

Orange County School District

Final Report: On-Site Monitoring
Reporting Incidents of Restraint and Seclusion
and Triennial Reevaluations

April 9–12, 2012



Florida Department of Education
Bureau of Exceptional Education and Student Services

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August 7, 2012

Dr. Barbara Jenkins, Superintendent
Orange County School District
445 W. Amelia Street
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Dear Superintendent Jenkins:

We are pleased to provide you with the *Final Report: On-Site Monitoring Reporting Incidents of Restraint and Seclusion and Triennial Reevaluations* for the Orange County School District. This report was developed by integrating multiple sources of information related to an on-site monitoring visit to your district from April 9–12, 2012. Those information sources included student record reviews, interviews with administrators and teachers, and classroom observations. The final report will be posted on the Bureau of Exceptional Education and Student Services' website and may be accessed at <http://www.fldoe.org/ese/mon-home.asp>.

The Orange County School District was selected for an on-site visit due to the number of reported incidents of restraint during the 2010–11 and 2011–12 school years. In addition to a review of the district's use of restraint and seclusion, the on-site visit included a review of the district's procedures and practices related to triennial reevaluations and the district's progress with the corrective plan related to the 2011 Local Education Agency (LEA) Determination. Dr. Anna Diaz, Associate Superintendent for Exceptional Student Education, and her staff were very helpful during the Bureau's preparation for the visit and during the on-site visit. In addition, Dr. Kimberly Steinke and other staff members at the schools welcomed and assisted the monitoring team during the on-site visit. The Bureau's on-site monitoring activities identified noncompliance that requires corrective action.

MONICA VERRA-TIRADO, ED.D., CHIEF
Bureau of Exceptional Education and Student Services

Dr. Barbara Jenkins
August 7, 2012
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Thank you for your commitment to improving services to exceptional education students in the Orange County School District. If there are any questions regarding this final report, please contact Patricia Howell, Program Director, Monitoring and Compliance, at (850) 245-0476 or via email at Patricia.Howell@fldoe.org.

Sincerely,



Monica Verra-Tirado, Ed.D., Chief
Bureau of Exceptional Education and Student Services

Enclosure

cc: Anna Diaz
Kimberly Steinke
Mary Jane Tappen
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Orange County School District

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April 9–12, 2012

Authority

The Florida Department of Education (FDOE), Bureau of Exceptional Education and Student Services (Bureau), in carrying out its roles of leadership, resource allocation, technical assistance, monitoring, and evaluation, is required to oversee the performance of district school boards in the enforcement of all exceptional student education (ESE) laws and rules (sections 1001.03(8) and 1008.32, Florida Statutes [F.S.]). One purpose of the Individuals with Disabilities Education Act (IDEA) is to assess and ensure the effectiveness of efforts to educate children with disabilities (s. 300.1(d) of Title 34, Code of Federal Regulations [CFR]). The Bureau is responsible for ensuring that the requirements of IDEA and the educational requirements of the State are implemented (34 CFR §300.149(a)(1) and (2)).

In fulfilling this requirement, the Bureau monitors ESE programs provided by district school boards in accordance with sections 1001.42, 1003.57, and 1003.573, F.S. Through these monitoring activities, the Bureau examines records and ESE services and evaluates procedures, provides information and assistance to school districts, and otherwise assists school districts in operating effectively and efficiently. The monitoring system is designed to facilitate improved educational outcomes for students while ensuring compliance with applicable federal laws and regulations and State statutes and rules.

Monitoring Process

Background Information

In July 2010, section 1003.573, F.S., *Use of restraint and seclusion on students with disabilities* was created and established documentation, reporting, and monitoring requirements for districts regarding the use of seclusion and restraint for students with disabilities. School districts were required to have policies and procedures that govern parent notification, incident reporting, data collection, and monitoring the use of restraint or seclusion for students with disabilities in place no later than January 31, 2011. In July 2011, section 1003.573, F.S., was amended and required that the FDOE establish standards for documenting, reporting, and monitoring the use of manual or physical restraint and occurrences of seclusion. In September and October 2011, the standards established by the FDOE were provided to school districts and are currently included in

the district's *Exceptional Student Education Policies and Procedures* (SP&P). In a letter dated December 1, 2011, the superintendent of Orange County School District was informed that the Bureau would be conducting an on-site monitoring visit due to the number of reported incidents of restraint during the 2010–11 and 2011–12 school years.

Data reported by the district via the FDOE's web-based reporting system for incidents of restraint and seclusion indicated that Orange County School District reported 1,910 incidents of restraint for 244 students and 329 incidents of seclusion for 53 students from **August 2010 through May 2011**. With 22,142 students with disabilities reported as enrolled in the district during this time period, 1.10 percent of the students with disabilities were restrained and 0.24 percent were secluded.

