

**Report of Inquiry  
Bureau Resolution Determination  
Conducted by the Bureau of Exceptional Education and Student Services  
Involving the Broward County School District**

**BACKGROUND**

The Bureau of Exceptional Education and Student Services received a state complaint on November 25, 2008, in which an attorney, on behalf of five students, alleged that the Broward County School District had violated federal and state laws relating to the education of students with disabilities. The Bureau received signed release of information statements from the parents on December 3, 2008, and December 17, 2008, allowing the Bureau to communicate with the attorney regarding the complaint. Upon receipt of the December 17, 2008, release of information statements, the 60 day timeline for this state complaint was initiated with an anticipated completion date of February 15, 2009. The district and the complainant were asked to submit relevant documents and information to the Bureau. Ms. Denise Rusnak, Exceptional Student Education (ESE) Director, Broward County School District, submitted documentation on behalf of the district. The complainant also submitted documentation. Due to the number of students involved and the nature of the issues, the results of the investigation are reported at the individual student level.

**STUDENT ONE**

Specifically, the complaint allegations involved the following issues for Student One (■):

**ISSUE 1: Whether the Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years**

**ISSUE 2: Whether the Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: ■) was in the ■ grade and determined eligible for special programs for students identified as other health impaired (OHI) and language impaired (LI).

**ISSUE 1: Whether the Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years**

**FINDINGS OF FACT**

1. The district provided copies of letters from the student's attorney requesting the following evaluations:

Date of letter	Evaluation(s) requested
July 25, 2008	Complete evaluation including medical, psychiatric, neurological, psycho-educational
August 11, 2008	Medical evaluation with a neurologist before psycho-educational evaluation
October 17, 2008	EEG, MRI of the brain, fragile-X and chromosomes with elongation

The letters referenced concerns reported by the school and the family regarding the possibility of seizures.

2. The district provided a copy of a letter from the attorney dated July 25, 2008, requesting the following assessments and including signed consent from the parent authorizing the reevaluation:

- hearing
- vision
- academic/preacademic/developmental achievement
- adaptive behavior/behavioral functioning
- assistive technology
- hearing/audiological
- intellectual functioning
- Occupational Therapy (OT)
- Physical Therapy (PT)
- personality/emotional functioning
- psychological process functioning
- speech/language
- medical evaluation and testing
- psychiatric evaluation and testing

3. An individual educational plan (IEP) team meeting was held on August 21, 2008, to discuss the parent's request for reevaluation of the student. The team determined that reevaluation in the area of language was not needed because the student's current status was known. The parent signed consent on August 21, 2008, after the team determined that the student should be reevaluated in the following areas to determine the student's current status:

- hearing
- academic achievement
- intellectual functioning
- personality/emotional functioning
- psychological processing
- adaptive behavior/behavior functioning
- physical/motor

The district provided a *Consent for Reevaluation/Reevaluation Plan* which indicated the reasons for the team's determinations.

4. The district completed an audiological evaluation of the student on August 26, 2008.

5. The school psychologist sent a referral form on August 26, 2008, to the acting director of psychological services requesting a neurological evaluation for the student. The referral stated that a neurological evaluation was requested to address the following:

