

# Agency Order Summaries

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



**July–December  
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:

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## **Introduction**

The following are summaries of Florida Department of Education Early Resolutions, and Bureau Resolution Determinations, and Commissioner's Orders entered from July through December 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.

### **Early Resolution Agreement**

**Hernando County School Board**  
**Early Resolution Agreement No. 2004-ER4**  
**November 24, 2004**

The Bureau of Exceptional Education and Student Services (BEESS) received a letter of formal complaint from the parents of a student with disabilities. In their letter, the complainants alleged that the district violated federal and state laws regarding the provision of occupational and speech therapy as specified on the student's individual educational plan (IEP) during the 2004-05 school year.

Following contact from the Bureau, both the district and the complainant agreed to the early resolution process. The parties reached an agreement stating that the district would provide the speech and language therapy as described in the student's IEP and provide compensatory speech and language therapy to make up the services that were missed. The Bureau was to monitor the implementation of the terms of the agreement.

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### **Bureau Resolution Determinations**

**Brevard County School District**  
**Bureau Resolution Determination No: BISCS 2004-008-RES**  
**July 13, 2004**

This formal complaint was filed by the grandparent of a student with disabilities who had been

determined eligible for the special programs for students with visual impairments (VI) and other health impairments (OHI). The complainant's letter alleged that the district failed to provide the student with credits for a Unique Skills class and accommodations/modifications required by the student's individual educational plan (IEP) for the 2003-04 school year. The complainant further alleged that the district failed to follow the appropriate procedures when developing the student's IEP.

In the first issue, the complainant alleged that the district failed to provide the student with the credits earned for a class entitled Unique Skills nor did the district provide the accommodations/modifications described in the student's 2003-04 IEP. A review of the student's academic record indicated that the district had applied the credit for the Unique Skills class; however, documentation provided by the district did not indicate the consistent provision of all accommodations and modifications as described in the student's 2003-04 school year IEP. As corrective action, the district was required to develop specific strategies to ensure that the student will consistently receive the accommodations specified on the student's IEPs. The district is required to submit documentation to the Bureau at the end of each grading period until the end of the 2004-05 school year indicating that the student is receiving appropriate services and accommodations in accordance with the student's IEPs.

In the second issue, the complainant alleged that the district inappropriately developed the student's [specific date] 2004, IEP because it lacked the signature of the exceptional student education (ESE) teacher who was in attendance at the meeting. Based on the documentation, it was concluded that the district followed appropriate procedures when it developed the student's IEP as reflected by the inclusion of the ESE teacher's signature on the IEP conference report developed at the meeting. Corrective actions were not required.

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### **Duval County School District**

### **Bureau Resolution Determination No: BISCS 2004-012-RES**

**August 9, 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 specific learning disabilities (SLD) and with speech and language impairments (S/L). In the letter, the complainant alleged that during the 2003-04 school year the district failed to provide the student with special education services in the least restrictive environment (LRE) in accordance with the student's individual educational plan (IEP) for the 2003-04 school year and failed to make a good faith effort to assist the student to achieve the goals and objectives/benchmarks listed in the IEP.

A review of the documentation indicated that the student was not provided with the special education services that were indicated on the IEP for the 2003-04 school year. A functional behavioral assessment (FBA) and a behavioral intervention plan (BIP) were completed; however, no underlying baseline data for the targeted behaviors had been provided for the BIP's formulation. In addition, the student's school day was modified/shortened with no IEP team

meeting to determine the necessity for a change to a more restrictive placement. The student's IEP was not revised to reflect a change in placement.

In Spring of 2004, a manifestation determination meeting was held for the student after being suspended for a total of seventeen days. It was concluded that the district did not follow proper discipline and service provision procedures in regard to the student's suspensions. Following a review of the documentation, it was determined that the district did not follow appropriate procedures when changing the student's placement to a more restrictive environment during the 2003-04 school year. It also was concluded that the district did not make a good faith effort to help the student achieve the goals and objectives listed in the IEP during the 2003-04 school year.

