



Richard Corcoran
Commissioner

FLORIDA DEPARTMENT OF EDUCATION OFFICE OF INSPECTOR GENERAL



Mike Blackburn
Inspector General

MEMORANDUM OF INQUIRY

TO: Case #2019-0009

THRU: Lori Van Riper, Director of Investigations &
Mike Blackburn, Inspector General

FROM: Laura Sumner, Investigator

DATE: December 4, 2020

SUBJECT: Sarasota County School District

Complaint:

On November 1, 2019, the Florida Department of Education (FDOE), Office of Inspector General (OIG) received a copy of an October 21, 2019, Final Order (FO) issued by the Florida Division of Administrative Hearings for case numbers 19-0727E and 19-3012E, in Sarasota County (***Exhibit 1***). The findings of fact set forth in the final order revealed that the Sarasota County School District (SCSD) falsified records and wrongfully placed a student in a program for students with the most severe special needs. The judge ruled the district denied the student a "free and appropriate public education."

At the request of the FDOE Commissioner, the FDOE OIG opened a preliminary investigation to review the Exceptional Student Education (ESE) Services in the SCSD to determine if the district wrongly placed students in ESE classes to avoid state testing. An intentional misplacement of ESE students into an alternate curriculum and assessment in order to falsely inflate a school or district grade could lead to the district inappropriately gaining funds resulting from the inflated school or district grade. Per section 1001.20 Florida Statutes, "If the Commissioner of Education determines that a district school board ... is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within the school district ... the office shall conduct, coordinate, or request investigations into such substantiated allegations."

Background:

Bureau of Exceptional Education and Student Services (BEESS):

The Bureau of Exceptional Education and Student Services administers programs for students with disabilities. Additionally, the bureau coordinates student services throughout the state and participates in multiple inter-agency efforts designed to strengthen the quality and variety of services available to students with special needs. In carrying out its roles of leadership, resource allocation, technical assistance, monitoring, and evaluation, BEESS is required to examine and evaluate procedures, records, and programs of exceptional student education; provide information and assistance to school districts; and assist the districts in operating effectively and efficiently. In accordance with the Individuals with Disabilities Education Act (IDEA), the department is

responsible for ensuring that the requirements of IDEA are carried out and that each educational program for children with disabilities administered in the state meets the educational requirements of the state.

District Exceptional Student Education (ESE) Services:

The SCSD ESE Department provides support and services to students with disabilities (SWD) who are eligible for special education services. The SCSD serves over 7,000 SWD, ages three through twenty-one in over 40 schools. A continuum of services is provided in a variety of settings, which include general education classrooms, resource rooms, separate classes, cluster programs, a separate day school, and hospital/homebound. Services for many SWD are provided at their neighborhood school. Eligible students are provided supports and services per their Individual Education Plan (IEP), based on each child's unique needs. A resource guide is used by SCSD to assist the IEP team in determining how students with disabilities will receive instruction and participate in Florida's statewide assessment system. The IEP team should consider the student's present level of educational performance in reference to the Florida Standards and the Next Generation Sunshine State Standards and be knowledgeable of guidelines and the use of appropriate testing accommodations.

The Florida Standards Alternate Assessment (FSAA) participation vs Standard Diploma:

IEP teams are responsible for determining if instruction for students with disabilities is through Standardized Assessment in the general standards or through Access Points. The student will be assessed through the administration of the general statewide, standardized assessment (with or without accommodations) or given the alternate assessment aligned to alternate achievement standards based on criteria outlined in Rule 6A-1.0943(5), Florida Administrative Code (F.A.C.). IEP teams also determine if students taking the FSAA should participate in the FSAA Performance Task or the FSAA Datafolio.¹

FSAA Assessment Performance Task: The Performance Task is designed to provide tiered participation within the assessment for students working on Access Points at various levels of complexity. Each item set is built with three levels of cognitive demand, with Task one representing the least complex tasks and Task three representing the most complex tasks. This tiered progression provides students the opportunity to work to their fullest potential and allows for a greater range of access and challenge.

