Orange County Public Schools Final Report: On-Site Monitoring Exceptional Student Education Programs

March 25-28, 2008



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Dr. Eric J. Smith Commissioner of Education



January 12, 2009

Mr. Ronald Blocker, Superintendent Orange County School District P.O. Box 271 Orlando, Florida 32802-0271

Dear Superintendent Blocker:

We are pleased to provide you with the Final Report of On-site Monitoring of Exceptional Student Education (ESE) Programs in Orange County. This report was developed by integrating multiple sources of information from our visit on March 25-28, 2008, including: student record reviews, interviews with school and district staff; information from focus groups; and classroom observations; as well as other general supervision activities conducted by the Bureau (e.g., state complaint investigations, ESE compliance self-assessment, due process hearings). The final report will be placed on the Bureau of Exceptional Education and Student Services' Web site and may be viewed at http://www.fldoe.org/ese/mon-home.asp.

The report includes the findings of the monitoring team. Bureau staff worked with Anna Diaz, Associate Superintendent, and her staff to address the areas of concern identified in the report. Within the report, we have included a description of some of the actions taken thus far by the district to address the issue of disproportionate representation in some ESE programs, as well as additional recommendations and resources. If my staff can be of any assistance as you continue to implement the improvement activities currently in place, please contact Kim Komisar, Ph.D., ESE Program Administration and Quality Assurance Administrator. Dr. Komisar may be reached at (850) 245-0476, or via electronic mail at <u>Kim.Komisar@fldoe.org</u>.

BAMBI J. LOCKMAN Chief Bureau of Exceptional Education and Student Services Mr. Ronald Blocker January 12, 2009 Page 2

Thank you for your continuing commitment to improve services for exceptional education for students in Orange County.

Sincerely,

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Bareau of Exceptional Education and Student Services

Enclosure

cc: Joie Cadle, School Board Chairman Members of the School Board Frank Kruppenbacher, General Counsel School Principals Anna Diaz, ESE Director Kim Komisar Patricia Howell

Orange County Public Schools Final Report: On-Site Monitoring

March 25-28, 2008

Bureau of Exceptional Education and Student Services Florida Department of Education

Orange County Public Schools Final Report: On-Site Focused Monitoring March 25-28, 2008

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Orange County Onsite Focused Monitoring March 25-28, 2008 Final Report

Authority

The Florida Department of Education, Bureau of Exceptional Education and Student Services, 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 laws and rules (Sections 1001.03(8) and 1008.32, Florida Statutes (F.S.)). In fulfilling this requirement, the Bureau conducts monitoring activities of the exceptional student education (ESE) programs provided by district school boards, in accordance with Sections 1001.42 and 1003.57, F.S. Through these monitoring activities, the Bureau examines and evaluates procedures, records, and ESE programs; provides information and assistance to school districts; and otherwise assists school districts in operating effectively and efficiently. One purpose of the Individuals with Disabilities Education Act of 2004 (IDEA) is to assess and ensure the effectiveness of efforts to educate children with disabilities (Section 300.1(d) of Title 34, Code of Federal Regulations (CFR)), and districts are required to make a good faith effort to assist children with disabilities to achieve their stated goals and objectives in the least restrictive environment (34 CFR §300.350(a) (2) and §300.556). In accordance with the IDEA the Department is responsible for ensuring that its requirements are carried out and that each educational program for children with disabilities administered in the state meets the educational requirements of the state (34 CFR §300.600(a)(1) and (2)). Federal Regulations for IDEA 2004 were made public on August 14, 2006, and implementation required on October 13, 2006.

The monitoring system reflects the Department's commitment to provide assistance, service, and accountability to school districts, and is designed to emphasize improved educational outcomes for students while continuing to conduct those activities necessary to ensure compliance with applicable federal laws and regulations and state statutes and rules. In addition, these activities serve to ensure implementation of corrective actions, such as those required subsequent to monitoring by the U.S. Department of Education (USDOE), Office of Special Education Programs (OSEP), and by the Office for Civil Rights (OCR), as well as other quality assurance activities of the Department.

State Performance Plan and Monitoring

In accordance with 34 CFR §300.600(a)(1), each state is required to develop a Part B State Performance Plan (SPP) that addresses 20 indicators identified by OSEP as representative of the monitoring priority areas noted above. States are required to establish rigorous performance targets for each of the indicators and to submit an Annual Performance Report (APR) that details progress toward those targets. The Bureau developed ESE compliance review protocols to align with selected SPP indicators using the *Part B SPP/APR Related Requirements* document developed by OSEP. This document identifies specific regulatory requirements that are most closely aligned with the SPP indicators. A Web-based self-assessment system aligned with the major areas of compliance related to the SPP indicators was implemented statewide in 2007-08. In addition, on-site monitoring to address particular areas of concern was conducted in selected districts during this time period.