As corrective action, the district will ensure that the student receives the special education and related services indicated on the IEP during the school year. The IEP team must meet to develop a plan to determine the amount and nature of the compensatory services that must be provided. In addition, the district must ensure that the IEPs that are developed are sufficiently specific about the special education services that must be provided to the student and that the IEPs are fully implemented. The district must further provide the parent with informed notice each time that the student's IEP team proposes or refuses to change the student's educational placement. Verification of compliance must be submitted to the Bureau on a quarterly basis through the end of the 2004-05 school year.

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**Gadsden County School District**  
**Bureau Resolution Determination No: BEESS 2004-018-RES**  
**November 22, 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 emotionally handicapped. In the letter of formal complaint, the complainant alleged that the district failed to implement the student's individual educational plan (IEP) during the 2003-04 school year, to review and/or revise the student's IEP during the 2003-04 school year, to develop and implement behavior management strategies and discipline procedures for the student, to provide the parent with appropriate prior notice of a manifestation determination meeting, and to provide the student with exceptional student education (ESE) services in the least restrictive environment during the 2003-04 school year.

In the first issue, the complainant alleged that the district failed to implement the student's IEP during the 2003-04 school year. A review of the documentation indicated that the district had limited opportunities to implement the IEP due to the student's poor attendance. The IEP included a behavioral intervention plan that included strategies to improve the student's attendance, and the district made good-faith efforts to implement the IEP. Corrective actions were not required.

In the second issue, the complainant alleged that the district failed to appropriately review and/or revise the student's IEP during the 2003-04 school year. A review of the documentation indicated that four IEP meetings were held during that time with the parent attending three of the meetings. Corrective actions were not required.

In the third issue, the complainant alleged that the district failed to appropriately develop and implement behavior management strategies. Documentation indicated that the student's IEPs included accommodations and modifications related to behavior management, but the district's ability to implement the strategies was impaired by the student's attendance problems.

An alternative placement was recommended for the student during a manifestation determination hearing following the student's arrest for assault on another student. The IEP team determined that the behavior was not a manifestation of the disability. The parent refused to consent to the alternative placement. The parent did not attend a follow up IEP meeting, and there was no record of the parent's response to the written invitation or any other attempts to contact the parent about the meeting. As corrective action, the district was ordered to ensure that there is a record of attempts to arrange a mutually agreed on time and place prior to IEP meetings and to provide the Bureau with documentation.

In the next issue, the complainant alleged that the district failed to provide appropriate prior notice of the [specific date] 2003 manifestation determination meeting. A meeting participation form with an explanation that the purpose of the meeting was to hold a manifestation hearing was signed by the parent, indicating intent to attend the meeting. The parent attended the meeting. Corrective actions were not required.

In the last issue, the complainant alleged that the district failed to provide the student with ESE services in the least restrictive environment (LRE) during the 2003-04 school year. An LRE checklist was included with each of the IEPs developed during the 2003-04 school year, and an IEP team reviewed and revised the IEP each time a change of placement was proposed and implemented. Corrective actions were not required.

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**Highlands County School District**  
**Bureau Resolution Determination No: BISCS 2004-009-RES**  
**July 19, 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 physical impairments/other health impairments and speech and language impairments. In the letter of formal complaint, the complainants alleged that the district had violated four specific sections of federal and state laws relating to the education of students with disabilities.

In the first issue, the complainant alleged that the district failed to develop the student's IEP appropriately, specifically the transition component. A review of the documentation indicated



that the IEP meeting included the required participants for transition planning and the transition services needed. The documentation also showed that the parents participated in the development of the IEP and that the parent-initiated evaluations were considered by the student's IEP team. It was concluded that the IEP was appropriately developed, specifically the transition component. Corrective actions were not required.

In the second issue, the complainant alleged that the district failed to provide transition services for the student as described on the IEP for the remainder of the 2003-04 school year. A review of the student's IEP specified the provision of transition services. It was concluded that the services described on the student's IEP were provided by the district for the remainder of the 2003-04 school year. Corrective actions were not required.

