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North Suburban Regional Human Rights Authority
Report of Findings
HRA CASE #09-100-9021
Maryville Academy

Case Summary: The HRA concluded that the Academy was in violation of its own policy and procedures, in that the resident's chart did not contain the documentation required by policy. The HRA's public record on this case is recorded below; the provider's response immediately follows the report.

Introduction

The North Suburban Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Maryville Academy. These findings are regarding services provided within the residential campus located in Des Plaines. The HRA received the allegation on October 21, 2008 and the case was opened on October 22, 2008 as an emergency. The allegation accepted for investigation was that a resident was abused by a staff member. If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-112).

Background Information

According to the Maryville web-site, originally called St. Mary Training School for Boys, Maryville was established in 1883 on 880 acres north of Des Plaines, Illinois. The first Archbishop of Chicago, Patrick Feehan, created the school as a home for boys - mostly orphaned and roaming the streets of Chicago. The idea was to give these youth an education and the opportunity to learn a trade that would serve later in life.

The orphanage became co-educational in 1911 and eventually included a grade school and a four year high school, both of which operated through the late sixties. Today, Maryville's focus is still on children as well as the preservation of the family. Maryville has established a number of new programs to meet the changing needs of society. Among these innovative programs are the Maryville Crisis Nursery in Chicago; the Maryville Farm Campus for Young Women in Durand, Illinois; the Maryville Scott Nolan Child and Family Behavioral Health Center in Des Plaines; the Maryville Scott Nolan Center MISA Program for adolescents with a mental illness and substance abuse disorder along with other programs for young people with developmental challenges; parenting teens and their children; and the Scott Nolan psychiatric hospital for children, adolescents and young adults.

The focus of this investigation is Maryville's Saint George Homes, an IDCFS (Illinois Department of Children and Family Services) licensed site for about 10 boys which provide residential treatment designed for adolescent boys who have both a developmental disability and mental illness. The program is specifically designed to treat emotional and behavioral disorders and developmental disabilities. Maryville provides these boys with a safe home, an

individualized development plan, life skills, vocational training, and individual and group therapy.

Methodology

During the course of the investigation, the following individuals were interviewed: the resident identified in the allegation and his Maryville Case Worker, the resident's IDCFS Case Worker, the residential site's Program Manager, the Director of Clinical Services, a Program Director and the Executive Director. The staff member identified in the allegation had been terminated for poor work performance before he could be interviewed by the HRA.

Findings

On October 27, 2008, the HRA went to the residential site and interviewed the resident, his Maryville Therapist and his IDCFS Case Worker. The resident is a 19 year old man that is an IDCFS client; he answered our questions without reservation.

The resident told the HRA that about two weeks ago he had been "acting up in the van" and when he got back home the staff member slapped him in the face with his open hand. This occurred in the resident's room and no one else was present at the time. The resident stated that the staff member struck him once or twice. He did not report it at the time and just went to bed. He said that he eventually reported the incident to his therapist. When asked if he reported the incident to the police, he said that the staff member who hit him blocked him from using the phone and pulled the phone plug out of the wall. He said that he was not afraid of the staff member and that the staff member still worked in the home on the PM shift. He said that this staff member had "smacked a lot of people". He specifically mentioned another resident, and said that this staff member had "twisted" that resident's wrist. He stated that he has been at this facility since November 2007 and had lived at a group home prior to Maryville.

The resident's Therapist told the HRA that the incident occurred on Sunday, Sept 21st 2008, and that the resident told her about it on Sept 22nd. She stated that at that time, she informed the Program Manager and she called the IDCFS Hotline to report the abuse. She stated that the IDCFS took the report as "information only."

The Therapist stated that on Oct 16th 2008, another resident whose room is next to the victim's, said that he saw the victim come out of his room on the day in question with a "red mark" on his face and saw the staff member follow him (the victim) out of the room. The Therapist said that she called the IDCFS Hotline again, because now there was a potential witness to the incident.

She stated that the IDCFS again took the report as "information only." On October 17th, the Therapist reported this additional information to her Program Manager.

The Therapist explained that the resident is a 19- year- old IDCFS client and that in her opinion, he is not a false allegation maker. She recalled that he once scratched a staff member and that he becomes upset and gets disrespectful if staff does not take the time to understand what he is trying to say.

In discussing the incident with the resident's DSFC Case Worker, she stated that she was familiar with the complaint and believed that a UIR (Utilization Incident Review) was submitted to the IDCFS. She stated that she spoke to the resident on the phone on Friday {Sept 26th} and he reported to her that the staff member "walked into my room and slapped me." She said that the staff member was NOT around any more and that the resident told her that he "felt safe." She stated that she has not seen the resident since the incident but planned on seeing him that day (October 27th). She explained that she does not personally investigate abuse allegations and she

was not aware of the current status of this IDCFS case. She did believe that the complaint was taken “information only” since her client is 19 years old. She said that this client has not made reports against any other staff member. She described him as “personable, pleasant and verbal” adding that “he will tell you what is bothering him”. She said that he is “great to work with – compliant with medications and therapy and has supportive grandparents”.

