

Agency Order Summaries

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



**July–December
2005**

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 January through June 2005. 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 Agreements

Pinellas County School Board

Early Resolution Agreement: No.-2005-2ER

August 17, 2005

The Bureau received a letter of formal complaint from the attorney representing the parents of a student with disabilities. The complainant alleged that the district violated federal and state laws regarding to the district imposing conditions on the complainants' request to obtain an independent educational evaluation (IEE) for the student at public expense and imposed conditions on all requests to obtain IEEs for students with disabilities during the 2004-05 school year.

A meeting was held on [specific date] 2005, and both parties signed an Early Resolution Agreement. The agreement involved the revision of the district's Limited Authorization/Release of Information for an Independent Educational Evaluation form and the revision of the Vendor Letter. A revised copy of each form that was agreed upon by both parties was provided by the district to the Bureau. No further action was required.

Bureau Resolution Determinations

Broward County School District

Bureau Resolution Determination: No. BEESS-2005-027-RES

October 12, 2005

This complaint alleged that the Florida Department of Education, Bureau of Exceptional Education and Student Services, violated federal and state laws by failing to complete the investigation of complaints received by facsimile within the 60-day timeline required by Title 34 of the Code of Federal Regulations and Florida State Board of Education Rules.

A review of one year of documentation, July 1, 2004 through June 30, 2005, indicated that the complaints that had been transmitted by facsimile were investigated within the timelines required by law.

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Charlotte County School District

Bureau Resolution Determination: Case No. BEESS-2005-26-RES

September 19, 2005

This complainant alleged that the Charlotte County School District had not initiated the provision of specially designed instruction and related services for a student for the 2005-06 school year, as specified on the current IEP, in a timely manner.

At the time of the student's attempted registration on [specific date] 2005, at a different school within the district for the 2005-06 school year due to the family's relocation, the student had previously received special education and related services from the district, pursuant to an IEP dated [specific date] 2005. No documentation was submitted by either party to show that the parent had made a written or oral request for an IEP meeting until [specific date] 2005. An IEP meeting was held on [specific date] 2005, to review this student's IEP for the 2005-06 school year. The IEP was revised by the IEP team to authorize a change in the student's placement from a self-contained classroom to the inclusion format that would be implemented at the new school. The complainant registered the student in a school with a year-round scheduling format on [specific date] 2005. The student began school on [specific date] 2005; and, the Charlotte County School District initiated the provision of specially designed instruction and related services for the student, for the 2005-06 school year, as specified on the current IEP, in a timely manner. Corrective actions were not issued.

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Clay County School District

Bureau Resolution Determination: No. BEESS-2005-029-RES

October 28, 2005

The complainant's allegation involved whether the student's individual educational plan (IEP) team considered whether the provision of supplementary aids and services would enable the student to be appropriately placed in the home-zoned school during the 2005-06 school year.

A corrective action required the IEP team to convene to determine whether the provision of supplementary aids and services would enable the student to be appropriately placed in a home-zoned school.

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Hernando County School District
Bureau Resolution Determination: No. BEESS-2005-034-RES
November 28, 2005

This complaint alleged that Hernando County School District failed to provide a student with individualized extended school year (ESY) services during the summer of 2005 and failed to make determinations regarding the provision of ESY services on an individualized basis.

The investigation process included documentation review from both parties, and telephone and on-site interviews with parents and district staff from the specific elementary school in question and three other locations.

There was an individual finding that the student's individual educational plan (IEP) was not specific enough related to ESY services that were to be provided in the summer of 2005, making it difficult to determine if the IEP was correctly implemented for the student. Corrective action required that the student's IEP team convene to determine whether compensatory educational services were needed and that for future IEPs the Hernando County School District shall specifically indicate the number of hours per day of special education and related services that the student will receive during ESY. In addition, the investigation concluded that the Hernando County School District makes determinations regarding the provision of ESY services on an individual basis.

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Hernando County School District
Bureau Resolution Determination: No. BEESS-2005-035-RES
November 28, 2005

This complaint, having three issues, alleged that in the 2005-06 school year, the district failed to implement a student's IEP in a timely manner specifically related to the provision of related services and access to specials/electives and recess with non-disabled students, and inappropriately implemented the student's IEP related to the use of a time-out/seclusion room, and failed to appropriately address a student's needs related to assistance with toileting and the use of sensory diet equipment.

The investigation process included on-site visits, classroom observations, interviews with the IEP team, records review, viewing and comparison of varied versions of a time-out room experience, and a review of auditory records of IEP meetings.

With regard to the provision of related services and exposure to non-disabled peers, there was a corrective action ordered requiring that the IEP team reconvene and discuss compensatory services for the time the student's access to non-disabled peers was delayed. The Hernando County School District had appropriately implemented the student's IEP with regard to the use of the time-out/seclusion room. Regarding assistance with toileting and sensory diet equipment; there was a corrective action ordered to re-address the issues and document the result in the student's IEP.