Monitoring Process

District Selection

During the 2007-08 school year all districts participated in the Bureau's ESE Compliance Self-Assessment process. In addition, selected districts have been identified for targeted planning activities by one or more State SPP indicator teams; these targeted districts have been required to implement compliance- and/or performance-related interventions and report the results to the Bureau.

The identification of districts for on-site monitoring visits during 2007-08 was based on a review of district data related to timely correction of noncompliance from prior years' monitoring, the results of SPP indicator team activities, and other information available through the Bureau's correspondence and phone call databases. Orange County Public Schools (OCPS) was notified on April 26, 2006, of its selection as a targeted district for SPP Indicator 10, which addresses disproportionate representation of racial/ethnic groups in specific disability categories that is the result of inappropriate identification. In OCPS the focus was on the relative number of Black students found eligible for the program for students with mental handicaps, specifically those found eligible as educable mentally handicapped (EMH). The district was asked to submit a sampling of student records for Bureau review by June 2006; after multiple requests, these records were provided in June 2007. In addition, the district was notified on June 1, 2006, of its selection for participation in SPP Indicator 6 related to placement in the least restrictive environment (LRE) for children ages three through 5 (PreK LRE).

Based on the review of available data, a decision was made to conduct an on-site visit to Orange County Public Schools, with a primary focus on the disproportionate representation of Black students in the program for students with mental handicaps. In addition, verification of improvement activities related to PreK LRE and a review of the regulatory requirements related to parent involvement were to be conducted.

On-Site Activities

Monitoring Team

During the week of March 24, 2008, the Florida Department of Education, Bureau of Exceptional Education and Student Services, conducted an on-site review of the ESE programs in Orange County Public Schools.

The following Bureau staff members conducted the on-site visit:

- Kim Komisar, Administrator, Program Administration and Quality Assurance
- Brenda Fisher, Program Specialist Monitoring, District Co-Leader
- Ken Johnson, Program Specialist Monitoring, District Co-Leader
- Laura Harrison, Program Specialist Monitoring

- Demetria Harvell, Program Specialist Dispute Resolution
- Marilyn Hibbard, Program Specialist PreK Disabilities
- Annette Oliver, Program Specialist Monitoring
- Sheryl Sandvoss, Program Specialist Mentally Handicapped
- Jill Snelson, Program Specialist Monitoring
- David Wheeler, School Psychology Consultant

Schools

The following schools were selected for on-site visits based on the number of students found eligible for the disability category of EMH and on school assignment feeder patterns:

- Apopka Elementary School
- Dillard Elementary School
- Rolling Hills Elementary School
- Rosemont Elementary School
- Carver Middle School
- Apopka High School

The following schools were selected for on-site visits based on the extent to which PreK ESE children are served in inclusive settings:

- Lake Gem Elementary School
- Dream Lake Elementary School
- Blankner Elementary School

Data Collection

Specific regulatory requirements have been identified as being closely related to each of the SPP indicators. The monitoring activities and record review protocols implemented during the on-site monitoring visit to OCPS focused on procedural requirements related to the targeted topics (i.e., disproportionate representation due to inappropriate identification, PreK LRE, parent involvement). For some regulations and/or indicators, determining compliance is relatively straightforward (e.g., whether the parent was provided written notice of a meeting). For others, the determination of compliance must be based to some extent on a more subjective review or analysis. As a result, in addition to evaluating procedural compliance, the monitoring activities were designed to identify patterns in district policies, procedures, or practices that might lead to unintended consequences such as finding a disproportionate number of Black students eligible for an ESE program or having limited options for inclusive prekindergarten placements.

A summary of the monitoring activities conducted in Orange County is included below:

- District-level interviews 14
- School-level interviews 34
- Parent interviews 3
- EMH record reviews 46
- Parent involvement record reviews 28
- Case studies 13

District Debriefing

A debriefing session to share the initial results with OCPS staff was held on the final day of the on-site monitoring visit. The district was informed that, while the initial collection and review of data did not reveal noncompliance, there were several areas of concern, and monitoring staff provided the names of the individual students for whom concerns had been noted.

At the time of the on-site monitoring, OCPS had developed a plan to address disproportionate representation of Black students eligible as EMH or emotional/behavioral disability (E/BD). During the debriefing session district staff provided additional information regarding existing policies, procedures and practices, as well as describing the next steps in its systemic plan to address disproportionality. It was determined that, pending follow-up review of the data to confirm that there were no findings of noncompliance, a corrective action plan would not be required, but the district would incorporate information gleaned from the monitoring process into its systemic plan.

