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July 1, 2014

Stephanie Moore, Esquire
Disability Rights Florida
1930 Harrison Street, Suite 104
Hollywood, Florida 33020

Nikolai P. Vitti, Superintendent
1701 Prudential Drive
Jacksonville, Florida 32207

Re: Bureau Resolution Determination: Case No. BEESS-2014-045-RES

Dear Ms. Brown and Superintendent Vitti:

The Bureau of Exceptional Education and Student Services (bureau) received a state complaint from Ms. Stephanie Moore, Disability Rights Florida, on behalf of an anonymous individual on April 18, 2014, alleging that the Duval County School District violated federal and state laws relating to the education of students with disabilities. Specifically, the allegations involved the following issue:

ISSUE: Whether the Duval County School District violated the requirements related to the provision of a free appropriate public education (FAPE) during the time period of August 19, 2013, through April 18, 2014, specifically regarding the following:

- **the provision of specially designed instruction for reading and math as specified in the students' individual educational plans (IEPs)**
- **the provision of specially designed instruction through co-teaching as specified on the students' IEPs**

The requirements for resolving state complaints are found in the regulations that implement the Individuals with Disabilities Education Act, as amended, Sections 300.151-300.153, Title 34, Code of Federal Regulations. The inquiry has been completed. The enclosed Report specifies the Findings of Fact, Discussion and Conclusions, Corrective Actions, and Recommendations. In addition, the required

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

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timelines for the submission of documentation in response to the identified actions are embedded within the Report.

When completing the corrective actions, please ensure that the documentation submitted is clearly identified, labeled, and adequately demonstrates the actions. This may be accomplished through the use of a cover letter or outline, with corresponding identifiers on any enclosed information.

A narrative response clarifying the information submitted is encouraged to ensure a timely review. All documentation from the district regarding corrective actions should be directed to the attention of Ms. Jill Snelson.

If you need additional information regarding corrective actions, please contact Ms. Snelson via email at Jill.Snelson@fldoe.org or at 850-245-0475. Should you have any questions regarding the contents of this Bureau Resolution Determination, please contact Ms. Liz Conn at 850-245-0475.

Sincerely,



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

MVT/kw

Enclosure

cc: Mason Davis
Sherry Kaufman
Liz Conn
Jill Snelson

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

BACKGROUND

The Bureau of Exceptional Education and Student Services (bureau) received a state complaint from Ms. Stephanie Moore, Disability Rights Florida, on behalf of an anonymous individual on April 18, 2014, alleging that the Duval County School District violated federal and state laws relating to the education of students with disabilities. Specifically, the allegations involved the following issue:

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The 60-day timeline for completion of the inquiry process began with receipt of the complaint with an anticipated completion date of June 17, 2014. Due to the exceptional circumstances related to the amount of documentation provided by the district during the onsite visit to 18 elementary schools that involved multiple student records, it was necessary to extend the timeline for the completion of the inquiry process to July 1, 2014. In addition, due to the number of records reviewed and the amount of documentation provided, this report of inquiry has been compiled in a summary format. As part of the inquiry process, the complainant and the district were asked to submit relevant documents and information to the bureau. Ms. Sherry Kaufman, Coordinator, Policy and Compliance for Exceptional Education and Student Services, Duval County School District, submitted documentation on behalf of the district. The complainant provided no additional documentation.

The complainant's allegations involved elementary schools located within the Duval County School District. Disability Rights Florida and the bureau collaborated to identify 18 elementary schools which were then visited by bureau staff members. The following methodology was used to select student records for review: using Student Information Database Survey 2 (2013 - 2014) data, the names of all students in grades prekindergarten through fifth grade with a primary exceptionality for the identified schools (by school ID) were then merged with the Master School ID file (2013 - 2014) to obtain matching school names and information. Eight students identified with a primary disability other than speech impairment, who spent a majority of their school day with nondisabled peers, were then randomly selected from each school site. While onsite at the identified schools, bureau staff members reviewed records regarding IEP implementation and interviewed 50 exceptional student education (ESE) staff members

who were responsible for the implementation of ESE services for these students. Staff members' comments were summarized.