In addition, this letter noted that the on-site visit would include a review of the district's procedures and practices related to triennial reevaluations and the district's progress with the corrective action plan related to the 2011 Local Education Agency (LEA) Determination. The review of the district's reevaluation process was part of the Bureau's ongoing technical assistance related to this issue.

School Selection

Upon review of the district's data reported via the FDOE's web-based reporting system for incidents of restraint and seclusion, it was determined that the on-site monitoring visit would be conducted at Cherokee School, Gateway School, Glenridge Middle School, Magnolia School, Princeton House Charter School, Stone Lakes Elementary School, and Winter Park High School.

On-Site Activities

Monitoring Team

On April 9–12, 2012, the following Bureau staff members conducted the on-site monitoring visit:

- Lindsey Granger, Program Director, Dispute Resolution
- Suzan Bastos, Compliance Specialist
- Karlene Deware, Compliance Specialist
- Jennifer Jenkins, Program Director, Instructional Support Services
- Derek Hemenway, Compliance Specialist

Data Collection

Monitoring activities included the following:

- Record reviews – 13 student individual educational plans (IEPs)
- Case studies – 13 student records for documentation of restraint
- Observations – 13 students observed
- District-level interview – 3 participants
- Teacher interviews – 8 participants
- School administrator interviews – 8 participants

Review of Records

The district was asked to provide the following documents for each student selected for review:

- Current IEP
- Functional behavioral assessment (FBA)
- Behavioral intervention plan (BIP)
- Copy of written notification to parent(s) or documentation of attempts to notify before the end of the school day on which the restraint or seclusion occurred
- Parent-signed acknowledgement of the same-day notification regarding the incident or documentation of additional attempts to obtain parent acknowledgement
- Parent-signed acknowledgement of the incident report or documentation of additional attempts to obtain parent acknowledgement
- Forms related to the reevaluation process including, but not limited to, prior written notice

Results

As of August 2011, the Orange County School District removed the option of using seclusion rooms. The two special day schools that used seclusion with their students were required to submit an Action Plan to the Associate Superintendent for ESE outlining how they would operate without the seclusion rooms. Seclusion of students was not revisited for the 2011–12 school year, and there are no plans to reinstate its use.

Data reported by the district via the FDOE's website for reporting incidents of restraint and seclusion from **August 2011 through March 2012** indicated that the Orange County School District reported 773 incidents of restraint for 255 students, and no incidents of seclusion. With 21,443 students with disabilities reported as enrolled during this time period, 1.19 percent of the students with disabilities were restrained, reflecting a 0.09 percent increase of restraints within the district.

Although there was a slight increase in the percent of students with disabilities who were restrained from August 2011 through March 2012, compared to August 2010 through March 2011, the number of incidents of restraint decreased from 1,910 to 773.

Dr. Anna Diaz, Associate Superintendent for ESE, stated that before the 2011–12 school year began, the district engaged in phone conversations with the Miami-Dade and Palm Beach County school districts to compare strategies. The Director of Exceptional Student Education, a special day school principal, and two Behavior Analysts visited Miami-Dade County School District to tour one of their schools that hosts similar students to those in the Orange County School District. The team returned to Orange County with ideas, strategies, and recommendations of changes for one of the special day schools that recorded a high number of incidents. This particular special day school served students with severe behavioral and emotional disabilities. Changes were implemented in the behavior level system, students' point sheets, and pertinent rewards for the students' behaviors. Two intensive classrooms were created for the

students presenting the most behavioral challenges. These classrooms offered additional supports, including extended interactions with mental health counselors.

As of August 2011, Orange County School District hired additional instructional staff (Behavior Specialists) to monitor the draft restraint reports before final reports were submitted through the FDOE website. Behavior Specialists worked with schools if revisions were needed before the school finalized the report and communicated with the Behavior Analysts for needed supports.

In addition, the Director of Exceptional Student Services, the Behavior Analysts, and the Behavior Specialists met on a regular basis to review the logs of the reported restraints. Schools were contacted and discussions were held if the behavioral intervention plan needed to be revised. In addition, the district reported that training in behavior- and discipline-related topics was provided at 85 schools during the 2010–11 school year and 58 schools during the 2011–12 school year.

The district's SP&P projected reducing the number of incidents of restraint by 25 percent. In comparing the number of reported incidents of restraint for August to March during the 2010–11 and 2011–12 school years, the district reduced the number of incidents of restraint by 59.5 percent.

The Bureau's on-site monitoring activities identified commendable practices at the schools that were visited as well as noncompliance that requires corrective action. The following results reflect data collected through the activities of the on-site monitoring team as well as commendations, concerns, recommendations, findings of noncompliance, and corrective actions.