Results

Results are reported by topic. As indicated above, there were no findings of noncompliance, although areas of concern were noted. In the interim between the monitoring visit and the issuance of this report, the district began district-wide implementation of its plan. Training and technical assistance have focused on communicating the nature and extent of the issue to relevant staff (e.g., district data related to racial and ethnic breakdown by disability category and placement (LRE); case studies of individual students); identification of the problem (e.g., potential contributing and/or confounding factors related to disproportionate representation); and enlisting the support of school-level administrators in ensuring that response-to-intervention (RtI) is used to address the behavioral and academic challenges of a diverse student population.

As a result, this report reflects information gathered as part of the monitoring activities as well as improvement activities the district has implemented thus far.

Disproportionate Representation

While specific eligibility criteria such as intelligence quotient (IQ), achievement, or adaptive behavior scores are generally discrete and easily assessed as being within the required limits for eligibility, other aspects of the referral and evaluation process are more subjective. For example, the decision to refer a student for evaluation after a brief period of intervention or to implement increasingly more intensive or extensive general education interventions is not easily judged as being "compliant" or "noncompliant." Similarly, the appropriateness of a given intervention and/or the fidelity of its implementation often cannot be determined through a record review or interview conducted significantly after the fact. In addition, documentation of an eligibility decision included in a student's record does not always provide a thorough and detailed explanation of specific decisions, interpretations, or analyses by the team, especially those that are not clearly evident from evaluation results. As a result, the findings of this report go beyond identification of compliance/noncompliance to include concerns regarding decision-making related to referral, evaluation, eligibility, and placement.

A total of 46 records were reviewed to determine if there was disproportionate representation as a result of inappropriate identification. There were no findings of noncompliance regarding the evaluation and eligibility process, but concerns were noted in eight (17%) of the records; detailed information regarding those students was provided to the district during the on-site monitoring visit. The following concerns were identified through record reviews and interviews:

- Unable to determine the nature of the general education interventions, both academic and behavioral, conducted prior to referral for evaluation for four of the students
- Isolated scores of intellectual ability or achievement outside of the EMH range without clear explanation of their significance in the eligibility decision for three of the students
- Inconsistencies in adaptive behavior scores between respondents without clear justification for reliance on school results over parent results for three of the students
- Evidence of other categories of disability (e.g., specific learning disability (SLD), other health impaired (OHI)); unclear whether eligibility other than EMH was considered for two of the students
- Recommendation in the staffing committee notes for early reevaluation for two students; no evidence that such recommendations are tracked to ensure this occurs
- Student performance on class work and/or statewide assessment on grade level for students receiving relatively low levels of direct special education services; interview respondents reported likely change in disability or dismissal upon reevaluation for three of the students
- Some staff involved in educational planning teams (EPTs) described the process as a series of activities required in order to refer, evaluate, and place a student in an ESE program; they were unable to describe a systematic data-driven process to identify effective general education interventions for struggling students.

At the time of the on-site monitoring, OCPS had developed a plan to address disproportionate representation of Black students eligible as EMH or E/BD. Activities included an extensive review of student records, including the results of recent administrations of the Florida Comprehensive Assessment Test (FCAT), to identify students for whom reevaluation appeared warranted. The activities of the district plan were primarily centered at the district level. Schoolbased staff in the visited schools reported they were not aware of the plan, or of any concerns related to disproportionate representation.

Subsequent to the on-site monitoring, the district has expanded both the scope and the range of its efforts, including but not limited to the following:

- The district's plan to address disproportionate representation has been presented to a variety of groups across the district, including all principals. The information provided to staff includes case studies of students who had been identified as EMH and were subsequently dismissed upon reevaluation. It addresses issues such as:
 - The demands on schools and classrooms created by a strong focus on accountability may result in pressure to evaluate and place struggling students in ESE programs and remove them from the general education environment.
 - The coping skills developed by some students in response to challenges they face may be reflected in behaviors that are ill-suited to school settings. Many "street-savvy" students don't have the tools they need for success in a traditional school environment; this should not be perceived as a disability.