- “Is this a child with a seizure disorder?”
  - “How do the behaviors described relate to previous medical diagnosis of [attention deficit/hyperactivity disorder] ADHD?”
6. The request was approved on August 27, 2008, by the area coordinator of ESE and the area coordinator of student services. The acting director of psychological services spoke with the student’s attorney regarding the neurological evaluation on August 28, 2008. On September 3, 2008, the acting director of psychological services sent a notice to the parent to inform her that a neurological appointment had been scheduled for the student on September 9, 2008. The acting director of psychological services also sent a letter to the parent on September 3, 2008, regarding the neurological evaluation which stated:
    - “Please be aware that we are authorizing payment for one examination or diagnostic test. If the doctor indicates that your child would benefit from a follow-up service, the Diagnostic Resource Program is not assuming responsibility for the cost of that service and you may be billed.”
  7. On September 5, 2008, the school social worker met with the parent to conduct a psychosocial assessment and provide assistance in completing a health insurance application. The parent declined assistance in completing the application because her attorney was assisting her in obtaining health insurance.
  8. The student’s IEP team met on October 3, 2008, and amended the reevaluation plan to include speech and language evaluations. The parent signed consent on October 3, 2008. The speech and language reevaluation report was completed on January 9, 2009.
  9. The district received the neurological report for the student on October 15, 2008. The neurologist summarized that the student has “a history of staring episodes, characteristics of ADHD, and possible learning disability, and a history of hearing loss in the left ear.” The following is the neurologist’s plan:
    - “At this juncture, it is imperative that [the student] has a full psycho-educational evaluation. It is unclear to me as to whether this has been started as of yet. It is imperative that [the student] receives occupational and speech therapies in order to maximize potential. I would also like to obtain an EEG, BAER, and MRI of the brain, fragile-X and chromosomes with elongation. This was discussed with mother at length and she verbalized an understanding...”
  10. The psychological evaluation was initiated on October 22, 2008. The psychologist met with the student on nine occasions and the psychological report was completed on November 20, 2008.
  11. An interim IEP team meeting was scheduled for November 18, 2008, and needed to be rescheduled. The district tried to reschedule for November 25, 2008. The parent was unable to attend. The district made several attempts to reschedule with both the parent and the parent’s attorney. The parent responded that she wanted to wait until all evaluations were completed before scheduling a meeting.
  12. An OT referral was made by the student’s teacher on January 13, 2009, requesting information for instructional purposes. An OT screening was completed on January 13, 2009, and the occupational therapist did not indicate that interventions were needed.
  13. The district scheduled an IEP team meeting on January 28, 2009, to review the results of the reevaluation. The parent indicated that she could not attend. The meeting was rescheduled for February 9, 2009.

## **LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.303 of Title 34 of the Code of Federal Regulations (Title 34) states: “(a)...A public agency must ensure that a reevaluation of each child with a disability is conducted... (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or (2) If the child’s parent or teacher requests a reevaluation. (b) Limitation. A reevaluation conducted under paragraph (a) of this section (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.”

The corresponding state requirement is found in Rule 6A-6.0331 of the Florida Administrative Code (FAC.).

## **CONCLUSION**

1. The earliest documentation of a formal request for reevaluation submitted by either party is the letter dated July 25, 2008.
2. Written consent for reevaluation was provided on August 21, 2008. The reevaluation plan was amended to add speech and language on October 3, 2008.
3. The assessments required by the August 21, 2008, reevaluation plan were completed by November 21, 2008. The assessments required by the October 3, 2008, reevaluation plan were completed by January 9, 2009. In addition, an OT screening was completed on January 13, 2009, based on a recommendation in the neurological report.
4. The Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years.

## **CORRECTIVE ACTION**

None

**ISSUE 2: Whether the Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

## **FINDINGS OF FACT**

1. The district provided a copy of a letter dated July 25, 2008, from the parent’s attorney to the district which stated, “The school and mother have indicated that they are concerned that [the student] is having intermittent seizures at school...[The student] does not have medical insurance. Therefore, mother is requesting that the district provide a complete evaluation of [the student] including a medical and psychiatric evaluation to determine [the student’s] educational needs and eligibilities.”
2. See Issue 1 Findings of Facts (FOFs) # 4, 6, 7, 8, 9, and 11.
3. The district provided a letter from the district to the parent’s attorney dated November 7, 2008, which states:

- “Regarding authorization of medical tests, we have not withheld authorization for those we may deem necessary for the identification of additional special educational services. It is yet to be determined, however, if such additional tests will be needed. Upon completion of the school district’s comprehensive evaluation, if any additional medical or non-medical evaluations are warranted, we will comply with our obligation under the law.”

4. See Issue 1 FOFs # 10 and 12.

## **LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION**

Section 300.304(c) of Title 34 requires the public agency to ensure that - “...(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities...(6)...The evaluation is sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified...”

The corresponding state requirement is found in Rule 6A-6.0331, FAC.

## **CONCLUSIONS**

1. Neither the district nor the complainant provided verification that the student was suspected of having additional areas of disabilities during the 2007-08 school year.
2. The district provided the following evaluations during the 2008-09 school year:
  - audiological
  - psychosocial
  - speech and language
  - neurological
  - psychological
  - OT screening
3. The district made several attempts to schedule an IEP team meeting to discuss the results of the reevaluations and determine if additional evaluation was necessary. The parent could not attend any of the scheduled meetings.
4. The Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years.