The complainant alleged that ESE students were not being provided the amount of ESE services that were specified on their IEPs, as teachers were being assigned other duties which included the facilitation and proctoring of state and district assessments.

FINDINGS OF FACT

1. The district provided a narrative response, which included the following attachments:
 - Elementary District Assessment Calendar, 2013-2014, 2014-2015
 - Exceptional Education Elementary School Scheduling
 - Elementary IEP Compliance Training
2. In response to the complainant's allegation that ESE teachers were not able to provide students with their ESE services for the time noted on their IEPs, the district's response stated in part, "...The 2013-2014 Elementary District Assessment Calendar and the K-12 State Assessment Calendar reflect the optional and required assessments for the district. The assessments indicated on the Elementary District Assessment Calendar are utilized to provide on-going progress monitoring that allows teachers to analyze and utilize data to inform student interventions. The data is also utilized to develop the present level of performance in the IEP, which drives the annual goals and services for a student with a disability. In addition, the baseline and post Curriculum Guide Assessment (CGA) data is utilized as a part of the required [Collaborative Assessment Systems for Teachers] CAST evaluations for instructional staff..."
3. The Elementary District Assessment Calendar for 2013-2014, indicated the following schedule:

Assessment	Grade Levels Tested	Testing Window
Language Assessment Scales (LAS) Links Eligible English Language Learners (ELL) students	3 rd - 5 th	Within 20 days of enrollment
Baseline CGA (English/Language Arts (ELA), Math, Science, Access Points; Art and Music (4 th and 5 th grade only); Physical Education (5 th grade only)	3 rd - 5 th	August 19 – 28
Duval District Timed Writing Assessment	4 th	August 19 – 28
Iowa Assessment Form E - Reading	1 st - 5 th	August 19 - September 13
Diagnostic Assessment of Reading 1 st - 3 rd grade students below 40% on Iowa; 4 th - 5 th grade students 1.5 below grade level on Iowa OR Level 1 or 2 on Florida Comprehensive Assessment Test ® (FCAT)	1 st - 5 th	August 19 - November 15

Assessment	Grade Levels Tested	Testing Window
Baseline CGA (ELA, Math, Physical Education*) * Grade 2 Only	K - 2 nd	August 19 - September 27
i-Ready Math Diagnostic Assessment	K - 5 th	August 30 - September 20
CAST Pre-Test Students enrolled in courses without CGAs	K - 5 th	September 3 – 6
Mathematical Assessment Select students who attended the Superintendent's Summer Academy	4 th	September 6- 16
Get Ready to Read Pre-Test	PK	September 23 - October 4
CGA 1 (ELA, Math, Science*) *Optional for Grade 2	2 nd - 5 th	October 14 – 23
Duval District Timed Writing Assessment	4 th	January 6 – 16
CGA 2 (ELA, Math, Science*) *Optional for Grade 2	2 nd - 5 th	January 20 – 24
CGA 1 (ELA, Math)	1 st	January 20 – 24
CGA 3 (ELA, Math, Science*) *Optional for Grade 2	2 nd - 5 th	March 10- 14
Iowa Assessment Form E - Reading	K - 5 th	May 5 -June 6
i-Ready Math Diagnostic Assessment	K - 5 th	May 5 -June 6
Get Ready to Read Post-Test	PK	May 12 - May 23
CGA Post-Test Science	3 rd - 4 th	May 19-23
CGA Post-Test (ELA, Math)	K - 2 nd	May 19-23
CGA Post-Test (Art and Music (4 th and 5 th grade only); Physical Education (2 nd and 5 th grade only)	2 nd - 5 th	May 19 - 23