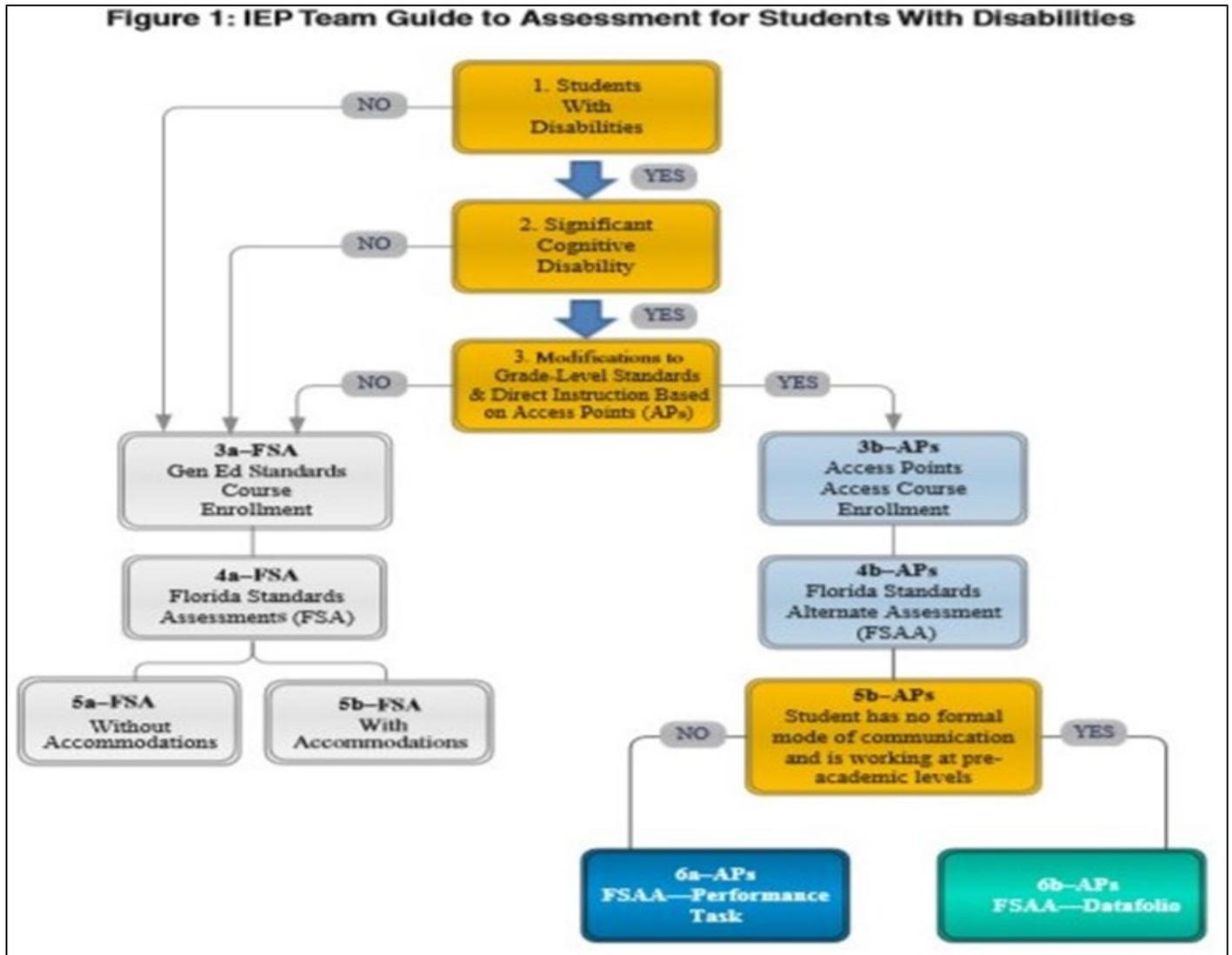
FSAA Assessment Datafolio: The Datafolio is designed to support students with the most significant cognitive disabilities who typically do not have a formal mode of communication and are working at pre-academic levels. The FSAA Datafolio is designed to show student progress on a continuum of access toward academic content rather than mastery of academic content. Student progress is shown through reduced levels of assistance (LOAs) and increased accuracy.