On November 3rd, the HRA met with the residential site's Program Manager. He said that he first heard about the incident approximately two weeks after the occurrence. One of the residents told him that a staff member had slapped the resident in the face and that the incident had occurred in the van. He said that he spoke to the resident about it and that the resident “did not want to talk about it”. He then spoke to the staff member who denied that the incident had occurred. The Manager stated that he informed his supervisor about the incident and she told him that the incident had been reported to the IDCFS hotline and that nothing further needed to be done. In response to our inquiries as to what the general policy was regarding alleged abuse of residents by staff, he said that he was not aware of any specific written policy but that the general procedure was as follows:

All credible allegations of abuse are reported to the IDCFS hotline.

All allegations are considered credible, unless an adult witness stated that the incident never happened (the adult would need to be present but uninvolved).

If the incident is serious with a reliable witness, the staff member would be removed from duty in the area, pending results of the investigation.

IDCFS is responsible for the conduct of the investigation, and for the appropriate follow-up actions, if any.

Staff could be terminated depending on the results of the investigation.

The Manager said that even if the IDCFS found that no action needed to be taken, the organization itself could take action if they so wished. In response to additional questions, he stated that the residents are allowed to make a formal complaint by requesting a “Confidentiality Complaint Form”; they are told about this form at the time of admission. An adult staff member is available if necessary to help them fill out the form. No such form was filled out in the present case. He also stated that employees receive feedback via a “Staff Performance Feed-back Form”. No such form had been filled out in the present case. He stated that although other complaints had been made against this particular staff member in the past – to his knowledge, none had ever been substantiated by any subsequent investigations. He stated that of the 100 residents in this program, three are at present between the ages of 18 and 21.

On December 11th, the matter was discussed with the Executive Director, the Program Director and the Clinical Director. When asked about the procedures for reporting and investigating allegations of abuse and neglect, we were informed that the organization has the following process in place to deal with allegations of abuse:

Any allegation that is made by anyone is reported to the Program Manager and a documented call is immediately placed to the IDCFS hotline.

If the call is accepted for “Information Only” – as is the case in almost all of the 18-21 year old calls – an “Incident Report” is filled out and a summary of the events is placed in the resident's file.

An internal investigation is conducted by the Program Director working with the treatment team. She has the ability to suspend members of the staff pending results of the internal investigation as needed.

The Clinical Director receives a copy of the Incident Report and looks for patterns in these reports. The PQI (Personnel Quality Index) is also involved in this process as needed.

In cases where the IDCFS agrees to conduct an investigation, the institution makes sure that the resident is safe pending the results of that investigation. They inform the resident and the involved staff that the IDCFS is coming to conduct an investigation. Based on the results of the IDCFS investigation staff may be disciplined as needed.

We were also informed that there is an IDCFS monitor assigned to the institution and complaints by residents may also be made to this person who will then contact the IDCFS via the hotline.

That was unnecessary in this case because the resident's Therapist called the hotline directly.

The Executive Director informed us that the institution is currently developing a new process to handle abuse allegations. The intent is to appoint a high level administrator who will report directly to the Executive Director to oversee these investigations. Minimally, this employee will oversee all allegations made from residents 18-21 year olds, and perhaps all cases accepted by IDCFS for "Information Only", depending on the total number involved.

During this visit, we asked for the following materials: 1) any policies that are in place regarding these processes; 2) a copy of the incident report that was filed in this case; 3) the summary of the incident that was placed in the resident's file; 4) any other written documentation that the institution has regarding this incident. The HRA was advised that the level of documentation in the resident's record was not up what the policies require, thus nothing was received from his chart. The HRA was given policies and procedures relating to allegations of abuse and neglect and forms that address unusual incident reporting, a clinical service report, a grievance form and a casework and family contact record.

The Academy's four page Abuse and Neglect policy states (in part) that "all Maryville employees, all foster parents, and all educational advocates are mandated reporters and are required to report suspected child abuse or neglect to the IDCFS. The privileged communication between any professional people does not exempt him/her to file a report of child abuse or neglect. Mandated reporters who willfully fail to report are subject to license suspension or revocation. If a mandated reporter has a reasonable cause to believe that a child known to them in their professional or official capacity may be abused or neglected, he/she will immediately report or cause a report to be made to IDCFS. Mandated reporters who report instances of child abuse or neglect that relate to any child associated with Maryville must also notify their supervisors that a report has been made. The supervisor is responsible for providing notification to the next level in the chain of command.

Conclusion

Pursuant to Section 5/2-112 of the Mental Health and Developmental Disabilities Code, a recipient of services shall be free from abuse and neglect. The HRA cannot discount the statement made by the resident recognized in this case. And, there are several factors pointing to evidence that should give the facility immense concern. Those factors include: the resident is known as a reliable reporter, there is a potential witness, the suspected violator has had previous complaints against him, there was not documented investigation to disprove the allegation, and there was no removal of the suspected violator from resident contact. The HRA concluded that the Academy was in violation of its own policy and procedures, in that the resident's chart did not contain the documentation required by policy.