4. The district noted in its response that the Elementary District Assessment Calendar for 2014-2015 continued to be revised based on teacher and principal feedback.
5. Excerpts from the district's elementary compliance training were included within the district's response. This included information regarding the problem-solving process and how to apply this process to developing a student's IEP. The relevant power point information is indicated below:
 - Step 3: Intervention planning and implementation
 - What type of intensive, individualized intervention will be provided?
 - Special education services and related services

- Special Education Services
 - Identifies specially designed instruction including:
 - Initiation date – on or after the IEP initiation date
 - Duration date – on or before the IEP review date
 - Delivery model – how the service will be provided
 - Frequency – how often the service will be provided
 - Location – where the service will be provided
 - Step 4: Response to instruction/intervention (RtI)
 - IEP implementation, progress monitoring and reporting to parents
 - Implementing with integrity
 - Was the intervention provided in the way it was designed or intended
 - Verified through direct observations, self-reports, and student products
 - Monitoring student progress
 - Identify the measurement procedures
 - What evidence should be collected by whom
 - How often should data be collected
6. The district provided a screenshot from their Encore User's Guide regarding the continuum of ESE service delivery models used in the district, which included the following:
 - Consultation
 - Support facilitation
 - Co-teaching
 - Resource pullout
 - Self-contained
 7. The district's Exceptional Education Elementary School Scheduling document indicated the service delivery model of support facilitation as, "An ESE teacher provides support for ESE students' achievement in the general classroom. Support facilitators may work and move among two or more general education classrooms working with the general education teachers and students identified with a disability, as needed. The frequency and intensity of support varies based upon students' and/or general educators' need for assistance."
 8. The district's Exceptional Education Elementary School Scheduling document indicated the following information regarding the service delivery model of support facilitation: "Two teachers are providing instruction (not co-teaching). The Grades K to 12 general education teacher is teaching the Grades K to 12 general education course content. Additionally, an ESE teacher provides services via 'in class one-on-one.' In class one-on-one is defined in the Automated Student Information System as follows: 'Teacher meets with an individual student or small group of students on an individualized basis within a traditional classroom but not as a co-teacher.' In class one-on-one is also known as, 'support facilitation,' or 'inclusion teaching' in accordance with s. 1003.03(5), F.S."
 9. The district's Exceptional Education Elementary School Scheduling document indicated that students in the general education setting who received support facilitation had course codes designated with an "07" suffix.

10. The district's Exceptional Education Elementary School Scheduling document indicated that common planning by grade level was part of the master schedule requirements.
11. The district's Exceptional Education Elementary School Scheduling document included the following specific information under the heading of ESE:
 - ESE teachers should common plan with their content and grade levels peers.
 - ESE teachers should utilize the same curricular materials as their peers.
 - ESE teachers should receive the same level of content area academic coaching support as their peers.
 - VE [varying exceptionality] teachers may be used for support facilitation, co-teaching, resource rooms, self-contained, or intervention.
 - VE teachers should learn to facilitate collaborative problem-solving teams.
 - ESE teachers and paraprofessionals should not be utilized for lunch, hall, or bus duty unless it is specifically for self-contained SWDs [students with disabilities].(p.4)
12. Fifty teacher interviews were conducted during the onsite visit. These interviews indicated the following information:
 - Student caseloads assigned to ESE teachers varied greatly from school to school, with a range of six to 34 students reported across all teachers' caseloads. (The caseload size often determined the amount of time available to complete documentation of ESE services implemented.) However, the majority of the teachers indicated that they were providing ESE services more than the specified amount of time indicated on the students' IEPs.
 - Several ESE support facilitation teachers indicated support facilitation services were indicated on the students' IEPs for three times per week, so if services were missed during a given week, they could be made up during that same week. It was also indicated that if a student came to the school with an IEP with support facilitation services for five times per week, the IEP would be changed through an IEP team meeting to reflect support facilitation services for three times per week.
 - Several ESE support facilitation teachers indicated that they were told not to request substitute teachers when they were absent from work. They stated that the general education teachers also felt a substitute for one day's absence was more disruptive than helpful. Some principals indicated that they were not aware that substitutes were not being requested.
 - Some of the ESE support facilitation teachers indicated that they were pulled to test students, but their case load students were usually within that group. However, it was also reported that the ESE support facilitation teacher may have been proctoring a test for a certain grade level (such as during the third grade FCAT®); however, their case load contained students from another grade level who were not being tested. In this case, it was not possible to "make-up" missed ESE services which resulted from the testing situation. In this situation, no substitute was provided for the ESE support facilitation teacher.
 - Some of the ESE support facilitation teachers indicated that there was no common planning time with the general education teacher with whom they worked. They received the general education teacher's lesson plans via email.