## **CORRECTIVE ACTION**

None

## **STUDENT TWO**

Specifically, the complaint allegations involved the following issues for Student Two (■):

**ISSUE 1: Whether the Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

**ISSUE 2: Whether the Broward County School District provided the parent with prior notice/notices of refusal when required during the 2007-08 and 2008-09 school year**

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: ■) was in the ■ grade and determined eligible for special programs for students identified with autism spectrum disorder (ASD) and who are language impaired (LI).

**ISSUE 1: Whether the Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

**FINDINGS OF FACT**

1. The district reported that during the 2007-08 school year there were no requests made by the parent for reevaluation and the student's triennial evaluation was not due.
2. The district provided a letter dated July 25, 2008, from the student's attorney requesting an interim IEP team meeting to be scheduled before the start of the 2008-09 school year. An interim IEP team meeting was held on August 22, 2008, to add transportation services to the student's IEP. Both the parent and the attorney attended the meeting. Neither the district nor the complainant provided evidence that either the parent or attorney expressed concerns regarding the student's vision or hearing at the meeting.
3. An IEP team meeting was held on October 3, 2008, for the student's annual review and to discuss reevaluation. The IEP team determined that the student should be reevaluated in academic achievement and psychological process functioning because the student was working below grade level in mathematics and seemed to have difficulty processing information at times. The parent signed consent for the reevaluations.
4. In its response to this complaint, the district stated that the parent reported that the student used to have glasses, but the glasses broke and were not replaced. The attorney expressed concern about the student's hearing and vision and requested an evaluation for hearing and vision. The area program specialist stated that district policy was that evaluations for hearing and vision are only completed after a screening indicated a need for evaluation. The attorney requested a notice of refusal regarding the hearing and vision evaluation requests.
5. A *Notice of Proposal* dated October 14, 2008, was submitted by the district, stating that the district would conduct vision and hearing screenings, and that follow-up would be based on the results of those screenings. The student's vision and hearing screenings were completed on October 6, 2008; the student passed the hearing screening, but failed the vision screening.
6. The district provided a copy of the referral dated October 8, 2008, made to the school social worker to assist with a vision examination. The school social worker scheduled a conference with the parent on October 17, 2008, to explain the vision examination procedure and provide a voucher. The school psychologist informed the parent that the psychological reevaluation could not be completed until the student had the vision examination and had glasses, if needed. The parent scheduled a vision examination for the student on December 2, 2008.

7. The school social worker and the school psychologist attempted to reach the parent by telephone on December 8, 2008, to inquire about the results of the vision examination. The parent did not return telephone calls. The student told the school psychologist on December 10, 2008, that ■ had not gone to the eye doctor. The student began wearing glasses to school on December 15, 2008. The district was unable to reach the parent by telephone to confirm that the vision examination was completed.
8. The school psychologist attempted to conduct a psychological evaluation of the student on December 17, 2008, and January 8, 2009, but the student was absent. The evaluation was completed on January 9, 2009.
9. The district sent a parent participation form to the parent on January 14, 2009, to schedule a meeting on January 29, 2009, to discuss the reevaluation results.

### **LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.304(c) of Title 34 requires the public agency to ensure that - "...(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities...(6)...The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified..."

The corresponding state requirement is found in Rule 6A-6.0331, FAC.

### **CONCLUSION**

1. Neither the district nor the complainant provided evidence that the student was suspected of having additional areas of disabilities during the 2007-08 school year.
2. The IEP team determined that reevaluation in the areas of academic achievement, in particular math, and psychological process functioning were required.
3. The district's *Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students* states that vision and hearing screenings are conducted prior to evaluations when determining the student's eligibility as a student with a disability.
4. The student passed the hearing screening; when the student failed the vision screening the district provided the parent with a vision examination and a voucher for eye glasses for the student. The student came to school with eyeglasses but the district was unable to reach the parent to confirm that a vision examination had been completed.
5. The Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years.

### **CORRECTIVE ACTION**

None

**ISSUE 2: Whether the Broward County School District provided the parent with prior notice/notices of refusal when required during the 2007-08 and 2008-09 school year**

**FINDINGS OF FACT**

1. Based on documentation provided by both parties, the only proposal or refusal requiring written notice on the part of the district during the 2007-08 and 2008-09 school years was in response to the request for hearing and vision evaluations.
2. See Issue 1 FOF #5

**LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.503 of Title 34 states, “(a) *Notice*. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) *Content of notice*. The notice required under paragraph (a) of this section must include (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency’s proposal or refusal...”