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**Hillsborough County School District
Bureau Resolution Determination: No. BEESS-2005-020-RES
July 1, 2005**

This formal complaint was filed by the parent of a student determined eligible for the special programs for students who are developmentally delayed (DD) and speech and language impaired (S/L). The complainant alleged that the district failed to provide the student with speech/language therapy as specified on the individual educational plan (IEP) during the 2004-05 school year.

A review of the district's documentation indicated that of 144 possible therapy sessions, 112 speech/language sessions had been held. The district acknowledged that twelve sessions were missed, and that other sessions had not been held due to the initiation of the year's activities, student absences, Hurricane Days, and holidays. The district's documentation did not include specific descriptions that explained whether the speech/language therapy sessions that had been provided to the student were group sessions or individual sessions. It was concluded that the district did not provide the student with speech/language therapy as specified on the IEP during the 2004-05 school year. As corrective action the district was required to reconvene the student's IEP team to determine whether compensatory services may be warranted. Verification of the provision of any compensatory services was to be provided to the Bureau by the end of the first semester of the 2005-06 school year.

* * *

**Hillsborough County School District
Bureau Resolution Determination: No. BEESS-2005-021-RES
July 1, 2005**

The Bureau received a signed letter of formal complaint from the parent of a student who has been receiving exceptional student education (ESE) services. The complainant's allegations involved the following issues: whether the district failed to implement the student's individual

educational plan (IEP) with respect to the related service of physical therapy (PT) during the 2003-04 and 2004-05 school years and whether the district included a consideration of the student's needs for the related services of physical therapy (PT) and occupational therapy (OT) in any reevaluation of the student that has been completed since 2001.

District documentation for issue one indicated that related services were provided in 2003-04 according to the student's IEP. In 2004-05 the district did not provide more than twenty-one sessions of PT specified on the student's IEP.

Corrective action for issue one required the district to convene the student's IEP team to determine the amount of compensatory services that the student may need as a result of the physical therapy services (PT) not provided to the student during the 2004-05 school year. Verification of the provision of any compensatory services as specified on any such plan would be provided to the Bureau quarterly.

Documentation submitted for issue two indicated that the student's [specific date] 2004 reevaluation included PT but not OT. Corrective actions were not issued.

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Hillsborough County School District
Bureau Resolution Determination: No. BEESS-2005-023-RES
July 18, 2005

This formal complaint was filed by a complainant who alleged that the district had violated federal and state laws relating to the education of students with disabilities who require occupational therapy (OT) and physical therapy (PT). The allegations involved seven systemic issues.

In the first issue the complainant alleged that the district failed to provide the specific related services of OT and PT as described on the students' 2004-05 school-year individual educational plans (IEPs). A review of the student records revealed a systemic violation regarding the provision of OT and PT services to students with disabilities during the 2004-05 school year. It was concluded that the failures to provide appropriate amounts of OT and PT had been due to a shortage of PT and OT personnel. The district acknowledged the inability to provide the related services of OT and PT and voluntarily developed a detailed and comprehensive action plan to address the systemic violations that had resulted from the critical shortage of OT and PT personnel. The implementation of district's action plan shall be monitored by the Bureau through the 2005-06 and 2006-07 school-years. In addition the district was required on a quarterly basis to provide the bureau with copies of any documentation that related to all determinations that have been made regarding the necessity for the provision of compensatory OT/PT services and verification of the provision of such services by the conclusion of the school-year.

In the second issue the complainant alleged that the district failed to provide parents with a prior

written notice form during the 2004-05 school year when changes were made regarding the provision of OT and/or PT services to their children. A review of the documentation indicated that one-third of the students had their OT/PT services decreased or discontinued during the 2004-05 school year. Documentation further showed that one or both parents had been present at all of the students' IEP meetings but only half of the parents received a "Notice of Intent to Change Services" form from the district. It was concluded that the district did not provide all of the parents of students whose OT/PT services had been reduced with a "Notice of Intent to Change Services" form during the 2004-05 school year. As corrective action the district was required to take steps to ensure that written notice with the required components is provided to all parents a reasonable time before the district proposes to initiate or change the identification, evaluation, or educational placement or the provision of FAPE to their children with disabilities, particularly when such proposals relate to the provision of occupational and/or physical therapy. The district was required to provide verification to the bureau on a quarterly basis.

In the third issue the complainant alleged that the district failed to provide OT and PT services to students with disabilities by licensed therapists and/or OT/PT assistants during the 2004-05 school year. A review of the documentation indicated that OT and PT services had been provided by licensed therapists and assistants. Corrective actions were not required.