Commendations

Staff at all of the schools visited showed compassion for the students impacted by restraint and seclusion. In addition, the on-site team identified the following commendable practices at individual schools visited:

Gateway School – Behavioral support staff members were strategically placed throughout the school campus to provide quick responses when assistance is needed. The school staff provided positive behavior supports for students with disabilities. The campus provided a nurturing, positive learning environment with emphasis on assisting students to develop internalized coping skills. In addition, the school has implemented an administrative back-up plan to ensure timeliness in incident reporting.

Cherokee School – During times of crisis, the staff maintained a calm and orderly environment with effective communication. It was noted by Bureau staff that there was a clear focus on, and consideration of, mental health care infused throughout the school day. Consistent procedures were used throughout the school, and the teachers were able to provide a clear explanation of these procedures to Bureau staff.

Glenridge Middle School – Trained personnel were strategically placed throughout the school campus to provide positive behavior support for students with disabilities. Behavior specialists collaborated to analyze data in an effort to decrease target or undesired behaviors. It was evident to Bureau staff that administrators were actively involved in all restraint incidents. The principal and Behavior Specialists maintained ongoing contact with parents and communicated with some of them several times each day.

Magnolia School – The classrooms provided opportunities for students to explore learning through hands-on experiences, animal care, and communication through song. Student schedules were clear and consistent, along with teacher expectations. Staff demonstrated a genuine investment in increasing students' opportunities for success by introducing animals in the classroom.

Princeton House Charter School – The school specializes in Autism Spectrum Disorder, so there was an emphasis on strategies, teaching methods, and techniques in this area. Many students have spent their entire school career at this school, and many families have had more than one student enrolled at the school. The students were actively involved in activities outside the classroom through planning a field trip to St. Augustine, Florida.

Winter Park High School – Administrative staff had an open-door policy for parents that supported the transition for incoming ninth-grade students. The Navy Reserve Officers Training Corps (ROTC) unit supported leadership opportunities for students with disabilities. The Best Buddies program provided opportunities for students with and without disabilities to participate in activities together. When the use of restraint was necessary, priority was given to maintaining the student's dignity and modesty.

Stone Lakes Elementary – The classrooms were resourced well with staff and materials, as well as being designed in a way to support the individual needs of the students and maximize student performance. The teachers and staff were welcoming and knowledgeable about their students and the population they serve. The schedules for students were posted and visual graphics evident, encouraging independence and communication.

Concerns

Restraint and Seclusion

Other than the findings of noncompliance referenced later in this report, there were no concerns regarding restraint and seclusion.

Reevaluation

Prior to the Bureau's on-site visit, the district improved their reevaluation practice to include the use of new forms, and provided training regarding the reevaluation process for district staff. The district's former reevaluation practice involved obtaining parental consent for a triennial reevaluation during a student's annual IEP team meeting. At

times, reevaluations were not conducted with a sense of urgency or in a reasonable time frame; and reevaluation results were not reviewed until the student's annual IEP team meeting during the following year after consent had been obtained. Previous forms and practices utilized and implemented by the district prevented the district from ensuring that decisions regarding a student's reevaluation needs were made during the IEP team meeting process involving the parent and student, when applicable. While there is not an explicit timeline for the completion of a reevaluation, the reevaluation is expected to be purposeful to address the student's current educational needs and should involve the parents of the student, and student when required. In addition, the reevaluation is expected to be completed within a reasonable time frame.

Additional Information

Prior to the Bureau's on-site visit, on or around January 2012, the district began implementing improvements to their reevaluation process. These improvements involved district-wide training and the introduction of new forms to assist in enhancing the district's practice related to reevaluation. The forms, including a detailed flowchart, were established to ensure future compliance with reevaluation procedures and to assist district- and school-based staff in following necessary steps to review existing information, obtain additional information when needed, propose any necessary actions, and determine eligibility. While the majority of staff demonstrated competency with the district's new process, some overlap between old and new procedures was present, which is reasonable in such a sizable district based on the initiation date of the new process. An amendment to the district's SP&P included a layer of oversight responsibility for district- and school-based staff members for monitoring timely triennial reevaluations. This amendment, when implemented with fidelity and in conjunction with the described changes to the district's practice, should serve to ensure future compliance.

The district reported that home instruction was used more frequently during the 2011–12 school year due to the prohibition of seclusion, in order to handle intense behaviors, and to decrease the use of restraint. Additionally, some district staff stated concerns that the home environment was not considered when making a determination for home instruction. This raises concerns over the provision of a free and appropriate public education (FAPE), including social and emotional provisions addressed in the IEP for emotionally fragile students.

