

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

BACKGROUND

The Bureau of Exceptional Education and Student Services (bureau) received a state complaint from [REDACTED], on April 29, 2014, alleging that the Franklin County School District violated federal and state laws relating to the education of students with disabilities. Specifically, the allegations involved in the following issue are in reference to Student One, Student Two, Student Three, Student Four, Student Five, Student Six, and Student Seven:

ISSUE: Whether the Franklin County School District violated the required procedures related to eligibility determination for exceptional student education (ESE) services for the students named in the complaint during the time period from April 29, 2013, through April 29, 2014, specifically regarding:

- **Attendance of qualified professionals at eligibility determination meetings,**
- **Timeliness of scheduling of eligibility determination meetings following completion of evaluations and the submission of evaluation reports**

The 60-day timeline for the completion of the complaint inquiry began with receipt of the required complaint components with an anticipated completion date of June 28, 2014. On June 30, 2014, the bureau determined that additional information was required from the district in order for the bureau to complete a comprehensive investigation. To ensure adequate time for the necessary analysis of this additional information, the timeline was extended to July 9, 2014. As part of the inquiry process, the complainant and the district were asked to submit relevant documents and information to the bureau. Ms. Sue Summers, Director of Exceptional Student Education (ESE), submitted documentation on behalf of the district for students One through Seven. The complainant did not provide authorizations for release and disclosure of information signed by the students' parents.

As part of the inquiry process, relevant portions of the students' educational records were reviewed. Educational records indicated the following:

- Student One (date of birth: [REDACTED]) was in grade [REDACTED] and had been determined ineligible for ESE services as a student with [REDACTED]
- Student Two (date of birth: [REDACTED]) was in grade [REDACTED] and had been identified and determined eligible by the district as a student with [REDACTED]
- Student Three (date of birth: [REDACTED]) was in grade [REDACTED] and had been identified and determined eligible by the district as a student with [REDACTED] and a [REDACTED]

- Student Four (date of birth: [REDACTED] was in grade [REDACTED] and had been determined ineligible for ESE services as a [REDACTED]
- Student Five (date of birth: [REDACTED]) was in grade [REDACTED] and had been identified and determined eligible by the district as a student with [REDACTED]
- Student Six (date of birth: [REDACTED]) was in grade [REDACTED] and had not been identified as a [REDACTED]
- Student Seven (date of birth: [REDACTED]) was in grade [REDACTED] and had not been identified as a [REDACTED]

The complainant alleged that the district did not require the attendance of a qualified professional at eligibility determination meetings, specifically a school psychologist, thereby preventing adequately informed team decision-making regarding students' eligibility for the district's ESE programs. The complainant also alleged that the district was not complying with district policy regarding scheduling eligibility determination meetings within 10 days following submission of evaluation reports.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.8, Title 34, Code of Federal Regulations (34 CFR §300.8) states, "(a) General. (1) Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part."

34 CFR §300.111 states, (a) General. (1) The State must have in effect policies and procedures to ensure that—(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated... (c) Other children in child find. Child find also must include (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade..."

34 CFR §300.300 states, (a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under §300.8 must, after providing notice consistent with §§300.503 and 300.504, obtain informed consent, consistent with §300.9, from the parent of the child before conducting the evaluation. (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education

and related services. (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability... (3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent. (ii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation.

34 CFR §300.301 states, “(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§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 §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 §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.”

34 CFR §300.304 states, “Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with §300.503, that describes any evaluation procedures the agency proposes to conduct. (b) Conduct of evaluation. In conducting the evaluation, the public agency must—(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining— (i) Whether the child is a child with a disability under §300.8; and (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities); (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (c) Other evaluation procedures. Each public agency must 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; (5) Assessments of children with disabilities

who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with §300.301(d)(2) and (e), to ensure prompt completion of full evaluations. (6) In evaluating each child with a disability under §§300.304 through 300.306, 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. (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided....”