In the third issue, the complainant alleged that the district failed to implement the student's IEP, regarding the short-term objectives for maintaining and generalizing social skills. A review of the student's IEP indicated short-term objectives that would maintain and generalize mastered social skills. Documentation indicated that the student had mastered the social skills. It was concluded that the short-term objectives described on the student's IEP were provided by the district. Corrective actions were not required.

In the final issue, the complainant alleged that the district failed to provide the parents with an Informed Notice of Refusal regarding the district's denial of the parents' requests. Documentation indicated that the parents made eighteen requests during the IEP meeting. The district provided an Informed Notice of Refusal, grouping the eighteen requests into four categories. It was concluded that the district provided the parents with an Informed Notice of Refusal regarding the district's denial of all the parents' requests. Corrective actions were not required.

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**Highlands County School District**  
**Bureau Resolution Determination No: BISCS 2004-013-RES**  
**August 12, 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 physical impairments (PI) and speech and language impairments (S/L). In the letter, the complainant alleged that the district failed to provide the complainant with an opportunity for meaningful participation in the individual educational plan (IEP) meeting. A tape recording and other documentation provided by the complainant and the district indicated that the parents and the student had attended and participated meaningfully in the IEP meeting. Corrective actions were not required.

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**Highlands County School District**  
**Bureau Resolution Determination No: BISCS 2004-015-RES**  
**August 28, 2004**

This formal complaint was filed by a parent on behalf of all students with disabilities in the district. In the letter, the complainant alleged that the district did not appropriately develop the statement of present levels of educational performances (PLEP) on the transition individual educational plan (IEP) for students aged fourteen and older. In addition, the complainant alleged that the district did not appropriately develop statements of measurable annual goals, including appropriate benchmarks or short-term objectives on the IEPs that were developed for students aged fourteen and older.

Documentation indicated in the first issue that the district provided accurate and appropriate written information and guidance to IEP team members regarding the requirements for transition planning. It was concluded that the transition IEPs that were developed by the district for students aged fourteen and older during the 2003-04 school year contained appropriate statements of the students' present levels of educational performance. Corrective actions were not required.

In the second issue, the Florida Department of Education's (DOE) 2003 focused monitoring of the district resulted in a finding of a lack of measurable annual goals and limited instances of inadequate short-term objectives or benchmarks. Corrective actions were not required due to the district and DOE addressing the issue and engaging in follow-up activities.

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**Highlands County School District**  
**Bureau Resolution Determination No: BISCS 2004-017-RES**  
**October 8, 2004**

This formal complaint was filed by a private citizen who alleged that the district failed to appropriately consider the results of parent-initiated evaluations in decisions made with respect to the provision of a free appropriate public education (FAPE) to students with disabilities during the 2003-04 school year.

A review of the documentation indicated that the district appropriately considered the results of parent-initiated (independent) evaluations in decisions with respect to the provision of FAPE to students with disabilities during the 2003-04 school year. No corrective action was required.

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**Highlands County School District**  
**Bureau Resolution Determination No: BISCS 2004-016-RES**  
**October 9, 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 specific learning disabilities (SLD), with speech and language impairments (S/L), and who receive occupational therapy (OT). In the letter, the complainant alleged that the district failed to implement the student's individual educational plan (IEP) on the first and second days of the 2004-05 school year.

A review of the documentation indicated that the duplicate textbooks specified on the student's IEP were not provided to the student on the first day of school but were provided on the second day. The desktop FM system required by the student's IEP was not provided to the student on the first and second day of school; however, the system was provided on the third day. In addition, the student did not summarize the assignment in writing on the second day of school as required by the IEP. It was concluded that not all services described on the student's IEP were implemented. In the future, if the student re-enrolls in the district, the district must ensure that the student receives the special education and related services indicated on the IEP beginning on the first day of enrollment/attendance. Verification of compliance must be submitted to the Bureau if the student re-enrolls.