In the fourth issue the complainant alleged that the district failed to include related service personnel at IEP meetings, or otherwise appropriately involve them in the development of students' IEPs, during the 2004-05 school year. A review of the documentation indicated that the district appropriately included OT/PT service providers at IEP team meetings, by either having such personnel directly attend the meetings, or provide a written recommendation concerning the nature, frequency, and amount of service that should to be provided to the child for discussion at the meetings. Corrective actions were not prescribed.

In the fifth issue the complainant alleged that the district failed to make determinations about the students' needs for OT and PT services based on the students' needs as identified through the IEP development process during the 2004-05 school year. A review of the documentation indicated that the district had based its determination about the students' levels of OT/PT services on the needs of the students as identified during the IEP development process. Corrective actions were not issued.

In the sixth issue the complainant alleged that the district failed to provide parents with copies of the procedural safeguards when required to do so during the 2004-05 school year, along with a full explanation. A review of the documentation indicated that all of the parents in the sample group were provided with "A Summary of the Procedural Safeguards," and only one parent's receipt of the documentation could not be additionally confirmed by a parental signature. It was concluded that the district had provided the parents with copies of the "Summary of the Procedural Safeguards" when required to do so along with an opportunity to receive a full explanation during the 2004-05 school year. Corrective actions were not issued.

In the final issue the complainant alleged that the district failed to provide sufficient training to classroom teachers and para-educators who implemented OT/PT maintenance programs during

the 2004-05 school year. A review of the documentation indicated that classroom teachers, para-educators, and other service providers had been provided with special training sessions by OT/PTs to enhance the classroom performance of the individual students in accordance with their specialized needs. Documentation further indicated that the classroom teachers, para-educators, or other service providers were not performing any duties that were restricted to licensed occupational or physical therapists. Corrective actions were not issued.

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**Hillsborough County School District
Bureau Resolution Determination: No. BEESS-2005-033-RES
November 15, 2005**

This formal complaint was filed by the parent of a student who was determined eligible for students who are autistic and who have a language impairment, alleging that the district had failed to implement the student’s individual educational plan (IEP) during the 2005-06 school year, specifically related to the provision of additional adult assistance.

The district provided documentation that the adult assistance, in the form of an instructional aide, had been provided to the student, when an ESE teacher or therapist was not present, as specified in the IEP. Class schedule documentation reflected that the student was provided with academic instruction through the use of a co-teach model (FUSE) for a portion of the school day. Interviews with district personnel substantiated this documentation.

Corrective actions were not issued.

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**Leon County School District
Bureau Resolution Determination: No. BEESS-2005-024-RES
July 28, 2005**

This formal was filed by the parent of a student with a disability, alleging that the district failed to follow the appropriate procedures when responding to the complainant’s requests that were made between [specific date] 2005 and [specific date] 2005 that an individual educational plan (IEP) meeting be scheduled.

The documentation indicated that the complainant had made at least four written requests that the district convene an IEP meeting regarding the student. The district held two parent-teacher conferences in response to the complainant’s requests. The district did not provide the complainant with a notice of refusal in response to any of the requests that had been made during the referenced time period that an IEP meeting would be held regarding the student.

As corrective action, the district shall take action to ensure that it appropriately responds to any such written requests that it receives from the complainant regarding the scheduling of an

IEP team meeting for the student. Copies of any such requests made by the complainant to the district through [specific date] 2005, shall be provided to the Bureau within ten days of the district's receipt of each such request, along with verification of the district's responses to such requests.

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Miami-Dade County School District
Bureau Resolution Determination: No. BEESS-2005-030-RES
December 21, 2005

The Bureau of Exceptional Education and Student Services (BEESS) received a letter of formal complaint from the parents and grandparent of a student who had been receiving exceptional student education (ESE) services. The complainants' allegations involved the following issues: whether the district followed appropriate procedures when the individual educational plan (IEP) team determined the student's placement in the general education setting for the 2005-06 school year, and whether the district provided the student with the appropriate supports in the general education setting, as specified on the student's IEP for the 2005-06 school year.

There were no findings of noncompliance and corrective actions were not issued.

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Orange County School District
Bureau Resolution Determination: No. BEESS-2005-022-RES
July 8, 2005

The Bureau of Exceptional Education and Student Services received a letter of formal complaint from the parent of a student who had been receiving exceptional student education (ESE) services. The complainant's allegations involved the following issues:

- Whether the district implemented the student's behavioral intervention plan (BIP) 2004-05 school year.
- Whether the district revised the student's individual educational plan (IEP) as appropriate to address any lack of expected progress toward the annual goals and the results of the reevaluation conducted during the 2004-05 school year.
- Whether the district provided transportation for the student as specified on his IEP revision dated [specific date] 2005.
- Whether the district followed appropriate procedures regarding the student's out-of-school suspensions during the 2004-05 school year.
- Whether the district considered the need for related services, specifically counseling, during the development, review, and revision of the student's IEP for the 2004-05 school year.