ESE Policies & Procedures (SP&P):

Section 1003.57(1)(b)1, F.S., requires that district school boards submit to the FDOE proposed procedures for the provision of special instruction and services for exceptional students once every three years. Approval of this document by FDOE is required by Rule 6A-6.03411, F.A.C., as a prerequisite for the district's use of weighted cost factors under the Florida Education Finance Program (FEFP). This document also serves as the basis for the identification, evaluation, eligibility determination, and placement of students to receive exceptional education services, and is a component of the district's application for funds available under the Individuals with Disabilities Education Act (IDEA).

¹ The FSAA Datafolio assesses the educational performance and growth of students through a collection of student work across three specific collection periods throughout the year.

The flow chart below demonstrates the criteria used to determine student placement on the Florida Standards Assessment (FSA) or FSAA (data portfolio, or performance task).



Individual Education Plan (IEP):

An IEP is a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Rule 6A-6.03028,(3) F.A.C. Parents are partners with schools and district personnel in developing, reviewing, and revising the IEP. Rule 6A-6.03028, F.A.C, details the “Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities.” IEP requirements include, “An IEP must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. For a student identified as gifted in accordance with Rule 6A-6.03019, F.A.C., and who is also identified as a student with a disability, as defined in paragraph 6A-6.03411(1)(f), F.A.C., the strengths, needs and services associated with a student’s giftedness must be addressed in the student’s IEP. Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student. For the purposes of this rule, the term parents also includes legal guardians.”

The parent’s role in developing IEPs includes providing critical information regarding the strengths of their student and expressing their concerns for enhancing the education of their student so that their student can receive FAPE. The parent should participate in discussions about the student's need for special education and related services, how the student will be involved and progress in the general curriculum, state and district assessments, and services the district will provide and in what setting. They should participate in deciding which course of study leading to a standard diploma the student will pursue consistent with Section 1003.4282, Florida Statutes (F.S.), to include a course of study leading to a Scholar or Merit designation in accordance with Section 1003.4285, F.S.

The district establishes procedures that provide for parents or guardians to participate in decisions concerning the IEP. Parents make decisions on the educational placement of their child. In order to ensure that parents are present at each meeting, parents are notified of every meeting in advance, and the meeting is scheduled at an agreed upon time and place. The parents may also invite any individuals with special knowledge of their child. The districts make decisions as to which particular teachers or special education providers are members of the IEP team based on the needs of the student. If a team member is not present, an excusal is required. The IEP team members should consist of a parent and student, special education teacher, general education teacher, Local Agency Representative, and a representative from the district. Special education teachers and representatives from the district can represent the positions of local agency representative and general education teacher, with approval by the local agency administrator.

IEP team meetings are for reviewing or changing a student’s IEP as it relates to the administration of the alternate assessment, instruction in the State Standard Access Point Curriculum, or placement in ESE. The school must provide a written notice to the parent ten days before the meeting. The IEP team may conduct the meeting without the parent if the parent has not responded to the notice of attendance. The district must record details (written notice, phone call, house call) of their attempts to make contact with the parents. If neither parent can physically attend, the team may use other methods such as conference and video calling to ensure parent participation. The district provides the parent with a copy of the IEP at no cost. At the age of 14, every student with an IEP should have a transition plan in place. This plan includes secondary transition goals and objectives for the student to be successful in the secondary education system. This has to be completed and in place by the age of 16. At the age of 16, transition goals are modified for the next transition period outside the high school.

Investigators Review and Analysis:

In order to address concerns, the OIG obtained SCSD student assessment information for all students with at least one disability indicator from 2012-2019. The data revealed that roughly 28,000 students with a disability indicator took an assessment between the 2012-13 school year and the 2018-19 school year. Of those, roughly 2,300 took the alternate assessment.