Other teachers indicated they had grade level common planning time, and participated in professional learning communities.

- Some of the ESE support facilitation teachers planned and used supplemental materials in support of the general education teachers' lesson plans and others assisted ESE students on "an as needed" basis.
- Several ESE support facilitation teachers indicated that students may need more intensive services than support facilitation services, but were told that more intensive services, such as a resource room, were not available as a service delivery model within the district.
- At least one ESE support facilitation teacher indicated that several times some ESE students had been pulled from their classroom setting when their ESE support facilitation teacher was absent, then included in another classroom, so that support facilitation services were provided for those students.
- Several ESE support facilitation teachers indicated that support facilitation was not provided during the administration of CGAs.
- Several ESE support facilitation teachers indicated that while they were implementing the support facilitation services as noted on the students' IEPs, they were not documenting the provision of services due to a lack of time and a heavy student caseload.

13. Student record reviews indicated the following:

- Although the district's IEP form is standardized for ESE services to reflect the frequency as "period/unit," the amount of time for a "period" varies greatly from school to school and child to child. Support facilitation teachers' schedules and documentation indicated 10 minutes to 90 minutes of support facilitation.
- Although it was indicated that a template for documentation was provided on the district's teacher portal, documentation methods varied greatly from school to school and teacher to teacher.
- Several students' records indicated the students' ESE services were direct instruction using the support facilitation model of delivery.
- IEP documentation for several students indicated that the students were actually receiving more ESE support than was indicated on the IEP.
- Documentation of support facilitation services often began several weeks after the initiation date indicated on the students' IEPs.

14. In at least one ESE support facilitation teacher's lesson plans, the following information was provided regarding the assignments which reflected duties other than the provision of reading and math support facilitation services:

Date	Purpose
August 30, 2013	Iowa
September 3, 2013	Iowa
September 17, 2013	Functional Behavioral Assessment (FBA)
September 20, 2013	Multidisciplinary Referral Team (MRT)
October 10, 2013	Rtl
October 14-18, 2013	CGA and MRT
October 21-22, 2013	CGA
November 7, 2013	Rtl

Date	Purpose
November 8, 2013	MRT
December 4, 2013	MRT
December 13, 2013	MRT
December 16, 2013	RtI
January 9, 2014	RtI
January 10, 2014	MRT
January 21-24, 2014	CGA
January 27-28, 2014	Testing
February 5 and 7, 2014	MRT/IEP
February 20, 2014	IEP
February 21, 2014	Referrals/Eligibility
February 25, 2014	FCAT® writing
March 7, 2014	Referrals/Eligibility
March 10-14, 2014	CGA
April 1, 2014	IEP
April 10, 2014	IEP
April 14-17, 2014	FCAT® reading, math, science
April 21-23, 2014	Computer based math
April 25, 2014	Referrals/Eligibility
April 29, 2014	Testing
Total – 47 days/partial days	

Several other teachers' documentation reflected some of the same information above, but it did not indicate as many instances of duties other than the provision of support facilitation services.