The corresponding state requirement is found in State Board of Education Rule 6A-6.03028, FAC.

**CONCLUSION**

The Broward County School District provided the parent with prior notice/notices of refusal when required during the 2007-08 and 2008-09 school year.

**CORRECTIVE ACTION**

None

## STUDENT THREE

Specifically, the complaint allegations involved the following issues for Student Three (█):

**ISSUE 1: Whether the Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years**

**ISSUE 2: Whether the Broward County School District reevaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

*During the investigation of the state complaint it was discovered that the student had not been determined eligible for ESE; therefore, the complaint issues are amended to state the following:*

***ISSUE 1: Whether the Broward County School District followed the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years***

***ISSUE 2: Whether the Broward County School District evaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years***

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: █) was in the █ grade and determined eligible on August 20, 2008, for special programs for students identified as other health impaired (OHI), and determined eligible for special programs for students identified as language impaired on September 29, 2008 .

**ISSUE 1: Whether the Broward County School District followed the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years**

## FINDINGS OF FACT

1. The complainant provided a letter dated January 25, 2008, from the parent to the district requesting a comprehensive evaluation to determine if the student was eligible for special education services and giving written permission to evaluate the student in the following areas:
  - hearing
  - vision
  - academic/preacademic/developmental achievement
  - adaptive behavior/behavioral functioning
  - assistive technology
  - hearing/audiological
  - intellectual functioning
  - OT
  - PT

- personality/emotional functioning
  - psychological process functioning
  - speech/language
2. In an electronic mail (e-mail) message to the student's attorney dated January 31, 2008, the school's ESE specialist stated that the district would need the parent to provide written consent for reevaluation on the district form designed for this purpose.
  3. On February 11, 2008, the ESE specialist sent an e-mail to the attorney stating that, since the student had not been determined to be a child with a disability, a reevaluation consent form was not appropriate; instead, the district required that the parent provide written consent for initial evaluation on the district form designed for this purpose and also sign a copy of the *Notice of Procedural Safeguards for Parents of Students with Disabilities*. It is unclear from the documentation provided when the parent was provided a copy of these forms to sign.
  4. On March 5, 2008, a collaborative problem solving team meeting was held and the parent signed a Broward County *Parent Consent Notice: Screening/Formal Individual Evaluation* form giving consent for all of the evaluations listed in FOF #1.
  5. The student had a hearing screening on February 13, 2008, and passed.
  6. The student had a speech and language screening on February 13, 2008, and was referred for further evaluation for language.
  7. On February 28, 2008, the parents completed a social and developmental history for the student.
  8. The student had a vision screening on March 4, 2008, and was referred for a professional eye examination.
  9. The district provided a *Medical Evaluation Form for Physically Impaired* signed by the student's physician on March 31, 2008, stating that the student was diagnosed with "attention deficit disorder" and "learning disabled."
  10. A psychological evaluation was completed for the student on June 3, 2008.
  11. On August 20, 2008, an eligibility meeting was held for the student. It was determined that the student met eligibility criteria for special programs for other health impaired, but not specific learning disabilities. On August 20, 2008, an IEP was developed for the student.
  12. A language evaluation was conducted for the student on September 16 and 25, 2008. There is no evidence that the language evaluation was intended to be a reevaluation or that additional consent was provided. Instead, it appears that the language evaluation was a continuation of the initial evaluation, conducted under the original consent for evaluation signed on March 5, 2008.
  13. On September 29, 2008, the IEP team met and determined that the student was eligible for special programs for students who are language impaired. The IEP was revised to address that area.

## **LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.301 of Title 34 states: "(a) *General*. Each public agency must conduct a full and individual initial evaluation, in accordance with Sections 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part. (b) *Request for initial evaluation*. Consistent with the consent requirements in Section 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. (c) *Procedures for initial evaluation*. The initial

evaluation - (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures-- (i) To determine if the child is a child with a disability under Section 300.8; and (ii) To determine the educational needs of the child. (d) *Exception*. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if - (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under Section 300.8. (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed."

Section 300.302 of Title 34 states, "The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services."

The corresponding state requirement is found in State Board of Education Rule 6A-6.0331, FAC.