School Year	Number of Students on the Alternate Assessment	Number of Students with at least one Disability Indicator
2012/2013	323	3579
2013/2014	329	3841
2014/2015	359	3873
2015/2016	338	4031
2016/2017	329	4144
2017/2018	306	4216
2018/2019	339	4359

To identify our sample for individual case reviews, we removed all students with the primary exceptionality codes of Intellectual Disability, Autism Spectrum Disorder, Traumatic Brain Injury, and Hospital/Homebound. These primary exceptionalities are indicative of a most significant cognitive disability. Having a most significant cognitive disability is a criteria requirement students must meet to be eligible to participate in the FSAA. After removing those students, we identified 128 of the 783 unique students who took the alternate assessment at least one time in our seven-year window that did not have an indicator that would normally indicate the student was qualified to take the alternate assessment. We selected roughly half (66) of the 128 students to review all of their school records related to the determination made by Sarasota county that the student met the requirements to take the alternate assessment.

The OIG worked with staff from BEESS to complete a thorough file review to determine if the district assigned each student in our sample to the alternate assessment appropriately. The reviewers considered several components from each student's file. The components reviewed included the student's age, race, social/emotional history, medical evaluations, and current Psychoeducational Evaluation with an Intellectual Quotient Evaluation (IQ) score. These evaluations are the basis used to determine a cognitive disability in students. The team considered if the student had taken the FCAT, FSA, or FSAA/Access Points and the student's grade at the time of placement. The scale score or performance level of the student on the FCAT/FSA, or FAA/FSAA, was considered as a component to measure the performance level of the individual student. The IQ score was another important factor to review to determine proper placement of students. The team reviewed full-scale IQ scores, the date of the IQ evaluation, the name of the evaluation, and the psychologist who administered the test.

Students who have a severe cognitive disability should have a psychoeducational evaluation or medical documentation that has determined a student has one of the exceptionalities indicative of the most significant cognitive disabilities (intellectual disabilities-InD, traumatic brain injury-TBI, other health impairments- OHI, and autism spectrum disorder- ASD). The team reviewed the files to identify the data the district used to justify eligibility for the alternate assessment. The team reviewed notes, IEP attendance, IEP team members, and parent consent forms. Missing parent consent forms could be indicators of non-compliance with placement requirements if the parent does not sign the required consent for Access Points instruction. Once gathered, the team analyzed the various components to identify trends and patterns (i.e., the same psychologist performing evaluations, schools that identified a high number of students in a set time, if eligibility criteria was met for exceptionalities of students taking the FSAA/FAA, and performance on the FSA, FSAA/ FAA). From this information, the team identified files that were missing information or had data discrepancies and made requests to SCSD for additional information. Once received, the team reviewed the additional data and made a final determination based on the best data available.

The review of 66 student files determined that there was insufficient documentation for 15 students (24.5%) to justify placing the student on the alternate assessment. These 15 students are reflected in red in the chart below. We found 12 cases (18.5%), where we could not make a determination based on the limited information provided in the student's file. These twelve students are reflected in black in the chart below. We determined there were 39 cases (59%) where the student files contained sufficient evidence to support placing the student on the alternate assessment.

The overall review and analysis charted below details the OIG observations.

School	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	Number of Students
ALTA VISTA E.S.								
BOOKER H.S.								
BOOKER M.S.								
BRENTWOOD E.S.								
BROOKSIDE M.S.								
EMMA E. BOOKER E.S.								
GLENALLEN E.S.								
HERRON CREEK M.S.								
LAMARQUE E.S.								
LAUREL NOKOMIS SCHOOL								
NORTH PORT H. S.								
OAK PARK SCHOOL								
RIVERVIEW H.S.								
SARASOTA H.S.								
SOUTHSIDE E.S.								
TATUM RIDGE E.S.								
TRIAD								
VENICE E.S.								
Total per year			13	12		11	11	
* Red = Our reviewers felt that these students were placed incorrectly based on the file review.								
* Black = Our reviewers felt that there was insufficient evidence to determine if the student was properly placed.								