15. Substitute teachers were provided through the Kelly Educational Staffing agency. When the district used Kelly Educational Staffing services, teachers' absences and the provision of substitute coverage was documented by the agency. Within the district's response, several building principals indicated that permanent on-staff substitutes (not provided by Kelly Educational Staffing) may have provided coverage for absent teachers; however, this method of substitute coverage was not documented through the Kelly Educational Staffing services documentation. The following chart indicates the total number of teacher absences during the time period of this complaint, for those ESE teachers providing support facilitation services within the 18 schools that were visited by bureau staff:

School	Number – Days of Teachers' Absence	Number – Days Substitute Coverage Obtained	Percentage – Substitute Coverage
School A	16.5	0	0%
School B	25	14.5	58%
School C	22.5	3	13.3%
School D	22	18.5	84.1%
School E	16	14.5	90.6%
School F	10.5	0	0%
School G	22	15	68.2%

School	Number – Days of Teachers' Absence	Number – Days Substitute Coverage Obtained	Percentage – Substitute Coverage
School H	13	8	61.5%
School I	43	43	100%
School J	6.5	6.5	100%
School K	12.5	11	88%
School L	44	31	70.5%
School M	19.5	0	0%
School N	47	46	97.9%
School O	63	32	50.8%
School P	47	38	80.9%
School Q	27.5	26.5	96.4%
School R	11.5	5	43.5%

16. Student records were reviewed, using the IEP implementation (IPI) protocol standard number 3, "There is evidence of the provision of special education services or specially designed instruction as specified on the IEP." The results of the review are indicated in the chart below:

School	Number – IEPs Reviewed (IPI-3)	Number – Findings of Noncompliance	Percentage – Findings of Noncompliance
School A	4	0	0%
School B	4	0	0%
School C	5	5	100%
School D	6	1	16.7%
School E	4	2	50%
School F	5	3	60%
School G	5	5	100%
School H	5	2	40%
School I	6	3	50%
School J	5	2	40%
School K	5	4	80%
School L	5	5	100%
School M	8	4	50%
School N	7	2	28.6%
School O	5	5	100%
School P	5	5	100%
School Q	5	3	60%
School R	4	2	50%
Totals	93	53	57%

17. In response to the second allegation regarding co-teaching, the district's narrative stated in part, "... The Exceptional Education Elementary School Scheduling document indicates on page 1 that prior to scheduling students with disabilities,

schools must review the current IEP to determine the appropriate course of study for each student. The services page will indicate the appropriate service delivery model(s). The ESE teacher is listed as the second teacher (some may use the term 'co-teacher') when the service delivery model is 'support facilitation' and the course code will have a 07 suffix at the end for students in a general education classroom. The document clearly defines each service delivery model. If an IEP were to indicate 'co-teaching', the course suffix for the student would be 09 and the teacher would be expected to remain in the class for the entire instructional period. However the data, for the 18 DOE selected schools for on-site visits, in the Co-teachers for Selected Elementary Schools spreadsheet indicates there are no ESE teachers listed as co-teachers with a 09 suffix..."

18. The district's Exceptional Education Elementary School Scheduling document indicated the service delivery model of co-teaching as, "A classroom in which two teachers, an ESE and a general education teacher, share responsibility for planning, delivering, and evaluating instruction for all students in a class, some of whom are ESE and some of whom are not. In order to be considered co-teaching, this delivery system is provided whenever a class/subject is taught by two teachers and must continue for the entire class period."
19. The district's Exceptional Education Elementary School Scheduling document included the following information regarding the service delivery model of co-teaching: "Two teachers are providing instruction through co-teaching in accordance with Section 1003.03(5)(c), F.S. Both teachers share responsibility for planning, delivering, and evaluating instruction for all students in a class/subject for the entire class period."
20. Regarding co-teaching, at least one general education co-teacher indicated that there was a student in the class that received support facilitation from an ESE support facilitation teacher for a period during the school day. This co-teacher also indicated that both of the general education co-teachers were in the class for the entire day, with the occasional exception of when one may be pulled to participate in a meeting.
21. No records reviewed or teachers interviewed while onsite indicated that co-teaching was the method of providing specially designed instruction for ESE services.