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**Hillsborough County School District**  
**Bureau Resolution Determination No: BISCS 2004-011-RES**  
**July 30, 2004**

This formal complaint was filed by the grandparent of a student with disabilities who had been determined eligible for the special programs for students identified as emotionally handicapped (EH). In the letter, the complainant alleged that the district engaged in three violations of federal and state laws relating to the education of students with disabilities.

The complainant alleged that in the first violation the district failed to develop and implement positive behavioral strategies for the student. A review of the documentation indicated that the student was subjected to a series of removals that exceeded more than ten days during the school year, constituting a change in placement. In addition, the length of each removal and the proximity of the removals to one another created a pattern of removals that denied the student access to the special education and related services as indicated on the student's individual educational plan (IEP). As corrective action the district was required to conduct a new functional behavior assessment (FBA), review the new FBA, and revise the student's behavioral intervention plan (BIP). Verification of compliance must be submitted to the Bureau each grading period through the end of the 2004-05 school year. It was also recommended that the district provide training on the development of FBAs and BIPs.

In the second alleged violation, the complainant alleged that the district failed to provide

the complainant with copies and an explanation of the notice of procedural safeguards. Documentation indicated that the district provided a notice of procedural safeguards to the appropriate person as designated on the head-of-household section of the school enrollment records. Corrective actions were not required.

The complainant alleged that in the third violation the district failed to follow the appropriate parental notification procedures when scheduling IEP team meetings for the 2003-04 school year. Records indicated that the district provided the parental notice to the parent who was designated as the head-of-household on the student's enrollment form. It was concluded that the district followed the appropriate parental notifications procedures for scheduling the student's IEP team meetings for the 2003-04 school year. Corrective actions were not required.

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**Hillsborough and Polk County School Districts**  
**Agency Case No.: BEESS 2004-014-RES**  
**October 15, 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 physical impairments (PI). In the letter, the complainant alleged that the Polk County School District (PCSD) failed to provide the student with a free appropriate public education (FAPE) by not providing the special education and related services in the least restrictive environment (LRE) in accordance with the student's [specific date] individual educational plan (IEP), during the 2001-02 school year.

In addition, the complainant alleged that the district failed to provide the student with FAPE by not allowing the student to enroll in a public school [on a specific date] in 2003. Last, the complainant alleged that the district failed to follow all proper procedures when developing the student's [specific date] 2003 IEP.

The complainant also alleged that the Hillsborough County School District (HCSD) failed to place the student in the LRE and provide special education and related services in accordance with the student's IEP, and to make a good faith effort to assist the student to achieve the objectives or benchmarks listed in the IEP, during the 2003-04 school year.

For the first issue, it was concluded that during the time the student attended school, the PCSD provided the student with a FAPE. Corrective actions were not required.

For the second issue, it was determined that the complainant asked about the student's re-enrollment at the middle school but never enrolled the student. It was concluded that the district did not ensure that the student was enrolled and that appropriate special education and related services were provided to the student. As corrective action, if the student is enrolled in PCSD, the district was required to reconvene the student's IEP team, to review the student's IEP, and to develop a plan to provide the student with the opportunity to receive compensatory educational services. Verification of compliance must be submitted to the Bureau by the end of the 2004-05 school year.

For the third issue, the Bureau concluded that the student was withdrawn from the PCSD before the [specific date] 2003 IEP was developed; therefore, the duty to implement this IEP was not binding on any district. Corrective actions were not required.

For the issue related to the HCSD, it was concluded that the district did not follow the appropriate procedures by using the child study team to determine the student's placement and the provision of special education and related services. The Bureau determined that the district failed to develop a current or temporary IEP for the student within a reasonable time. As a corrective action, if the student is enrolled in the HCSD, the district was required to reconvene the student's IEP team to determine if compensatory educational services needed to be provided. Verification of compliance must be submitted to the Bureau by the end of the 2004-05 school year.

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**Lee County School District**

**Bureau Resolution Determination No: BEESS 2004-020-RES**

**December 14, 2004**

This formal complaint was filed by the parent of a student with a disability. In the letter, the complainant alleged that the district failed to provide occupational therapy (OT) as specified on the student's 2004-05 IEP. The complainant further alleged that the district failed to provide the accommodations/modifications specified on the student's IEP that was developed for the 2004-05 school year.

