



FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
09-110-9023
Desoto Elementary School
February 10, 2009

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning an alleged rights violation at Desoto Elementary School located in Desoto. The specific allegation is as follows:

A student receiving special education services has been denied after school tutoring services, a service that is provided to other students.

Statutes

If substantiated, the allegation would be a violation of the federal regulations for educating children with disabilities (34 C.F.R. 300) and the Illinois Administrative Code for special education (23 Ill. Admin. Code 226.50).

Section 300.17 of the federal rules 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 individualized conformity with an education program (IEP) that meets the requirement of Section 300.320 through 300.324."

Section 300.22 states, "Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Section 300.320 through 300.324."

Section 300.324 states, "(a) Development of IEP--- (1) General. In developing each child's IEP, the IEP Team must consider-- (i) The strengths of the child; (ii) the concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. (2) Considerations of special factors; The IEP Team must--- (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and the other strategies to address that behavior."

Under the Illinois Administrative Code, "A 'free appropriate public education ('FAPE')' as defined at 34 CFR 300.17 must be made available by school districts to children with disabilities....", and provided, "...in accordance with their IEPs." (23 Ill. Admin. Code 226.50 and 226.200).

Investigation Information

To investigate the allegation, the HRA Investigation Team (Team), consisting of one member and the HRA Coordinator (Coordinator) conducted a site visit at the school. During the visit the Team spoke with the School Superintendent (Superintendent). The Coordinator spoke via telephone with a family member of the student whose rights were alleged to have been violated. The student's Individualized Education Program (IEP) was reviewed after the Authority received written authorization from the student's guardian.

Interviews:

A...Superintendent:

At the time of the site visit, the Superintendent informed the Team that the school has a student population of 248 for Kindergarten through 8th Grade and 26 students in the Pre-Kindergarten classes.

The Superintendent stated that the school implemented an after school program specifically designed for students to be able to complete their homework. He informed the Team that a teacher is always available to assist the students if help is required. He stated that the program, which was commenced during the previous 2007 school year was made available for all grades. However, due to funding issues and staff availability, the program is presently being offered to students in grades 5 through 8.

The Superintendent stated that the school has never offered tutoring to individual students; however, there are plans to start such a program in the near future.

According to the Superintendent, teachers verbally informed parents/guardians about the after school program. However, there was no written notification in the form of a note or newsletter that was sent to the parents. He stated that the facility does not have a written policy pertinent to the program.

The Superintendent stated that students in special education classes do not have homework assignments. All studies are conducted in the classroom setting so that teachers may be available to assist the student in learning the material that has been presented; therefore, the after school program would not be appropriate.

He informed the Team that the student whose rights were alleged to have been violated is in the 4th grade, so the after school program would not be available to him because it is presently limited to grades 5 through 8.

B...Student's Relative (Relative):

According to the Relative, the student brought home a note to inform parents that the school was offering an after school tutoring program that required a parent or guardian's signature before a student could attend. The Relative stated that the student's guardian signed the form authorizing the student to receive the services. However after the student attended the program for one day, he was informed that tutoring services were not available for special education students because the students received individualized services during the regular school hours.

Student's IEP:

Documentation in the student's 03/17/08 IEP indicated that the 10-year-old student was eligible for special education and related services listed in the IEP due to a specific learning disability.

Documentation results of evaluations indicated that the student was functioning at a kindergarten to first grade level. He has difficulties staying organized and often cannot find his materials unless he has assistance. He has some academic delays that make it difficult for him to be successful without support. He also struggles with the "th" sound and is getting speech therapy in the resource program.

According to the IEP, the student is receiving occupational therapy (OT) to address concerns with fine motor and visual motor skills. The record indicated that the student had made good progress during the previous two years. The Occupational Therapist documented that the student was doing well in the classroom with fine motor and self-help skills. However, he needed to continue working on his handwriting and buttoning various clothing items.

Documentation in the Social/Emotional Functioning Section of the IEP indicated that the student was a very happy child with a desire to please. The record indicated that the student wants to be a friend to everybody but sometimes does not know how to be their friend. He will give anything he has to another person.

According to the record, the student's Learning Disability has adverse effects on his education performance because he has global deficits in all areas and significant deficits in organization and planning. He was also diagnosed with Attention Deficit Disorder in the first grade and has some motor skill issues that make it difficult for him to be successful in the general education curriculum. Small group and individualized instruction is needed to address the adverse effects of the student's disability.

HRA did not observe any documentation in the IEP that indicated the student required tutoring services.

Documentation indicated that the student is taking the medication Concerta, 18 mg per day in the morning, to assist him with the Attention Deficit Disorder.

Summary

According to the complaint, a student was presented a note by his teacher informing him of an after-school tutoring program that required a parent/guardian's signature before he could attend. After the parent/guardian signed the form authorizing consent for the student to attend the program, the student attended one day and was informed by the teacher that he was unable to attend because he was a special education student.

The Superintendent informed the Team that the school does not have an after school tutoring program; however, there is a program designed for students to complete homework after school with teachers present to assist with the homework if needed. He stated that the program was available to all students last year; however, during the present school year it is only available to students from grades 5 through 8. He stated that special education students complete all work in the classroom during regular school hours and have no homework assignments. Additionally, the student whose rights were alleged to have been violated is presently in the 4th grade.

Documentation in the student's IEP listed that he is eligible for special education services due to a Specific Learning Disability and Attention Deficit Disorder. The record indicated that the recipient can best be served by having materials presented in small group or individualized settings. The IEP did not contain any documentation that would indicate that after school tutoring was determined necessary by the IEP Team.

Conclusion

It appears that there has been a misunderstanding regarding the after school program. The program was designed to allow students to complete their homework at school after normal school hours; however, it has been interpreted to be a tutoring program. The HRA learned from school officials that students in special education are not assigned homework. All studies are reportedly conducted in the classroom during scheduled school hours. Based on this information, the Authority does not substantiate that the school denied tutoring services to a special education student. No recommendations are issued. However, the Authority believes that the school had a responsibility to adequately inform parents/guardians about specifics of the after school program. The Authority **strongly** suggests the following:

1. Whenever a program is introduced, parents/guardians should be provided written documentation, via notes or a newsletter, concerning the specifics of the program.
2. The school should have a written policy pertinent to any program that is put into practice.
3. If an individualized tutoring program is implemented, all special education students should have access to the service.

Comment

We ask the school to review the no homework practice since students in special education are supposed to have similar experiences as other students. Even providing modified

homework would benefit: homework provides a learning continuum for the student and an idea of what is going on in the classroom for the parents.