## CONCLUSIONS

1. The Broward County School District received a written request for a comprehensive evaluation to determine if the student was eligible for special education services. The request included a signed consent form, although not the district form designed for that purpose.
2. On February 11, 2008, the district indicated that a district consent form was required in order to conduct the initial evaluation. It is not clear when the district provided the parent with the required district form, although it appears that it was first provided on March 5, 2008, at which time the parent signed it.
3. Psychological, academic, and behavioral evaluations were conducted on May 20, 27, and 28, 2008 and June 3, 2008.
4. On August 20, 2008, the eligibility team met, determined that the student was eligible as a student who is other health impaired (OHI), and developed an IEP for the student.
5. A language evaluation was completed for the student on September 25, 2008.
6. On September 29, 2009, the IEP team met, determined that the student was eligible for the program for students with language impairments, and revised the IEP.
7. There is no evidence that Broward County School District provided the parent with written notice of its proposal to conduct an initial evaluation and requested signed parental consent between the date of parent request (January 31, 2008) and the date of the problem solving team meeting (March 5, 2008).
8. Based on information obtained through screenings, the initial evaluation should have included the language evaluation that was conducted subsequent to the first eligibility meeting.
9. Broward County School District did not follow appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years, including conducting an evaluation upon parent request and adherence to the 60-day timeline for conducting an initial evaluation.

## **CORRECTIVE ACTIONS**

1. The Broward County School District shall ensure that required procedures are followed regarding evaluation of students upon parent request. No later than March 15, 2009, the IEP team, with appropriate participants and sufficient advance notice to provide an opportunity for the parent and the attorney to attend, shall consider whether compensatory services are required for the student due to the delay in the evaluation process following the parent's request for an initial ESE evaluation. Verification of the IEP team meeting and the determination regarding compensatory services shall be provided to the Bureau within ten days following the meeting.
2. If compensatory services are determined to be necessary for the student, the Broward County School District shall ensure that these services are provided and provide verification to the Bureau on the following dates as applicable: April 15, 2009; June 16, 2009; and October 31, 2009.
3. No later than April 30, 2009, the district is required to provide staff development training for all the Broward County School District employees at ■ Elementary School responsible for implementing the ESE evaluation process, including adherence to required timelines. This training shall include the required procedures regarding parental requests for evaluation. Documentation of the contents of training, date(s) of training, and list(s) of participants with written signature and title, shall be provided to the Bureau no later than no later than May 15, 2009.

**ISSUE 2: Whether the Broward County School District evaluated the student in all areas related to the suspected disability during the 2007-08 and 2008-09 school years**

## **FINDINGS OF FACT**

1. Documentation provided by the district and the complainant did not provide specific reference to allegations of specific areas of suspected disability.
2. See Issue 1 FOFs # 1, 6, 12, and 13.

## **LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.304(c) of Title 34 requires the public agency to ensure that - "...(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities...(6)...The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified..."

The corresponding state requirement is found in Rule 6A-6.0331, FAC.

## CONCLUSIONS

1. The parent requested a complete evaluation of the student, including a language evaluation, on January 25, 2008.
2. The student was administered a language screening on February 13, 2008, and referred for further evaluation.
3. A language evaluation was completed for the student on September 25, 2008. This was one month after the initial eligibility determination meeting was held on August 20, 2008, and appears to have been conducted under the original consent for initial evaluation.
4. The Broward County School District did not evaluate the student in all areas related to the suspected disability as part of the initial evaluation during the 2007-08 and 2008-09 school years.

## CORRECTIVE ACTIONS

1. During the IEP meeting held for the student for Issue 1, the IEP team shall consider whether compensatory services are required for the student due to the delay in the evaluation process for evaluating the student in the area of language. Verification of the IEP team meeting and the determination regarding compensatory services shall be provided to the Bureau within ten days following the meeting.
2. If compensatory services are determined to be necessary for the student, the Broward County School District shall ensure that these services are provided and submit documentation of this to the Bureau on the following dates, as applicable: April 15, 2009; June 16, 2009; and October 31, 2009.

## STUDENT FOUR

Specifically, the complaint allegations involved the following issue for Student Four (■):

**ISSUE: Whether the Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years**

*During the investigation of the state complaint it was discovered that the student had not previously been determined eligible for ESE; therefore, the complaint issue was amended to state the following:*

***ISSUE: Whether the Broward County School District followed the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years***

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: ■) was in the ■ grade and determined eligible on October 15, 2008, for special programs for students identified as language impaired (LI).