34 CFR §300.306 states, “(a) General. Upon completion of the administration of assessments and other evaluation measures—(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (b) of this section and the educational needs of the child...(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—(1) If the determinant factor for that determination is—(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency; and (2) If the child does not otherwise meet the eligibility criteria under §300.8(a). (c) Procedures for determining eligibility and educational need. (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must—(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child’s physical condition, social or cultural background, and adaptive behavior; and (ii) Ensure that information obtained from all of these sources is documented and carefully considered...”

34 CFR §300.308 states, “The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, must be made by the child’s parents and a team of qualified professionals, which must include—(a)(1) The child’s regular teacher; or (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

34 CFR §300.502 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...”

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

Rule 6A-6.03018,(4)(b), F.A.C., states, “ 4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met. ... (b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student’s parents or guardians and a group of qualified professionals, which must include, but are not limited to, all of the following: ... 2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including, but not limited to, a school psychologist, speech-language pathologist, or reading specialist; ...”

Rule 6A-6.0331,(3)(e)1., F.A.C., states, “Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, Florida Statutes, (F.S).”

Rule 6A-6.0331, (5)(b)4., F.A.C., states, “(b) Each school district must ensure that assessments and other evaluation materials and procedures used to assess a student are: ... 4. Administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.”

Rule 6A-6.03411(2), F.A.C., states “ESE Policy and Procedures Document. For a school district to be eligible to receive state or federal funding for specially designed instruction and related services for exceptional students, it shall: develop a written statement of policies and procedures for providing appropriate ESE... [and] submit its written statement of policies and procedures to the Bureau of Exceptional Education and Student Services...”

Section H (Student Evaluations and Reevaluations) of the district’s ESE Policies and Procedures Document (SP&P) requires that “the ESE eligibility staffing is to be held within 10 school days of the receipt of the comprehensive evaluation report.” This policy does not specify the entity that actually receives the report.

DISCUSSION AND CONCLUSIONS

1. Student One’s parent gave consent for MTSS activities on January 8, 2014. The evaluation report for Student One was dated February 17, 2014. A meeting to determine the student’s eligibility for ESE services was held on April 3, 2014. There is no evidence that indicates that the district obtained parental consent for evaluation.
2. Student Two’s parent gave consent for MTSS activities on September 3, 2013. The evaluation report for Student 2 was dated March 4, 2014. A meeting to determine the student’s eligibility for ESE services was held on April 24, 2014. Parental consent to conduct an evaluation was also obtained on April 24, 2014.
3. Student Three’s parent gave consent for evaluation on August 13, 2013, consent for MTSS activities on September 3, 2013, and an additional consent for evaluation on

February 2, 2014. The evaluation report for Student Three was dated February 28, 2014. The evaluation was completed more than 60 school days after parental consent was provided on August 13, 2013. A meeting to determine the student's eligibility for ESE services was held on June 6, 2014.

4. Student Four's parent gave consent for evaluation on January 28, 2014. The evaluation report for Student Four was dated March 28, 2014. A meeting to determine the student's eligibility for ESE services was held on April 1, 2014.
5. Student Five's parent gave consent for individual screenings related to RTI activities on March 14, 2012. Multiple interventions occurred in 2012 and 2013. The evaluation report for Student Five was dated March 4, 2014. Parental consent for evaluation was obtained on April 25, 2014. A meeting to determine the student's eligibility for ESE services was held on June 2, 2014.
6. Student Six's parent gave consent for RTI on December 19, 2013, and consent for evaluation on February 2, 2014. The evaluation report for the student was dated February 28, 2014. On the ESE referral form a handwritten note indicated that the student did not qualify due to insufficient MTSS. However, there is no evidence indicating that a meeting of qualified professionals was held subsequent to the evaluation to make this determination.
7. Student Seven's parent gave consent for MTSS activities on December 12, 2013. The evaluation report for the student was dated February 20, 2014. There is no evidence that indicates that the district obtained consent for this evaluation. A handwritten note on the evaluation report indicated that the student did not qualify due to insufficient MTSS. However, there is no evidence indicating that a meeting of qualified professionals was held subsequent to the evaluation to make this determination.
8. Section H (Student Evaluations and Reevaluations) of the district's SP&P requires that ESE eligibility determination meetings be held within 10 school days of the receipt of evaluation reports.
9. The time between the completion of evaluation reports and the dates that eligibility determination meetings were held was greater than 10 school days for Students One through Five. There was no evidence that eligibility determination meetings had been held for Students Six and Seven, although evaluations had been completed for both students in February 2014.
10. The tests administered included the Stanford-Binet Intelligence Scale, WISC-IV® and the WJ-III COG®. All of these tests are defined by the publishers as tests of intellectual functioning. All of the students that were the subjects of this complaint investigation were administered at least one of these tests.
11. Required members of an eligibility determination team include the parent and a group of qualified professionals. Individuals who may be included on an eligibility determination team may vary on the basis of the student's suspected disability, the tests administered and other relevant factors. For SLD eligibility determinations, qualified professionals must include the student's regular education teacher and at least one person qualified to conduct and interpret individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or reading specialist.