Corrective actions for issue one required the district to convene the student's IEP team to develop a functional behavioral assessment (FBA) and a behavior intervention plan (BIP) for the student that addresses the student's educational needs in the least restrictive environment. It was recommended that the IEP team consider whether this student should be granted a probationary enrollment period of 4.5 weeks as a full – time student in the current less restrictive placement to implement the newly - developed BIP. Verification of the district's completion of the new FBA and BIP were to be provided to the Bureau prior to the beginning of the 2005-06 school year. The Bureau was to receive a copy of this student's discipline record and documentation which verifies the implementation of the FBA and the BIP on a monthly basis throughout the 2005-06 school year.

Corrective actions for issue two required the district to conduct a reevaluation of the student following parental consent (or verification of reasonable measures to obtain parental consent).

Corrective actions for issue three required the district to ensure that transportation was provided for the student as specified on the IEP. On a quarterly basis throughout the 2005-06 school year, documentation was to be provided to the Bureau to verify the provision of transportation for the student as specified on the IEP.

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**Orange County School District
Bureau Resolution Determination: No. BEESS-2005-028-RES
December 21, 2005**

The Bureau of Exceptional Education and Student Services (BEESS) received a letter of formal complaint from the parents of a student who had been receiving exceptional student education services (ESE). The complainants' allegations involved the following issues:

- Whether the district ensured, during the 2004-05 and 2005-06 school years, that the individual educational plan (IEP) team had considered the accommodations that were necessary for the student to participate in the general education curriculum.
- Whether Orange County School District had followed the required procedures during the 2005-06 school year to ensure that the student had been provided with an opportunity to remediate the skills that would be necessary to obtain a passing score on required statewide assessments.

There were no findings of noncompliance and corrective actions were not issued.

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**Pasco County School District
Bureau Resolution Determination: No. BEESS-2005-031-RES
November 4, 2005**

This complaint alleged that students who were determined by the district to be deaf or hard-of-hearing at a high school in Pasco County School District are grouped for interpreter services rather than by their individualized needs, specifically taking into account their varying ability levels.

A review of the student schedules, individual educational plans (IEP)s, and interviews with varied teachers, parents, and interpreters was conducted. This investigation resulted in the conclusion that the 2005-06 IEPs for the students who are deaf or hard-of-hearing at this high school were developed in accordance with the students' individual needs, specifically taking into account their varying ability levels.

There were no findings of noncompliance and corrective actions were not issued.

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Pinellas County School District
Bureau Resolution Determination: No. BEESS-2005-032-RES
November 15, 2005

The parent of a student with a disability filed this systemic formal complaint alleging that the district had failed to initiate the provision of specially designed instruction, speech therapy services, occupational therapy services, language therapy services, and physical therapy services to students with disabilities as described in the students' individual educational plans (IEPs) in a timely manner at the outset of the 2005-06 school year. Further, the complainant alleged that the district had used a group placement practice that interfered with the implementation of IEPs of students with disabilities during the 2005-06 school year.

Extensive documentation provided by the district was reviewed. In addition, district and school staff were interviewed as part of the complaint investigation. In cases where services were delayed or missed at the beginning of the 2005-06 school year, make-up sessions had been set up to compensate for the time missed.

Corrective actions were not issued.

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Sarasota County School District
Bureau Resolution Determination: No. BEESS-2005-025-RES
August 12, 2005

This formal complaint was filed by the parent of a student with a disability, who alleged that the district failed to develop an individual educational plan (IEP) for the student for the 2004-05 school year in a timely manner and failed to implement the student's IEP during the 2004-05 school year.

Regarding the first issue, the complainant alleged that it took several months of requests for exceptional student education (ESE) services before a meeting was held. According to the district, no record of a written request from the complainant was found. The student previously had been receiving ESE services, but was dismissed due to a lack of a specific medical report from the complainant.

As corrective action, the district was ordered to review its eligibility determination and dismissal procedures and policies to ensure compliance with the law and to determine whether additional staff training regarding eligibility determinations and dismissals was necessary. The district was ordered to provide to the Bureau verification of its review of such policies and procedures, and any revisions thereof, and documentation regarding any subsequent staff training determinations, and the provision thereof.

Further, the IEP team was ordered to consider whether compensatory services would be provided due to the district's failure to provide ESE services to the student during the period of dismissal from ESE. The district was ordered to submit a copy of the new IEP developed at said meeting as well as a copy of a plan for compensatory services, if determined appropriate.

In the second issue, the complainant alleged that accommodations listed in the student's IEP had not been provided.

As corrective action, the district was ordered to consider how the failure to provide accommodations specified on the student's IEP may have affected the student's progress toward annual goals. This consideration was to take place when the student's IEP team convened to determine a need for compensatory services (see issue one).



John L. Winn, Commissioner