

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

**BACKGROUND**

The Bureau of Exceptional Education and Student Services (Bureau) received a state complaint on February 4, 2010, in which the parent of a student with a disability alleged that the Orange County School District violated federal and state laws relating to the education of students with disabilities. Specifically, the allegation involved the following issue:

**ISSUE: Whether the Orange County School District followed the required procedures for the complainant’s request for an independent educational evaluation (IEE) during the 2009-10 school year**

The 60-day timeline for the completion of the inquiry process began on February 5, 2010, with an anticipated completion date of April 5, 2010. As part of the inquiry process, the complainant and the district were asked to submit relevant documents and information to the Bureau. Harriet Brown, Director of Exceptional Student Education (ESE) Policy and Procedures, Orange County School District, submitted documentation on behalf of Anna Diaz, Associate Superintendent, of ESE and Multilingual Services. 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: [REDACTED]) was in grade [REDACTED] and determined eligible for ESE services as a student with a specific learning disability (SLD) and receiving occupational therapy (OT) as a related service.

The complainant requested that an independent educational evaluation be conducted at the Center for Health, Learning and Achievement, in Orlando, Florida, without unnecessary delay.

**ISSUE: Whether the Orange County School District followed the required procedures for the complainant’s request for an independent educational evaluation (IEE) during the 2009-10 school year**

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

Section 300.303, Title 34, Code of Federal Regulations (34 CFR §300.303) states: “(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311— (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.”

34 CFR §300.502 states, “(a) General. (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.(3) For the purposes of this subpart— (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.103. (b) Parent right to evaluation at public expense. (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section. (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either— (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria...”

The corresponding state requirements are found in State Board of Education Rules 6A-6.0331 and 6A-6.03311, Florida Administrative Code.

## **CONCLUSIONS**

1. School staff responded to the complainant’s January 7, 2010, request for an IEE by submitting the information to the district. The district processed the request on January 11, 2010, in accordance with established district procedures.
2. Following the complainant’s request for Dr. Leslie Gavin to conduct the IEE, the district added Dr. Gavin to the district’s approved list of IEE providers and/or vendors in order to accommodate the complainant. The district also arranged to pay reasonable costs related to the IEE from an evaluator of the complainant’s choice who meets the credentialing requirements of the district.
3. The Orange County School District followed the required procedures for the complainant’s request for an IEE during the 2009-10 school year.

## **CORRECTIVE ACTION**

None