## **FINDINGS OF FACT**

1. The complainant provided copies of court orders dated October 16, 2007, ordering the student receive a psycho-educational evaluation, and December 3, 2007, ordering the Broward County School Board complete “a full and complete psycho-educational evaluation including cognitive, academic, processing and memory assessment as well as a complete speech and language assessment including expressive and receptive language assessment.”
2. The district provided a copy of a letter dated October 24, 2007, from the student’s attorney to the ESE specialist requesting “an immediate and complete evaluation to determine if ■ is eligible for support services as an ESE student.” The attorney attached a copy of the court appointment of an educational attorney and the court order for a psycho-educational evaluation.
3. The complainant provided a copy of a signed parent consent notice dated December 4, 2007, giving permission to evaluate the student in the following areas:
  - hearing
  - vision
  - academic/preacademic/developmental achievement
  - adaptive behavior/behavioral functioning
  - assistive technology
  - hearing/audiological
  - intellectual functioning
  - OT
  - PT
  - personality/emotional functioning
  - psychological process functioning
  - speech/languageThe consent form was not the district form designed for that purpose.
4. The complainant provided a copy of a letter dated February 21, 2008, from the due process coordinator to the student’s attorney stating that “...consent for initial evaluation should be signed by Friday, February 22, 2008, and the evaluation would be expedited and begin within 2 weeks.”
5. The district provided a copy of a district *Parent Consent Notice: Screening/Formal Individual Evaluation*, signed by the parent or guardian on February 28, 2008.
6. The psychological evaluation was conducted on March 20, 2008, and the psychological report was completed on May 14, 2008.
7. A speech/language evaluation and report were completed on September 11, 2008.
8. The date of the last evaluation was beyond the 60-day timeline for completion.
9. An eligibility meeting to determine if the student meets eligibility criteria for ESE services was held on October 15, 2008. The eligibility committee determined that the student did meet eligibility for special programs for students who are language impaired. A transition IEP was developed for the student on October 15, 2008.

## **LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION**

Section 300.301 of Title 34 states: “(a) *General*. Each public agency must conduct a full and individual initial evaluation, in accordance with Sections 300.305 and 300.306, before the initial

provision of special education and related services to a child with a disability under this part. (b) *Request for initial evaluation.* Consistent with the consent requirements in Section 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. (c) *Procedures for initial evaluation.* The initial evaluation - (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures-- (i) To determine if the child is a child with a disability under Section 300.8; and (ii) To determine the educational needs of the child. (d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if - (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under Section 300.8. (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed."

Section 300.302 of Title 34 states, "The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services."

The corresponding state requirement is found in State Board of Education Rule 6A-6.0331, FAC.

## **CONCLUSIONS**

1. The district received a request for initial evaluation dated October 24, 2007, from the student's attorney and a court order dated October 16, 2007, for a psycho-educational evaluation.
2. The district obtained signed consent for evaluation on February 28, 2008.
3. The district completed the evaluation on September 17, 2008.
4. The date of the last evaluation was beyond the 60-day timeline for completion.
5. The district met on October 15, 2008, to determine eligibility of the student for ESE services.
6. The Broward County School District did not follow the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years; including conducting an evaluation upon parental request and adherence to the 60-day timeline.

## **CORRECTIVE ACTIONS**

1. The Broward County School District shall ensure that required procedures are followed regarding evaluation of students upon parent request. No later than March 15, 2009, the IEP team, with appropriate participants and sufficient advance notice to provide an opportunity for the parent and the attorney to attend, shall consider whether compensatory services are required for the student due to the delay in the evaluation process following the request and court orders for evaluation. Verification of the IEP team meeting and the determination

regarding compensatory services shall be provided to the Bureau within ten days following the meeting.

2. If the IEP team determines that compensatory services are necessary for the student, the Broward County School District shall ensure that these services are provided and provide verification to the Bureau on the following dates as applicable: April 15, 2009; June 16, 2009; and October 31, 2009.
3. No later than April 30, 2009, the district is required to provide staff development training for all the Broward County School District employees at ■ High School and ■ High School responsible for implementing the ESE evaluation process, including adherence to required timelines. This training shall include the required procedures regarding parental requests for evaluation. Documentation of the contents of training, date(s) of training, and list(s) of participants with written signature, title, and school shall be provided to the Bureau no later than no later than May 15, 2009.