LEGAL AUTHORITY FOR THE BUREAU'S FINAL DECISION

Section 300.17, Title 34, Code of Federal Regulations (34 CFR §300.17) states, "Free appropriate public education or FAPE means special education and related services that—(a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324."

34 CFR §300.39 states, "(a) General. (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—(i) Instruction conducted in the classroom, in the home, in hospitals

and institutions, and in other settings... (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—(i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children...”

34 CFR §300.114 states, “(a) General. (1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120. (2) Each public agency must ensure that—(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily...”

34 CFR §300.115 states, “(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must—(1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.”

34 CFR §300.320 states, “(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include... (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—(i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section... (7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications...”

Section 1003.03(5)(c), Florida Statutes, states, “...1. ‘Team teaching’ or ‘co-teaching’ means two or more teachers are assigned to a group of students and each teacher is responsible for all of the students during the entire class period. In order to be

considered team teaching or co-teaching, each teacher is responsible for planning, delivering, and evaluating instruction for all students in the class or subject for the entire class period. 2. 'Inclusion teaching' means two or more teachers are assigned to a group of students, but one of the teachers is responsible for only one student or a small group of students in the classroom..."

The corresponding state requirements are contained in State Board of Education Rule, 6A-6.03028, Florida Administrative Code.

DISCUSSION AND CONCLUSIONS

1. Teacher interviews and records documented great differences in student case loads, methods of support implementation and documentation of the provision of ESE services in the schools visited. However, although documentation of IEP implementation was insufficient in most of the record reviews, teacher interviews indicated that the majority of the ESE teachers were providing the ESE services as described on the students' IEPs. In fact, many of the students were receiving ESE services beyond what was required by their IEPs.
2. The student's need for ESE services, in order to be successful in the general education setting, should drive the amount of support provided. ESE services should not be revised to reflect administrative convenience, as was indicated during some teacher interviews. It was noted that if a student came to the school with an IEP with support facilitation services for five times per week, the IEP would be changed to reflect support facilitation services for three times per week, so if services were missed, they could be made up.
3. Teacher interviews and the review of student records revealed that some students did not receive support facilitation services in math and reading because teachers were used to administer and facilitate state and district assessments.
4. Review of students' records indicated the support facilitation suffix of "07" on their schedules, as designated within the district's Exceptional Education Elementary School Scheduling document. The district's information regarding support facilitation also aligns with the 2013 - 2014 Course Code Directory and Instructional Personnel Assignments document published by the Florida Department of Education.
5. Although the district's Exceptional Education Elementary School Scheduling document indicated that common planning by grade level was part of the master schedule requirements, this was not consistently confirmed by teachers during interviews.
6. The interpretation within the district regarding what amount of time is intended for a "period" or "unit" of ESE services varies significantly from school to school. According to the commentary from 71 Federal Register 46,667 (2006), "The meaning of the term 'duration' will vary, depending on such things as the needs of the child, the service being provided, the particular format used in an IEP, and how the child's day and IEP are structured. What is required is that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various

services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP.”

7. Student record reviews and ESE teachers’ interviews indicated that many of the students may have been receiving more services than was indicated on the IEP. A review of these students’ IEPs may indicate that either the method of delivery or intensity of services should be revised so that the IEPs clearly and accurately reflect the needs of the students.
8. Although teacher interviews revealed that the continuum of ESE services was perceived as not being available in the district, the training documentation provided by the district indicated that all ESE service delivery models are available, based on student need.
9. The review of students’ records and ESE teachers’ interviews did not indicate that the provision of specially designed instruction through co-teaching was the method of ESE services being used in the schools visited while onsite. Although at least one general education co-teacher interviewed indicated that the co-teaching model was used with ESE students who also were receiving support facilitation services, these students were co-taught by the same teachers all day and provided additional support facilitation services by ESE teachers. This may have led to the misconception regarding the provision of specially designed instruction through co-teaching.