Recommendations

Restraint and Seclusion

Due to the district's reported increase in the use of home instruction to handle intense behaviors and decrease the use of restraint, it is recommended that the district conduct a review of student records and identify the number of students who received home instruction during the 2011–12 school year, and any students who may be scheduled to receive home instruction during the 2012–13 school year, due to behavioral issues and needs. After identifying the number of students, the district should determine the

frequency and duration of home instruction for these students and assess the educational benefit that home instruction has provided. The district should determine whether all means of support within the classroom environment were exhausted when making decisions for students to receive home instruction.

In addition, when planning for the 2012–13 school year, it is recommended that the district determine whether sufficient proactive measures are in place to ensure that home instruction is used under limited, unique circumstances or on an emergency basis and when all other educational supports have been attempted for a student. The district should review the process through which home instruction is assigned. The district should also review the process of transitioning students back into the educational environment in order to ensure that this practice is designed to meet the individual educational needs of the student.

The Bureau's Technical Assistance Paper *Serving Students with Disabilities through Modified Schedule and/or Home Instruction* states, "...it is recommended that a modified schedule or home instruction be implemented for a period of time not to exceed one semester except in extreme circumstances. Even then, the IEP team should review the progress of the student periodically to determine if the student's progress warrants this intervention."

Reevaluation

It is recommended that the district continue to implement the new reevaluation procedures and establish fidelity checks to ensure that the process is being implemented as intended and to assess any needs for ongoing training or technical assistance. Follow-up training is recommended to ensure that the process is clearly understood by all parties involved in ensuring that reevaluations are completed in a timely, accurate, and thorough manner.

Findings of Noncompliance

The following noncompliance was found regarding incident reporting for restraints (section 1003.573, F.S.):

- Providing parents or guardians with a notification in writing before the end of the school day on which the restraint occurs. This written notification must include the type of restraint and whether any injuries occurred during or resulting from the restraint.
 - The district was using an outdated form that did not include the type of restraint used or whether any injuries occurred during or resulting from the restraint.

In April 2012 prior to the dissemination of this report, Orange County School District revised the notification form to include the type of restraint and whether injuries occurred during or resulting from the restraint. This revised form was reviewed by Bureau staff and found to be sufficient.

- Providing parents or guardians with a written incident report generated by the FDOE web-based reporting system by mail within three school days of any incident.
 - In three of the 13 records reviewed, the parents or guardians were not provided with a written incident reported generated by the FDOE web-based reporting system by mail within three school days of the incident.
- Obtaining the parent's or guardian's signed acknowledgement of receipt of the incident report or making a minimum of two attempts to obtain signed acknowledgement when parents or guardians fail to respond to the incident report.
 - In four of the 13 records reviewed, the parent's or guardian's signed acknowledgement of receipt of the incident report was not obtained and there was no documented additional attempt to obtain this signed acknowledgement.

No noncompliance was identified regarding the reevaluation process.

Corrective Actions

Regarding the noncompliance found during the on-site visit for reporting incidents of restraint, **no later than September 6, 2012**, the Orange County School District must correct the following procedures regarding reporting and documenting incidents of restraint.

- Providing the parent or guardian with a written incident report generated by the FDOE web-based reporting system by mail within three school days of any incident of restraint.
- Obtaining the parent's or guardian's signed acknowledgement of receipt of the incident report or making a minimum of two attempts to obtain signed acknowledgement when parents fail to respond to the incident report.

Documentation of the correction of noncompliance must be submitted to the Bureau **no later than September 6, 2012**, including evidence of any changes to tracking forms and school practices and training of school staff. In addition, the district shall provide a random sample of five restraint incidents occurring after April 12, 2012, demonstrating correct implementation of the standards in question.

Technical Assistance

The district's SP&P provides district- and school-based standards for documenting, reporting, and monitoring the use of manual, physical, or mechanical restraint and seclusion developed by the FDOE. In addition, the technical assistance paper entitled *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, dated October 14, 2011, offers specific information for guidance regarding restraints and seclusion.

Bureau Contacts

The following is a partial list of Bureau staff available for technical assistance:

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**Florida Department of Education
Bureau of Exceptional Education and Student Services**

Glossary of Acronyms and Abbreviations

BIP	Behavioral intervention plan
Bureau	Bureau of Exceptional Education and Student Services
BRIC	Bureau of Exceptional Education and Student Services Resource and Information Center
CFR	Code of Federal Regulations
ESE	Exceptional student education
FAPE	Free appropriate public education
FBA	Functional behavioral assessment
FDOE	Florida Department of Education
F.S.	Florida Statutes
IDEA	Individuals with Disabilities Education Act
IEP	Individual educational plan
LEA	Local education agency
ROTC	Reserve Officers Training Corps
SP&P	Exceptional Student Education Policies and Procedures



Florida Department of Education
Gerard Robinson, Commissioner

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