The OIG interviewed SCSD ESE Department staff as part of the review process. Executive Director Figaro-Alberts, ESE Director Cassels, and ESE Program Specialist Stillo-Gross participated in the interviews and provided additional information and clarification for the documents reviewed. The three SCSD ESE administrators have all been with the SCSD for several years. The ESE staff reported that the SCSD ESE Program is made up of a continuum of programs guided by FDOE policies. SCSD does not have a specific policy it follows when creating an IEP for students. The ESE staff said every three years they update the procedures and submit them to FDOE and BEESS for approval. The SCSD ESE staff advised there is a requirement to have an LEA representative, an ESE teacher, and a parent or their representative on the IEP

team. The ESE staff said there should not be an IEP team meeting if there are only two members of the team present unless there is an excusal, and then best practice would dictate that they reschedule the meeting. There is no specific policy in place for the IEP team. The providers or teachers create the goals and the objectives for the IEP with the shell created by the staffing specialist. The team considers recommendations from the parents and then makes an informed decision based on information provided and the needs of the student. The IEP team makes the final decision for placement of the student. The SCSD ESE staff reported that they use psychoeducational assessment data to determine if a child has a significant cognitive disability, and this determines placement in courses. The ESE staff reported they have recently received information from FDOE advising 70 or below is the cut off IQ score used to determine a significant cognitive disorder. The email received in March of 2016 addressed Specific Learning Disabled (SLD) and Language Impaired (LI) students. Since then, FDOE has provided more guidance on the IQ number. According to SCSD staff, a psychologist reviews the data and evaluations and makes a recommendation to the IEP team. A student should always have a psychological assessment before making a determination; however, a psychologist may excuse a student from taking the assessment if they are not capable. The ESE staff advised guidance by FDOE detailed a child with an LI should not be placed on the alternate assessment. The ESE staff reported an LI student could also have some other exceptionality and another evaluation would need to be completed.

Although the documentation in student files appeared to be improving, the OIG found little improvement on the placement of students on the alternate assessment. Based on our review, the number of students improperly placed on the alternative assessment was [REDACTED] in the 2012-13 school year, rose to a high of [REDACTED] in 2014-15, and fell to [REDACTED] in 2018-19. The combined number of students improperly placed, along with those that contained insufficient documentation to determine if the student was properly placed, started at [REDACTED] in the 2012-13 school year, rose to a high of thirteen in 2014-15, and fell slightly to eleven in 2018-19.

Overall, our review found insufficient evidence to suggest the SCSD placed students on the alternate assessment to avoid state testing in order to falsely inflate a school or district grade. Our review revealed that most schools with a questionable placement only had one such placement during any given school year. Three of the eighteen schools we determined had a questionable placement had two such placements in a total of five school years. Finally, only one school had more than two questionable placements during any school year, and that school is an alternative school that does not receive a school grade, they receive a school improvement rating based on student learning gains. Based on this evidence, along with the interviews conducted with SCSD ESE staff, there is insufficient evidence to warrant further investigation into the allegation that SCSD intentionally placed students on the alternate assessment to avoid state testing and falsely inflate a school or district grade.

Director's Review:

I agree with the findings as stated. The concern that SCSD intentionally placed students on the alternate assessment to avoid state testing in order to falsely inflate a school or district grade to increase funds received by the district is **Not Substantiated**, and no further action is required by the OIG at this time.

However, due to the identification of files that either demonstrated that SCSD placed students on the alternate assessment inappropriately, or lacked sufficient documentation to make a determination, the OIG will provide this Closing Memo and analysis to BEES for follow up and any additional action deemed appropriate by department management to bring the district into compliance with applicable laws and DOE guidance.

Report approved on December 4, 2020, by Lori Van Riper, Director of Investigations