The student's IEP specified that OT consultative services would be provided on a quarterly basis. The district provided documentation which indicated that OT had been provided to the student even more frequently than was required. Documentation was also provided indicating that the district had provided the accommodations/modifications as specified on the student's IEP developed for the 2004-05 school year.

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**Orange County School District**

**Agency Case No.: BEESS-2004-021-RES**

**December 21, 2004**

This formal complaint was filed by the parent of a student with disabilities. In the letter, the complainants alleged that the Orange County School District (OCSD) failed to provide the student with access to a standard diploma by failing to provide the accommodations and other related supports as indicated on the student's transitional individual educational plan (IEP) during the first quarter of the 2004-05 school year.

The complainant alleged OCSD failed to provide the student with access to a standard diploma by failing to provide the accommodations and other related supports as indicated on the student's

[specific date] 2004, transitional IEP during the first quarter of the 2004-05 school year. After a review of all relevant documentation, the Bureau found that the student was enrolled in the hospital/homebound program for the 2004-05 school year. While the student's IEP specified two hours of daily direct instruction, both the district and the complainant acknowledged that the student is medically fragile and is physically unable to receive the full two hours every day. The district provided the student with the accommodations and other related supports, such as assistive technology as specified in the student's IEP. There were three days when some of the student's direct instruction time was spent programming assistive technology devices for the student. However, it appears that the student's input was essential for this programming and that, therefore, the programming had been appropriately done during the student's instructional time. Corrective actions were not required.

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**St. Johns County School District**  
**Bureau Resolution Determination No: BISCS 2004-010-RES**  
**July 30, 2004**

This formal complaint was filed by an advocate on behalf of the parents of a student with disabilities who had been determined eligible for the special programs for students who are homebound or hospitalized (H/H) and identified as educable mentally handicapped (EMH) and language impaired. In the letter of formal complaint, the complainant alleged that the district failed to provide special education and related services as described on the student's individual educational plan (IEP) for the 2003-04 school year and follow appropriate disciplinary procedures during the 2003-04 school year when the student engaged in inappropriate behaviors that may have been a manifestation of the student's disability.

In the first issue, the complainant alleged that the district did not provide the student with the adaptive physical education services and instruction in language communication skills. A review of the documentation indicated that the student was to receive adaptive physical education two days per week for one hour each day and language communication each day for sixty minutes. The investigation concluded that the student did not receive the adaptive physical education services and instruction in language communication skills as described on the student's IEP. As corrective action, the district was required to develop a plan to provide compensatory services and ensure that the student receives the appropriate amount of instruction as indicated on the student's IEP. Verification of compliance must be submitted to the Bureau at the end of each grading period through the end of the 2004-05 school year.

In the second issue, the complainant alleged that the district did not follow the appropriate disciplinary procedures when the student engaged in inappropriate behaviors. Documentation indicated that the IEP team convened and took action based on the student's inappropriate and harmful behaviors. Corrective actions were not required.

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**Volusia County School District**  
**Bureau Resolution Determination No: BEESS 2004-019-RES**  
**December 2, 2004**

This formal complaint was filed by a private citizen alleging that the district failed to provide interpreter services to hearing-impaired students as required by their individual educational plans (IEPs) during the 2003-04 school year. A review of students' IEPs did not sufficiently describe how the students' interpreters' services were provided. It was concluded that it could not be determined whether the district provided appropriate interpreter services to hearing-impaired students during the 2003-04 school year. As corrective actions, the district was required to ensure that students who are determined by the district to be deaf/hard-of-hearing (HH) receive the special education and related services and that the provision of the services are sufficiently described on their IEPs. The district was to reconvene the IEP teams for all students surveyed by a [specific date] in 2005, to review each student's IEP, and to ensure that the description of the frequency of the provision of interpreter services is sufficiently clear. Verification of compliance must be submitted to the Bureau.

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John L. Winn, Commissioner