not reflect the change when the student began receiving H/H services. Therefore, it was concluded that the IEP was not implemented until [specific date] 2003, when the student's H/H services were discontinued. As corrective action, the district was required to revise the student's IEP for any changes in the student's service delivery model. Verification of compliance was required to be submitted to the Bureau.

In the eighth issue, the complainants alleged that the district failed to provide the student with physical education while in the H/H program for four days in [specific date] 2003. Following a review of the documentation, it could not be established that a violation had occurred regarding the provision of an opportunity for the student to participate in the regular physical education program during the student's H/H placement. Corrective actions were not required.

In the ninth issue, the complainants alleged that the district failed to schedule an IEP meeting at a mutually agreed on time and place before the beginning of the 2003-04 school year. Documentation indicated that the IEP team would meet during pre-planning before the student's school year began. Documentation further indicated that the complainants were invited to an IEP meeting, which had been rescheduled at the complainants' request. The student's IEP meeting was held with the complainants in attendance. It was concluded that the district scheduled the IEP meeting at a mutually agreed upon time and place. Corrective actions were not required.

In the tenth issue, the complainants alleged that the district failed to provide them an informed notice with all of the required components regarding the district's response to their request for a specific type of evaluation and the student's placement in the H/H program. A review of the records indicated that the district granted the complainants' requests for reevaluations; however, no informed notice was provided to the complainants regarding the student's participation in the H/H program. As corrective action, the district was required to provide an informed notice to the parents a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the student, or the provision of a free appropriate public education to the student. Verification of compliance was required to be submitted to the Bureau.

In the final issue, the complainants alleged that the district failed to follow appropriate disciplinary procedures regarding the student's behavioral incidents and referrals during the 2000-01 through the 2002-03 school years. A review of the student's IEPs indicated that the IEP team had considered positive behavioral interventions, strategies, and supports to address the student's behaviors that impeded the student's learning or that of others. Reports further indicated that the student was suspended (out-of-school) for four days during the 2000-01 school year and was not suspended from school during the 2001-02 or 2002-03 school years. It was concluded that the district followed the appropriate discipline procedures regarding the student's behavioral incidents and referrals during the 2000-01 through the 2002-03 school years. Corrective actions were not required.

* * *



John L. Winn, Commissioner

ESE 312756