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Egyptian Regional Human Rights Authority
Report of Findings
09-110-9037
East Richland Elementary School
January 26, 2010

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning East Richland Elementary School. East Richland Community School District is a unified Kindergarten through 12th grade public school district based in Olney, Illinois. The school district serves most of the eastern portion of Richland County. The district operates one elementary school, one junior high school, and one high school. The specific allegation concerning East Richland Elementary is as follows:

Staff at East Richland Community Elementary School took a student off the school premises without parental consent.

If substantiated, the allegation would be a violation of the Probate Act (Act) (755 ILCS 5 et.seq.), The Code of Federal Regulations (34 C.F.R. 300.9) and the Illinois Administrative Code (23 Ill. Admin. Code 226.200).

Statutes

Section 5/1-2.08 of the Act states, "'Guardian' includes a representative of a minor and a representative of a person under legal disability."

Section 5/11-1 of the Act defines a minor, "A minor is a person who has not attained the age of 18...."

Section 5/11-13.3 states, "Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian, standby guardian, or short-term guardian that is not clearly contrary to the law, to the same extent and the same effect as though the decision or direction had been made or given by the parent..."

Section 300.9 of the federal regulations states, "Consent means that (a) the parent has been fully informed of all information relevant to the activity to which consent is sought, in his or her native language, or through another mode of communication. (b)The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and consent describes that activity and lists the records (if any) that will be released and to whom; and (c)(1) the parent understands that granting of consent is voluntary on the part of the parent and may be revoked at any time. (2) If a parent revokes consent, that revocation is not

retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). (3) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent."

Section 226.200 of the Admin. Code states, "Each school district shall provide special education and related services to eligible children in accordance with their IEPs".

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 superintendent and a school principal. The coordinator spoke via telephone with the student's parent/guardian, student's family member and a local school administrator. The Authority reviewed the student's record with written consent from his parent/guardian. Facility policies and information in the student handbook pertinent to the allegation were also reviewed.

I...Interviews:

A...Superintendent:

According to the superintendent, the elementary school is for K through 5th grade. Because of the size of the building and the number of students, the building is segmented into the primary (K to 2nd) and intermediate (3rd through 5th) sides, with each having a principal.

The superintendent stated that the student listed in the complaint is a student in the 4th grade; therefore, he is in the intermediate division of the school. According to the superintendent, the student had some hygiene and grooming issues that were creating problems for the student himself and for others around him. Due to these problems, other students were avoiding the student and making adverse remarks about the grooming problems.

The superintendent informed the team that the principal for the intermediate division and another male staff went to the student's residence to speak with his parent/guardian regarding the student's hygiene issues. The superintendent stated that the school staff members informed the parent/guardian that students and adults at the school were complaining and the student was being adversely affected by the situation. The superintendent informed the team that the parent/guardian verbally agreed to let the school do what was needed in order to assist the student.

B...Principal

According to the principal, the student had attended East Richland Elementary for the previous two years. He informed the Team that the student received special education services

that were outlined in his Individual Education Program (IEP). The principal stated that the student had improved academically during the year, had begun to participate in class, and had never been referred to his office for behavior problems.

He related that the school nurse and a teacher had spoken to the parent/guardian the previous year about the student's inadequate hygiene and grooming issues. However, the problem had become progressively worse during the current school year. He stated that the student was not clean, had a strong odor and had feces under his fingernails. The principal related the student's mentor, teachers and students had registered complaints about the problem. He stated that the student has been adversely affected because other students were holding their noses when he was around them.