## **STUDENT FIVE**

Specifically, the complaint allegations involved the following issue for Student Five (■)

**ISSUE: Whether the Broward County School District followed the appropriate procedures to reevaluate the student during the 2007-08 and 2008-09 school years**

*During the investigation of the state complaint it was discovered that the student had not previously been determined eligible for ESE; therefore, the complaint issue was amended to state the following:*

***ISSUE: Whether the Broward County School District followed the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years***

As part of the inquiry process, relevant portions of the student's educational records were reviewed. The educational records indicated that the student (date of birth: ■) was in the ■ grade and determined eligible on November 18, 2008, for special programs for students identified as other health impaired (OHI) and language impaired (LI).

## **FINDINGS OF FACT**

1. The complainant provided a copy of a letter dated October 24, 2007, from the parent's attorney requesting a complete evaluation to determine if the student is a child with a disability.
2. The district provided a copy of a *Parent Consent Notice: Screening/Formal Individual Evaluation* form signed by the parent on November 26, 2007. The school began a referral packet for the student on November 26, 2007.
3. The district provided copies of reports of the following evaluations
  - social and developmental history completed December 18, 2007
  - psychological, academic, and behavioral completed February 2 and 11, 2008
  - medical evaluation form for physically impaired completed March 14, 2008

- language evaluation completed October 28, 2008
  - reading assessment completed November 10, 2008
  - math assessment completed November 10, 2008
4. The date of the last evaluation was beyond the 60-day timeline for completion.
  5. An eligibility meeting to determine if the student met eligibility criteria for ESE services was held on November 18, 2008. The eligibility committee determined that the student did meet eligibility for special programs for students who are other health impaired and language impaired. A transition IEP was developed for the student on November 18, 2008.

## **LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION**

Section 300.301 of Title 34 states: “(a) *General*. Each public agency must conduct a full and individual initial evaluation, in accordance with Sections 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part. (b) *Request for initial evaluation*. Consistent with the consent requirements in Section 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. (c) *Procedures for initial evaluation*. The initial evaluation - (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures-- (i) To determine if the child is a child with a disability under Section 300.8; and (ii) To determine the educational needs of the child. (d) *Exception*. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if - (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child’s previous public agency as to whether the child is a child with a disability under Section 300.8. (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.”

Section 300.302 of Title 34 states, “The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.”

The corresponding state requirement is found in State Board of Education Rule 6A-6.0331, FAC.

## **CONCLUSIONS**

1. Written request for evaluation was provided by the parent’s attorney on October 24, 2007.
2. The parent signed consent for evaluation of the student on November 26, 2007.
3. The evaluation process for the student was completed November 10, 2008.
4. The date of the last evaluation was beyond the 60-day timeline for completion.
5. An eligibility determination meeting was held for the student on November 18, 2008, and the student was determined to be eligible for special programs for students who are other health impaired and language impaired.

6. The Broward County School District did not follow the appropriate procedures to evaluate the student during the 2007-08 and 2008-09 school years, including conducting an evaluation upon parent request and adherence to the 60-day timeline.

### **CORRECTIVE ACTIONS**

1. The Broward County School District shall ensure that required procedures are followed regarding evaluation of students upon parent request. No later than March 15, 2009, the IEP team, with appropriate participants and sufficient advance notice to provide an opportunity for the parent and the attorney to attend, shall consider whether compensatory services are required for the student due to the delay in the evaluation process following the parent's request for evaluation. Verification of the IEP team meeting and the determination regarding compensatory services shall be provided to the Bureau within ten days following the meeting.
2. If the IEP team determines that compensatory services are necessary for the student, the Broward County School District shall ensure that these services are provided and provide verification to the Bureau on the following dates as applicable: April 15, 2009; June 16, 2009; and October 31, 2009.
3. No later than April 30, 2009, the district is required to provide staff development training for all the Broward County School District employees at ■ High School and ■ Center responsible for implementing the ESE evaluation process, including adherence to required timelines. This training shall include the required procedures regarding parental requests for evaluation. Documentation of the contents of training, date(s) of training, and list(s) of participants with written signature, title, and school shall be provided to the Bureau no later than no later than May 15, 2009.