FINDINGS OF NONCOMPLIANCE

Although teacher interviews indicated that the majority of the ESE teachers were providing the ESE services as described on the students’ IEPs, documentation of IEP implementation was insufficient in most of the record reviews. Based on the documentation provided, there is evidence that the Duval County School District violated the requirements related to the provision of FAPE during the time period of August 19, 2013, through April 18, 2014, specifically regarding the provision of specially designed instruction for reading and math as specified in the students’ IEPs.

Based on the documentation provided, there is no evidence that the Duval County School District violated the requirements related to the provision of FAPE during the time period of August 19, 2013, through April 18, 2014, specifically regarding the provision of specially designed instruction through co-teaching as specified on the students’ IEPs.

CORRECTIVE ACTION

1. **No later than September 1, 2014**, the Duval County School District shall provide training to all of the following elementary school staff members:
 - Principals
 - ESE support facilitation teachers
 - School based local education agency representatives

Training materials are required to be submitted to the bureau for review and approval no later than **August 1, 2014**, and shall include the following:

- Documentation of the provision of specially designed instruction for reading and math
- Provision of specially designed instruction using the support facilitation model in accordance with students' IEPs
- IEP documentation of ESE services regarding duration, initiation and frequency of services

Within 10 business days of the training, the district shall provide verification of the training provided. Verification materials shall include training handouts, sign-in sheet with the name, position held and date of the training.

2. A letter will be sent under separate correspondence with the identification of student specific noncompliance identified through the onsite visit. In order to correct the student specific noncompliance, the Duval County School District shall provide an analysis of the identified students and the provision of specially designed instruction in reading and math as stated in the IEPs in effect during the 2013-2014 school year. This analysis shall include the following elements:
 - The amount of ESE reading and math services provided, as documented by the ESE teacher of record
 - The amount of ESE reading and math services that were not provided, as documented by the ESE teacher of record
 - The reason the ESE reading and math services were not provided, to include whether the student was available for instruction (e.g., student absences, student engaged in an assessment activity with another instructor, student suspensions, etc.)

Parents of the identified students must be notified of, and participate in, the analysis of the provision of the ESE services. This written analysis shall be provided to the bureau **no later than October 1, 2014**.

3. The bureau will review this analysis described above and based on that review make a determination regarding the provision of compensatory education. If compensatory services are required, timelines for providing documentation of the provision of services compensatory will be established in subsequent correspondence.
4. **No later than December 15, 2014**, the bureau will provide the Duval County School District with an additional sample of identified elementary students with disabilities, so that the district may analyze the provision of specially designed instruction for reading and math during the 2014-15 school year as specified in the students' IEPs. This analysis shall include the following elements:
 - The amount of ESE reading and math services provided, as documented by the ESE teacher of record
 - The amount of ESE reading and math services that were not provided, as documented by the ESE teacher of record
 - The reason the ESE reading and math services were not provided to include whether the student was available for instruction (e.g., student absences, student engaged in an assessment activity with another instructor, student suspensions, etc.)

Documentation of this review and the results shall be submitted to the bureau **no later than March 6, 2015**.

5. The bureau will review this analysis and based on that review make a determination regarding the provision of compensatory education. If compensatory services are required, timelines for providing documentation of the provision of services will be established in subsequent correspondence.

RECOMMENDATIONS

It is recommended that the Duval County School District review and revise, if applicable, their policies and procedures regarding the following:

- Substitute coverage for ESE teachers
- Exceptional Education Elementary School Scheduling document
- Elementary District Assessment Calendar
- ESE teacher caseload

Further, it is recommended that the Duval County School District provide training to the schools visited to ensure that the policies and procedures are being implemented correctly.