Section 300.30 of the Illinois Administrative Code, Reporting Child Abuse Or Neglect To The Department, defines a child as "any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services."

Section 300.30 states that Reports of suspected child abuse or neglect may be immediately made to the State Central Register via its toll-free number [1-800-25A-BUSE] at any time, day or night, or on any day of the week. Reports may also be made to the nearest Department office. The Department encourages use of the toll-free hotline number.

The course of this investigation identified a vast problem - the reporting/investigating procedure at the Academy for residents over the age of 18. A pattern of abuse is more likely to occur in an institution when the staff members become aware that no effective mechanism exists to completely investigate allegations of abuse among a particular subject (18-21 year old). The HRA is gravely concerned that the only investigation undertaken by Academy staff in this case was to ask the alleged abuser if the incident had occurred and when he denied it, no further action was taken. Even when a witness became known to support the allegation, no action was taken. It seems apparent that unit staff members realize that they are mandated reporters (325 ILCS5/3). However, there is a huge gap about what to do when the IDCFS takes the call as "information only" because the resident is over 18 years of age.

Existing procedures proved inadequate, thus the HRA recommends that:

Administration must develop a new process to oversee all allegations made concerning residents 18-21 years old, and conceivably all cases accepted by IDCFS for "Information Only".

Staff members must ensure that when an allegation of abuse or neglect is reported, that all necessary investigatory steps and documentation are thoroughly completed.

Staff members must be reminded and any new policy or procedure must acknowledge that each resident has the right to call the police or anyone of their choosing about alleged abuse.

When an allegation of abuse has been made about a staff member (whether or not it is a serious claim and has a creditable witness), that staff member should be removed from resident contact until an investigation is completed.

The HRA was advised by the IDCFS that they have a Residential Performance Monitoring Unit that can receive and investigate abuse complaints for adults still residing in their facilities, although there is no Statutory or Rule requirement to do so. The HRA strongly advises that contacting the Monitoring Unit directly in these situations should be a program directive and the policy should state the same.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.



April 7, 2009

Personally Delivered

Mr. Dan Haligas
Chairperson
North Suburban Regional Human Rights Authority
Guardianship & Advocacy Commission
9511 Harrison Street, W-300
Des Plaines, Illinois 60016-1565

Re: HRS #09-100-9021

Dear Mr. Haligas:

I write in response to the findings and recommendations regarding the above-numbered complaint.

We understand your finding regarding the documentation in this incident. Our policy requires proper documentation of any allegation, investigation, and corrective action. While staff made the required notifications within and outside the agency, our policy mandates written documentation of each of these steps. The issues of documentation in this incident have been addressed with the staff of this program.

We respectfully disagree with and object to your conclusion that there is a "vast problem" regarding investigation of an allegation concerning a resident who is 18 years of age or older. Our mission is to protect our residents and we do not want any resident to be mistreated. In this incident of an allegation that a staff person slapped a 19 year old resident, another staff member who learned of the allegation immediately reported the allegation to the Illinois Department of Children and Family Services (IDCFS). The program manager asked the resident about the allegation and he would not talk about the allegation. The accused staff member denied the allegation. There were no previous substantiated allegations against this staff member. At that time, there was no indication there was a witness to this incident. Weeks later, when a second resident said he knew of the incident, the initial staff reporter again called the IDCFS which again took the report for information only. At this time, the staff reporter called the Guardianship and Advocacy Commission. We respectfully ask that the report be amended to remove this conclusion which we believe is not warranted by the response to this incident.



Maryville City of Youth

We agree with the recommendation of your investigators in our December meeting and with the recommendation of your report that we should establish a special internal investigative process for any allegations made concerning 18-21 year old clients. We have established a new process to supplement the already-existing process for any allegations made concerning clients who are younger than 18 years. As a part of the new procedure, a high level administrator has been appointed to serve as the Advocacy Officer who will oversee the internal investigative process. While the program is regulated by other state agencies, he has participated in the Rule 50 Training offered by the Office of the Inspector General of the Department of Human Services as well as other training. This special internal investigative process adopts the relevant recommendations from the report.

We have implemented all five of the recommendations through establishing the above-referenced internal investigative process for this group of clients; through training on existing policies of notification, documentation and access of residents to telephone under these circumstances; and through adding direct notification to the Monitoring Unit of IDCFS as well as the other notifications already made to IDCFS when there are allegations.

We thank you for your observations and advice in the investigation and in the report. We look forward to continued collaboration to ensure the protection of our clients.

Sincerely,

Sister Catherine M. Ryan, O.S.F.

Sister Catherine M. Ryan, O.S.F.
Executive Director, Maryville Academy