12. The complainant maintained that a school psychologist should have been present at the eligibility determination meetings.
13. State Board of Education Rule 6A-6.0331(3)(e)1., F.A.C., requires that tests of intellectual functioning shall be administered and interpreted by professionals who are qualified in accordance with Rule 6A-4.0311, F.A.C., Specialization Requirements for Certification in School Psychologist (Grades PK-12) – Specialty Class Beginning July 1, 1992 or Chapter 490, Psychological Services, F.S.,
14. The attendees at the meetings held to determine eligibility for SLD programs for Students One, Two, Three and Five, included the ESE director's designee who also served as the evaluation specialist. The attendees did not include a school psychologist. The ESE director's designee holds a Florida professional educator certificate in both exceptional student education and elementary education with a Reading Endorsement. In accordance with State Board of Education rule, this individual was not qualified to interpret the results of tests of intellectual functioning.
15. A reading endorsement would not necessarily deem an individual to be qualified as a reading specialist. The qualifications stipulated by the publisher for any academic achievement or reading assessment would determine the qualifications needed to administer or interpret the assessment.
16. The attendees for the eligibility meeting for Student Three also included a speech language pathologist, and an additional individual who served as the evaluation specialist.

FINDINGS OF NONCOMPLIANCE

1. Based on the information provided, there is evidence that the Franklin County School District violated required procedures related to eligibility determination for ESE services for the students named in the complaint during the time period from April 29, 2013, through April 29, 2014, specifically regarding attendance of qualified professionals at eligibility determination meetings.
2. Based on the information provided, there is evidence that the Franklin County School District did not comply with the district's procedures related to timeliness of scheduling of eligibility determination meetings following completion of evaluations and the submission of evaluation reports for ESE services for the students named in the complaint during the time period from April 29, 2013, through April 29, 2014.

REQUIRED ACTION

1. For Student One and Student Four, no later than **August 29, 2014**, the school's MTSS team must reconvene to review the students' response to intervention data during the last quarter of the 2013-2014 school year to assess progress and determine action that is needed. A summary of this review must be provided to the bureau no later than **September 15, 2014**.
2. For Student One and Student Four, if the MTSS team's review determines that either the intensive interventions implemented were effective, but require a level of intensity and resources to sustain growth or performance that is beyond that which is accessible through general education resources or that the students' growth given

effective core instruction and intensive, individualized evidence-based intervention was not adequate, then the district must determine if additional evaluation data are needed. In this event, the district must seek consent from the parents to evaluate the students within 20 school days. In the event that such a determination is made, the bureau must be informed **within 10 school days**.