The principal informed the Team that he and another male staff member went to the student's home to speak with the parent/guardian about the student's hygiene issues. He stated that when they arrived at the residence the parent/guardian was sitting in a vehicle talking on a cell phone. He related that when he and the other staff member exited their vehicle, the parent/guardian asked what they wanted and requested that they come back at a later time. The principal stated that he informed the parent/guardian that he had some serious concerns about the student that he wanted to discuss, and at that point the parent/guardian exited the vehicle. The principal stated that he informed the parent/guardian that adults and students had been complaining about the student having an offensive odor and having dirty hands and clothing. He informed the Team that the parent/guardian insisted that the student bathed and was clean. At that point, the principal stated he told the parent/guardian that the student needed some additional assistance with hygiene, and he would need to shower at the high school at least once weekly and possibly more. He stated that he informed the parent/guardian that the student would have disposable washcloths and clean clothing available on the days that he did not take a shower. The principal informed the team that the parent/guardian agreed to let the school do what was needed to assist the student and provided verbal permission for the student to be taken to the high school campus for a shower.

C.... Parent/Guardian

According to the parent/guardian, the school principal and another male came to a family member's residence to inform her that her son needed to have an extra change of clothing because he was having some toileting accidents on the bus. The parent/guardian stated that she agreed to the principal's proposal to have an extra set of the clothing for the student. However, she did not give the principal permission to take the student off the school grounds for a shower or for any other reason. She added that school personnel did not request or receive authorization via telephone or by letter/note to take the student off school premises. The parent/guardian stated that when she learned that her son was being taken to the high school for a shower, to an area beauty shop and to a Chinese restaurant in the town, she became upset, contacted the school and insisted that the student remain on the grade school campus at all times.

According to the parent/guardian, when she attended the student's IEP meeting on 02/19/09, she reluctantly agreed to some of the hygiene proposals. However, school staff members were informed that the student should remain at the elementary campus.

The parent/guardian informed the coordinator after experiencing the problems with the school that she decided to move out of the Richland School district and placed her son in another adjoining district's elementary school. She related that the student's present placement is appropriate and has been positive for the student, as well as the family.

D...Student's Family Member (family member)

The family member informed the coordinator that she was in the vehicle with the student's parent/guardian when the principal and another male staff member came to her home in January 2009. She stated that she remained in the vehicle with the window down and could hear the conversation between the parent/guardian and the principal. The family member stated that the principal informed the parent/guardian that the student was having some toileting accidents on the school bus and an extra set of clothing would be provided for the student to change into when the accidents occurred. She stated that the parent/guardian did not provide verbal permission for the student to leave the elementary school for any purpose.

E. Local School Administrator (administrator)

The coordinator spoke with an area grade school administrator regarding the school's procedure for addressing problems with a student's inadequate grooming. The administrator stated that the initial step would be for the school nurse to speak with the student about the grooming issues and provide information to aid the student in resolving the problem. If the problem continued, a staff member would speak with the parent/guardian. The student would be given wash cloths for cleaning and be allowed to take a shower within the school. If all measures failed and the student continued to have troublesome problems with grooming, the principal would contact the Illinois Department of Children and Family Services to report possible neglect.

II: Student Records:

A..IEP

According to a 12/15/08 IEP, the student was eligible for special education services due to a cognitive disability and speech/language impairments. Documentation listed the 11-year-old fourth grade student's skills as being a caring person who tries his best when learning a new task. The record indicated that the student enjoyed reading. Areas that needed improvement were listed as the student's needs to be able to socially interact with his peers and to improve articulation. Documentation indicated that the articulation problem adversely affected his communication abilities.

Goal Statements in the IEP were as follows: 1) The student will increase his basic reading skills; 2) He will increase his reading comprehension skills; 3) He will improve his basic math skills; 4) He will improve his written expression skills; 5) He will correctly produce the K and G

sound;. 6) The student will develop necessary coping skills for use when frustrated; 7) He will use learned coping skills to enable him to achieve success in the educational environment.

Documentation indicated that the parent/guardian wished for the student to "display same behaviors at home that he displays at school."

