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MEMORANDUM

To: District School Superintendents

From: Betty Coxe

Date: April 26, 2002

Subject: Provision of Speech/Language Services to Students with Disabilities

The purpose of this memorandum is to inform you of an issue that has been raised by the U.S. Department of Education, Office of Special Education Programs (OSEP) and the Office for Civil Rights (OCR) regarding the provision of speech/language services to students with disabilities in Florida.

In 2000-2001, OSEP conducted on-site monitoring visits to seven school districts for the purpose of determining Florida's compliance with the requirements of the Individuals with Disabilities Education Act (IDEA). As part of the monitoring activities, OSEP staff visited schools and conducted interviews with both school and district-level staff. Information gathered as a result of these interviews lead OSEP to determine that some students with disabilities were denied access to speech/language services. Given their conclusion, OSEP cited a finding of noncompliance related to the provision of speech/language services to students with disabilities in the state's 2001 monitoring report. To address this area of noncompliance, staff from the Bureau of Instructional Support and Community Services worked with members of our state's Advisory Committee for the Education of Exceptional Students to propose appropriate corrective actions as part of the State's Improvement Plan required under the IDEA.

Subsequent to this monitoring finding, in October 2001 a complaint was filed with OCR against the Florida Department of Education which alleged that the Department has engaged, "...in a pattern and practice of denial of speech/language therapy services to students with disabilities." The Department responded to this complaint. Excerpts from our response are summarized below.

> "Consistent with the provisions of 34 CFR 300.26(a)(2)(i), since 1977, Florida has defined speech and language services as "...special education rather than a related service under State standards. "Specifically, Florida's definition of "exceptional student," at section 228.041(18), Florida Statutes, includes "...students who are...speech and language impaired..." Consistent with this law, the criteria for eligibility for this program is prescribed in rules adopted by the State Board of Education (Rule 6A-6.03012, FAC)...
>
> As stated in our response..., in addition to the availability of speech and language services as "special education," consistent with the requirements of 34 CFR 300.346(a)(2)(iv), individual educational plan (IEP) teams are required to consider the communication needs of each student with a disability. Based on the needs identified, the IEP must address these needs through appropriate goals, objectives, benchmarks and the provision of appropriate services.
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> As a first step in the development of the specific actions for inclusion in Florida's State Improvement Plan to address OSEP's "Noncompliance" finding in this area, the Bureau conducted a review of pertinent statewide student data. The results of this review are summarized below...
>
> Of the 373,715 students identified as students with disabilities in Florida (Survey 9, December 2001)
>
> - 89,581 students or 24% of the state's total population of students with disabilities are identified as having **primary** disability of speech impaired or language impaired.
>   - 55,316 or 62% of these students have a primary disability of speech impairment
>   - 34,265 or 38% of these students have a primary disability of language impairment
>
> - 83,392 students or 22% of the state's total population of students with disabilities are identified as having a **secondary** disability of speech impaired or language impaired in addition to their primary disability.
> - 74,500 or 89% of these students have primary disabilities identified other than speech or language impairments including
>   - ✓ 17,812 or 64% of the 27,698 total number of students with a primary disability of trainable mentally handicapped, deaf or hard-of-hearing, dual sensory impairments, autism, and development delay
>   - ✓ 15,069 or 33% of the 45,836 total number of students with a primary disability of educable mentally handicapped, orthopedically impaired, profoundly mentally handicapped, traumatic brain injury, or other health impaired

> Based on the above data, 164,081 or 44% of all students with disabilities in Florida are eligible for speech and language services, as a special education program, through the identification of speech or language impairments as either a primary or secondary area of disability."

In our response to OCR and in our State Improvement Plan, we have committed to the following activities:

- Conduct a review of the data for all 67 school districts regarding the number of students identified as having a primary or secondary disability of speech or language impairments.
- Provide the data, as described above, to all districts with information regarding their responsibility to ensure that the communication needs of all students with disabilities are addressed through the IEP process.
- Develop and provide additional technical assistance materials for districts, schools, and families regarding access to appropriate speech/language services.
- Conduct training for exceptional student education and general education teachers regarding access to speech/language services.
- Implement a method to monitor school districts' provision of speech/language services to students with disabilities.
- Review and revise the State Board of Education rule governing speech/language services to ensure inclusion of appropriate eligibility criteria.
- Explore the creation of the category of "developmental delay" through age nine and the provision of speech therapy as a related service.

For your information, enclosed is a copy of the state's data regarding the number of students identified as having a primary or secondary disability of speech or language impairments along with your district's data. Please share this information with appropriate staff.

To continue our implementation of these actions, listed below is an overview of information regarding provision of speech/language services to students with disabilities. We are requesting that you share this information with your district and school-based staff.

- Federal regulation, 34 CFR 300.532(2)(g), states that a student being evaluated to determine eligibility as a student with a disability must be "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** [emphasis added], and motor abilities. The corresponding requirement can be found on page 20 of the 2000-2003 Special Programs and Procedures for Exceptional Students Document (SP&P) which has been adopted by your school board. It is critical that staff conducting evaluations of students are aware that, as appropriate, the communication needs of students must be considered when conducting evaluations.

- Federal regulation, 34 CFR 300.346(a)(2)(iv), states that the Individual Educational Plan (IEP) team must consider, when developing each IEP, the "communication needs of the child." This corresponding requirement can be found on page 24 of the SP&P document. Your district has ensured that at every IEP meeting, the communication needs of the student have been considered by the team.

- State Board of Education Rule 6A-6.03012, FAC, contains the requirements for determining eligibility for speech/language services. While therapy services by a speech/language pathologist may not be provided unless a student meets the criteria as established in the rule, these criteria must be individually applied based on a student's evaluation. **Categorical decisions of ineligibility for speech or language services based on a student's eligibility for another program must not occur.**

- Speech/language pathologists can provide consultation services to general and special education teachers to support classroom instruction to an individual child regardless of a child's eligibility for services based on Rule 6A-6.03012, FAC.

If you have any additional questions or concerns, please contact Shan Goff, Chief, Bureau of Instructional Support and Community Services, or Eileen Amy, Administrator, at 850/488-1570 (SC 278-1570) or via email at goffs@mail.doe.state.fl.us or amye@mail.doe.state.fl.us.

Thank you for your ongoing support and assistance in the provision of services to students with disabilities.

BC:SG/ea

Enclosures

cc: ESE Directors
Student Services Directors
Coordinators, Speech/Language Services
State Advisory Committee Members
Coordinators, Florida Diagnostic and Learning Resources System