3. For Student One and Student Four, if the students are evaluated to determine eligibility for ESE during the 2014-2015 school year, the bureau must be informed of the outcome of the evaluation and eligibility determination **within 10 school days** of the determination. If the students are found eligible for ESE services, the students' IEPs and corresponding conference notes must be provided to the bureau for a determination with regard to the provision of compensatory services.
4. The district is required to review its practices and procedures with regard to participation of qualified individuals in eligibility determination meetings. By **August 29, 2014**, the district must submit a narrative to the bureau describing any revisions made to the district's policies, practices or procedures to ensure that qualified individuals are in attendance at all eligibility staffing meetings.
5. The district is required to review its practices and procedures with regard to evaluation and determination of eligibility in accordance with Rule 6A-6.03018, F.A.C., Exceptional Education Eligibility for Students with Specific Learning Disabilities. By **October 13, 2014**, the district must submit a narrative to the bureau describing any revisions made to the district's policies, practices or procedures to ensure that that the district's practices are consistent with the requirements established by rule.
6. The district is required to submit a list of the names of the students for whom an eligibility staffing meeting is conducted during the 2014-2015 school year. Upon receipt of the student names, the bureau will randomly select students for whom documentation of the eligibility staff meeting must be sent. Such documentation must include copies of evaluation reports and conference notes indicating the participants in the eligibility staffing meeting. Additionally, information regarding the credentials of the evaluators and interpreters of the tests must be submitted. The list of student names must be submitted in accordance with the following schedule:
 - November 7, 2014 – for eligibility determination meetings held from the beginning of the school year through October 31, 2014
 - February 6, 2015 – for eligibility determination meetings held between November 1, 2014, and January 30, 2015
 - June 5, 2015 – for eligibility determination meetings held between February 1, 2015, and May 29, 2015
7. The district is required to provide training to staff on scheduling eligibility determination meetings within required timelines. The district has begun revision of MTSS procedures to include training of all appropriate school and district-level staff

at the beginning of the 2014-15 school year. The district shall provide copies of revised MTSS procedures and training materials to the bureau for review prior to training sessions and no later than **July 30, 2014**. Verification of training shall be provided to the bureau within 10 days after training sessions are held and no later than **August 29, 2014**, and must include documentation of participation, including printed names, signatures, and titles of participants.

8. For Students One, Two, Three, Five, Six and Seven, the district must review the circumstances surrounding the delays in scheduling eligibility determination meetings following completion of evaluations and the submission of evaluation reports to determine the reason(s) for the delays and for the subsequent noncompliance with the district's SP&P requirement regarding the timeline for scheduling eligibility determination meetings. By **August 29, 2014**, the district must submit a narrative to the bureau detailing the reasons for the delays and any revisions made to the district's policies, practices or procedures to prevent such delays in the future.

ADDITIONAL ISSUE FOUND DURING INVESTIGATION

For Student Six and Student Seven, there is no evidence a group of qualified professionals made a determination with regard to whether the students were students with disabilities.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

34 CFR §300.306 states, "(a) General. Upon completion of the administration of assessments and other evaluation measures—(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (b) of this section and the educational needs of the child... (b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—(1) If the determinant factor for that determination is—(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency; and (2) If the child does not otherwise meet the eligibility criteria under §300.8(a). (c) Procedures for determining eligibility and educational need. (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must—(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and (ii) Ensure that information obtained from all of these sources is documented and carefully considered..."

DISCUSSION AND CONCLUSIONS

Federal and state requirements establish that a team of qualified professionals must make a determination if a student is a student with a disability upon completion of

evaluation and assessment measures. There is no evidence that this occurred for Student Six and Student Seven. Handwritten notes on documents provided for both students indicated that the students were not eligible because of “insufficient MTSS.”

FINDINGS OF NON-COMPLIANCE

Based on the information provided, there is evidence that the Franklin County School District violated the requirements related to determination of eligibility following completion of an evaluation.

CORRECTIVE ACTION

For Student Six and Student Seven, no later than **August 29, 2014**, a group of qualified professionals must convene to review available evaluation and other relevant data to make a determination whether the students are students with disabilities. Documentation of these meetings must be provided to the bureau no later than **September 15, 2014**.

ADDITIONAL ISSUE FOUND DURING INVESTIGATION

Student Six and Student Seven had attained the age of majority. However, there was no evidence that the consents for evaluation were obtained from the students.

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

34 CFR §300.520 Transfer of parental rights at age of majority. (a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law) — (1)(i) The public agency must provide any notice required by this part to both the child and the parents; and (ii) All rights accorded to parents under Part B of the Act transfer to the child; ...

The corresponding state requirement is found at Rule 6A-6.03311, (8), F.A.C.

