

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

BACKGROUND

The Bureau of Exceptional Education and Student Services (Bureau) received an unsigned state complaint letter from ■ on March 11, 2009, alleging that the Hardee County School District had violated federal and state laws relating to the education of students with disabilities. A signed complaint was received at the Bureau on March 23, 2009, which initiated the 60-day timeline for completion of the inquiry process. Specifically, the complaint allegations involved the following issues:

ISSUE 1: Whether the Hardee County School District developed the student's individual educational plan (IEP) to address the student's needs that result from the student's disability for the 2008-09 school year, specifically regarding the following:

- reading
- behavior
- extended school year (ESY) services

ISSUE 2: Whether the Hardee County School District revised the student's IEP during the 2008-09 school year to address any lack of progress

ISSUE 3: Whether the Hardee County School District followed the required procedures when determining the student's least restrictive environment (LRE) during the 2008-09 school year

The district and the complainant were asked to submit relevant documents and information to the Bureau. Ms. Dorothy Bell, Exceptional Student Education (ESE) Director, Hardee County School District submitted documentation on behalf of the district. The complainant also submitted documentation.

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 grade ■ and determined eligible for special programs for students with language impairments (LI) and receiving occupational therapy (OT) as a related service.

ISSUE 1: Whether the Hardee County School District developed the student's individual educational plan (IEP) to address the student's needs that result from the student's disability for the 2008-09 school year, specifically regarding the following:

- reading
- behavior
- extended school year (ESY) services

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.320 of Title 34 of the Code of Federal Regulations states, “(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include... (2)(i) A statement of measurable annual goals, including academic and functional goals designed to--(A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child’s other educational needs that result from the child’s disability;... (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child... (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section...”

34 CFR § 300.106 states, “(a) General.(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a) (2) of this section. (2) Extended school year services must be provided only if a child’s IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not--(i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services. (b) *Definition.* As used in this section, the term extended school year services means special education and related services that-- (1) Are provided to a child with a disability--(i) Beyond the normal school year of the public agency; (ii) In accordance with the child’s IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.”

The corresponding state requirement is contained in State Board of Education Rule 6A-6.03028 of the Florida Administrative Code (F.A.C.).

CONCLUSION

The Hardee County School District developed the student’s individual educational plan (IEP) to address the student’s needs that result from the student’s disability for the 2008-09 school year, specifically regarding reading and behavior. However, the recording of the IEP team meeting held on October 14, 2008, indicates that the team did not discuss the student’s need for ESY services.

CORRECTIVE ACTION

No later than June 1, 2009, the district shall convene the student’s IEP team with the appropriate participants and sufficient advance notice to provide an opportunity for the parent to attend the meeting, to consider the need for ESY services. Verification of the meeting and the team’s

determination regarding the need for ESY services shall be provided to the Bureau within ten days following the meeting.

ISSUE 2: Whether the Hardee County School District revised the student’s IEP during the 2008-09 school year to address any lack of progress

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

34 CFR §300.324 states: “...Each public agency must ensure that...the IEP Team...(ii) Revises the IEP, as appropriate, to address - (A) Any lack of expected progress towards the annual goals...and in the general education curriculum, if appropriate; (B) The results of any reevaluation...(C) Information about the child provided to, or by, the parents...(D) The child’s anticipated needs; or (E) Other matters...”

The corresponding state requirement is found in Rule 6A-6.03028, F.A.C.

CONCLUSION

The district revised the student’s IEP on October 14, 2008; thereafter, the student’s report cards and progress reports indicated that the student was making progress on all annual goals.

CORRECTIVE ACTION

None

ISSUE 3: Whether the Hardee County School District followed the required procedures when determining the student’s least restrictive environment (LRE) during the 2008-09 school year

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

34 CFR § 300.114 states “...(2) Each public agency must ensure that - (i) To the maximum extent appropriate, children with disabilities...are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily...”

34 CFR § 300.116 states “In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that – each public agency must ensure that (a) The placement decision - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options...(b) The child’s placement - (1) Is determined at least annually; (2) Is based on the child’s IEP; and (3) Is as close as possible to the child’s home; (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled; (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services

that he or she needs; and (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum...”

The corresponding state requirement is found in Rules 6A-6.03028, F.A.C.

CONCLUSION

The Hardee County School District followed the required procedures when determining the student’s least restrictive environment (LRE) during the 2008-09 school year.

CORRECTIVE ACTION

None