- Prior experiences and belief systems may cause EPTs to focus on the processes of eligibility and placement at the expense of effective instructional and behavioral interventions; the provision of instruction and student learning often are impacted by bias introduced through disability labels; racial, cultural, ethnic stereotypes; and home, economic, and environmental factors
- Implementation and planned expansion of effective response-to-intervention (RtI) holds the greatest promise for ensuring that no students are inappropriately identified as EMH or E/BD. During 2007-08, 18 schools in OCPS were designated as pilot schools for the district's RtI implementation plan. Since the start of the 2008-09 school year, RtI has been expanded to 38 additional schools, for a total of 56 (49 traditional elementary schools, 1 charter school, 3 middle schools, and 3 high schools).
- The district's technical assistance documents related to student eligibility as EMH and E/BD were revised to reflect additional district procedures, including requirements that go beyond current State Board of Education rules. Additional requirements include guidelines for use of partial scores, precluding teams from using standard error of measurement, and requiring a written summary of the team's analysis of the data.
- The district's plan includes goals related to more inclusive, less restrictive, placements for all students with disabilities, both PreK and school age, as well as ensuring that students in overrepresented groups are not inappropriately identified as students with disabilities.
- District staff assigned to provide and monitor ESE services work closely with the district's ESE administrators and meet monthly to identify initiatives and monitor district and individual school progress in increasing the number of bilingual staff providing initial evaluation services in involving non-English speaking parents in the ESE identification process.

PreK LRE

OCPS was selected for targeted improvement planning by the Bureau's SPP Indicator 6 team as a result of the district's relatively low percentage of preschool children with disabilities who received special education and related services in settings with typically developing peers. The district submitted a program improvement plan that addressed: accuracy of data; exploration of fiscally sound inclusive service delivery models; availability of community-based placements and professional development opportunities to support such placements; and possible expansion of general education PreK programs such as the Voluntary Prekindergarten Education Program (VPK) or Head Start.

As a targeted district, OCPS completed a focused self-assessment related to PreK LRE during 2007-08. The self-assessment process, which included validation by the Bureau, revealed no noncompliance in the regulatory requirements most closely aligned with an individual educational plan (IEP) team's determination of the least restrictive environment for a student.

As with disproportionate representation described above, placement decisions are often not solely objective decisions. Subjective factors such as the relative benefits of one service delivery model over another, as well as PreK-specific constraints such as the limited availability of public school early care and education programs for typically developing children, impact the decisions

made by IEP teams. As part of the on-site monitoring activities, three elementary schools with PreK programs were visited, and district- and school-level staff were interviewed.

School-based decisions and fiscal considerations were the two most frequently cited issues impacting the availability of inclusive placements for PreK children. Both district- and school-level staff indicated that strong administrative support on the part of a school principal is critical to maintaining a successful inclusive PreK program, as is financial support from the district. Staff reported that, in general, PreK classrooms are not fiscally self-supporting; in order to expand inclusive options there must be options for cost-sharing across schools and programs. The local Early Learning Coalition and the Technical Assistance and Training System (TATS) were reported to be valuable resources for the district's efforts in this area.

Parent Involvement

Data from formal and informal dispute resolution, written correspondence, and parent calls were reviewed in preparation for the on-site monitoring visit. Based on the nature of the requests for assistance or intervention on the part of parents, it was determined that the visit would include a compliance review of the regulatory requirements related to SPP Indicator 8 – Parent Involvement. A total of 28 records were reviewed, and Bureau staff attempted to call the parents of the 13 case study students; three parents were contacted by phone.

There were no findings of noncompliance related to parent involvement. However, concerns were noted in the following areas:

- The *Parent Notification Letter* form used to invite parents to IEP team meetings includes the following options for parent response: attending at the designated date and time; requesting to reschedule; or declining to attend and asking for the results of the meeting in writing. In the event a parent is unable to attend an IEP team meeting, there must be other attempts to ensure parent participation. While the option of rescheduling represents this effort to some extent, it was not evident from the records whether other steps were take to encourage parent participation (e.g., submit input in writing, participate via phone).
- For some students whose parent did not attend the meeting, the section of the IEP used to document the "concerns expressed by the parents for their child's education" was left blank. Although there was evidence in the file of multiple attempts to invite the parent to the meeting, it was not clear that other opportunities for input were solicited, or whether the team members were aware of the parents' concerns as a result of prior communication. It is recommended that IEP teams be encouraged to more actively solicit and document this information.

Corrective Actions, Recommendations, and Resources

Corrective Action Plan

There were no findings of noncompliance; therefore, a corrective action plan is not required. However, several areas of concern were noted, most significantly in the area of disproportionate representation. The district is to be commended for its actions thus far, and is encouraged to consider the following recommendations as it continues to implement its action plan addressing the systemic nature of the issue.