CORRECTIVE ACTION

The district shall incorporate obtaining consent for evaluation from students who have attained the age of majority into its revision of MTSS procedures and training, referenced in the Required Action described above. Copies of revised procedures, training materials and training participant verification should be provided to the bureau on the dates noted above.

ADDITIONAL ISSUE FOUND DURING INVESTIGATION

Consent for evaluation was not obtained for Student One and Student Seven, and was obtained after an evaluation had been conducted for Student Two and Student Five.

LEGAL AUTHORITY FOR THE BUREAU’S FINAL DECISION

34 CFR §300.300 states, (a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under §300.8 must, after providing notice consistent with §§300.503 and 300.504, obtain informed consent, consistent with §300.9, from the parent of the child before conducting the evaluation. (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services. (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability...(3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under §300.506 or the due process procedures under §§300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent. (ii) The public agency does not violate its obligation under §300.111 and §§300.301 through 300.311 if it declines to pursue the evaluation.

The corresponding state requirement is found in Rule 6A-6.0331(4), F.A.C.

DISCUSSION AND CONCLUSIONS

Federal and state laws require parental consent to be obtained prior to conducting an initial evaluation to determine if a student is eligible for ESE services as a student with a disability. If parental consent cannot be obtained, districts may use administrative procedures including mediation or due process hearings to facilitate obtaining consent. Parental consent for evaluation was not obtained for two students, and was obtained after an evaluation had been conducted for two students. No evidence was submitted indicating that the district requested mediation or a due process hearing to obtain consent for evaluating these students.

FINDINGS OF NON-COMPLIANCE

Based on the information provided, there is evidence that the Franklin County School District violated the requirements related to obtaining parental consent prior to conducting initial evaluations of students for special education and related services.

CORRECTIVE ACTION

1. The district shall incorporate obtaining consent for evaluation from parents into its revision of MTSS procedures and training, referenced in the Required Action described above. Copies of revised procedures, training materials, and training participant verification should be provided to the bureau on the dates noted above.
2. As referenced in Required Action Six, page 15, the bureau will review the dates of parental consent for evaluation for select students evaluated to ensure compliance with the requirement.

ADDITIONAL ISSUE FOUND DURING INVESTIGATION

An evaluation for Student Three was conducted on February 28, 2014. Parental consent for evaluation was obtained on August 13, 2013. State Board of Education rule requires evaluations to be conducted within 60 school days that the student is in attendance after receipt of parental consent for evaluation.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

34 CFR §300.301 states, "(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§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 §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 §300.8; and (ii) To determine the educational needs of the child..."

The corresponding state requirements are:

Rule 6A-6.0331(3)(d), F.A.C., states "The school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) that the student is in attendance after the school district's receipt of parental consent for the evaluation..."

Rule 6A-6.0331(3)(e), F.A.C., states "The sixty (60)-day timeframe for evaluation does not apply to a school district if 1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation..."

DISCUSSION AND CONCLUSIONS

One hundred and twenty-three school days elapsed between the date the district obtained parental consent for evaluation for Student Three and the date on which the evaluation was conducted. During the same time period the student was absent from school for a total of 20 school days. Given the extended period of time that elapsed, a finding of non-compliance is made.

FINDINGS OF NON-COMPLIANCE

Based on the information provided, there is evidence that the Franklin County School District violated the requirements related to conducting initial evaluations of students for special education and related services within sixty school days that the student is in attendance after receipt of parental consent for evaluation.

CORRECTIVE ACTION

1. The district shall incorporate information regarding completion of evaluations within the sixty school-day timeline into its revision of procedures and training. Copies of revised procedures, training materials and training participant verification should be provided to the bureau on the dates noted above in the Required Action.
2. The district must provide a copy of Student Three's IEP and accompanying conference notes, **no later than August 1, 2014**. The bureau will review the IEP. Based on that review, a determination will be made regarding the provision of compensatory services. The district will be informed of that determination in future correspondence. If compensatory services are required, a timeline for the submission of documentation of the compensatory services will be established.

Note: This issue will be counted as a finding of noncompliance related to indicator 11 of the State Performance Plan regarding timely completion of evaluations.