Recommendations

Disproportionate Representation

- Adopt a district-wide intervention documentation form that addresses level and intensity of interventions and tracks intervention effectiveness at school, targeted group, and individual levels.
- Continue to expand RtI to additional school sites.
- Provide training, technical assistance, and support to ensure that teams:
 - Consider the student's age, cultural norms, and language when interpreting test results; exercise caution to counteract the tendency to over-interpret the meaning of test scores without taking into account the impact of other factors.
 - Give consideration to additional factors that may have impacted learning progress and test performance (e.g., language development, attention, anxiety) that may be characteristic of other disabilities.
 - Give students sufficient opportunity to respond to instruction/interventions before moving to eligibility decisions. Based on the case studies, some students classified as EMH at age five improved significantly the second year in school, in part due to the school's service delivery model that mainstreamed students identified as EMH.
 - Provide ESE services under existing eligibility. Based on the case studies, some students were classified as EMH at age five even though they were already eligible for ESE services as language impaired.
- Progress monitor ESE students and establish progress monitoring criteria to "flag" students who may have been inappropriately placed (e.g., first grade case study student identified as EMH at grade level in reading and math).
- Implement a district policy requiring more frequent or comprehensive reevaluation for students identified as EMH in PreK or primary grades.

PreK LRE

• Continue to implement the program improvement plan developed in response to SPP Indicator 6 – PreK LRE, including identifying funding models to support inclusive placements for preschool-age children in public school and community early care and education programs.

Parent Involvement

- Revise the *Parent Notification Letter* to include options for parents to participate in the conference by phone or submit written input regarding their child.
- Incorporate into existing IEP training materials strategies for soliciting parent input in the event the parent does not participate in the IEP team meeting; implement district-required documentation of the team's efforts to obtain and report the parent's concerns for the education of the child.

Resources

Publications

• *Disproportionality in Special Education* (LRP Publications, 2007). See Chapter 5 for a model for analyzing Disproportionality.

- Equity in Special Education Placement: A School Self-Assessment Guide for Culturally Responsive Practice (National Center for Culturally Responsive Educational Systems (NCCRESt), 2005). Accessible at <u>www.nccrest.org/publications/tools.html</u>
- *Practitioner Briefs* (NCCRES, 2004-2008). Accessible at <u>www.nccrest.org/publications/briefs.html</u>
- Preventing Disproportionality by Strengthening District Policies and Procedures An Assessment and Strategic Planning Process (NCCRESt, 2006). Accessible at www.nccrest.org/publications/tools.html
- *Technical Assistance and Professional Development Planning Guide* (NCCRESt, 2006). Accessible at <u>www.nccrest.org/publications/tools.html</u>
- *Truth in Labeling: Disproportionality in Special Education* (National Education Association (NEA)/National Association of School Psychologists (NASP), 2007). Accessible at <u>www.nea.org/specialed/images/truthinlabeling.pdf</u>

Technical Assistance

Bureau staff are available for assistance on a variety of topics and may be contacted for assistance in the development and/or implementation of improvement planning activities. The following is a partial list of contacts:

Bambi J. Lockman, Chief Bureau of Exceptional Education and Student Services Bambi.Lockman@fldoe.org (850) 245-0475

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Brenda Fisher, Program Specialist – OCPS Bureau-District Monitoring Liaison Brenda.Fisher@fldoe.org **ESE Program Development and Services** (850) 245-0478

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Sheryl Sandvoss, Program Specialist – Intellectual Disabilities Sheryl.Sandvoss@fldoe.org

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Karen Denbroeder, Administrator Karen.Denbroeder@fldoe.org

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Appendix:

Glossary of Acronyms

Florida Department of Education Bureau of Exceptional Education and Student Services

Glossary of Acronyms

APR	Annual Performance Report
Bureau	Bureau of Exceptional Education and Student Services
CFR	Code of Federal Regulations
Department	Department of Education
E/BD	Emotional/Behavioral Disability
EMH	Educable Mentally Handicapped
EPT	Educational Planning Team
ESE	Exceptional Student Education
FCAT	Florida Comprehensive Assessment Test
F.S.	Florida Statutes
IDEA	Individuals with Disabilities Education Act of 2004
IEP	Individual Educational Plan
LRE	Least Restrictive Environment
OCPS	Orange County Public Schools
OCR	Office for Civil Rights
OHI	Other Health Impaired
OSEP	Office of Special Education Programs
NCCRESt	National Center for Culturally Responsive Educational Systems
NEA/NASP	National Educational Association/National Association of School Psychologists
PreK	Prekindergarten
RtI	Response-to-Intervention
SLD	Specific Learning Disability
SPP	State Performance Plan
TATS	Technical Assistance and Training System
USDOE	United States Department of Education
VPK	Voluntary Prekindergarten Education Program



Florida Department of Education Dr. Eric J. Smith, Commissioner

ESE 312969