According to the student's records, when a meeting was held on 02/19/09 additional information was added to the student's IEP. Documentation indicated that two classes at the school would receive instruction from the school social worker on hygiene connected with "growing up" or puberty, such as showering, clean clothing, and using deodorant. Additionally, the student would be allowed: 1) to use deodorant after physical education (PE) and/or recess; 2) use cleansing cloths for washing after PE and/or recess if he desired; 3) change his clothing if necessary; 4) allowed to shower, if there wasn't any water at home and after his parent/guardian had been notified; and 5) allowed to attend the 5th grade boy's "growing up" talk. The record indicated that the parent/guardian indicated by her signature that she had received an explanation of the procedural safeguards outlined in the 02/19/09 meeting.

B...Principal's Notes (Notes)

Documentation in a 01/22/09 Note indicated that the principal and another male staff member went to the student's residence to speak with the parent/guardian regarding the student's hygiene issues. The principal recorded that upon arrival at the student's home, the school personnel found the parent/guardian and another family member sitting in a vehicle. According to documentation when the principal exited his vehicle, the parent/guardian yelled from her vehicle to ask what school personnel wanted and asked if they could come back at a later time. The principal recorded that he informed the parent/guardian that he wanted to speak with her about some serious concerns regarding the student's grooming. Documentation indicated the principal informed the parent/guardian that the adults and students at school were complaining about the student smelling and having dirty hands and clothing, and as a result, the student had begun to hide in his classroom. The Principal recorded that he informed the parent/guardian of the following: 1) The student would need to take a shower at least once at the high school; 2) He would be given disposable washcloths to utilize on days when he did not take a shower; and 3) He would be given clean clothing at the school. According to the Note, the parent/guardian insisted that the student bathed weekly at home, and he was clean. However, she agreed to let the school do what was needed in order to assist the students, including taking him to other sites off the elementary campus.

According to a 02/02/09 Note, the principal and other male school personnel took the student from the elementary school to the high school for a shower. He was provided with new/clean clothing, soap, shampoo, baby powder, new shoes, deodorant, toothpaste and a toothbrush and directed to the physical education locker room. Documentation indicated that the principal instructed the student how to wash himself and sent him into the shower room while the school staff members remained in the locker room. The principal recorded that when the student returned to the elementary school, his clothing was laundered and he returned to class in the clean clothing.

The principal documented in a 02/03/09 Note that he and another male staff member took the student to the restroom at the elementary school. After entering the restroom, the student closed the door to a stall, washed himself with disposable washcloths, used deodorant, put on clean clothing and brushed his teeth. The record indicated that staff at the school washed the clothing that the student had worn to the school. The principal recorded that the student informed him that he could not shower at home because the water pipes were frozen.

According to a 02/04/09 Note, the principal and a male staff member escorted the student to the restroom. Once again the student undressed in the privacy of a handicapped stall, used disposable washcloths to wash his body, put on deodorant, dressed in clean clothing, and returned to his class room. Additional documentation indicated that the student's parent/guardian called the school to inform school personnel that the detergent being used to wash his clothing at school was causing her an allergic reaction and instructed the school personnel to use a specific brand. The principal recoded that the brand was bought and utilized immediately.

According to a 02/05/09 Note, the student reported that he had not showered because his pipes remained frozen. Once again, the student was taken to the shower area where he repeated the washing process. The record indicated that after the student's teacher observed dirt or other matter under the student's fingernails, a school staff member escorted that student to the nurse to trim his nails. It was also observed that the student was bleeding from his ear and head and white flakes of dandruff were flying off of his head. The showering and the nail trimming occurred in the AM. At 1:30 PM, the record indicated that the principal and another male staff member took the student to a hair salon where he received a professional shampoo, which included treatment for the bleeding and irritation.

Documentation in a 02/06/09 note indicated that when the student arrived at school he reported that he had not showered at home due to the water pipes remaining frozen, he was escorted to the restroom by the principal and another male staff member. The same procedures were utilized, and the student returned to class. Additional documentation indicated that the principal and a male staff member took the student to lunch as a reward for doing a good job with grooming throughout the week.

The principal documented that at 7:45 AM on 02/09/09, the parent/guardian called the school upset that the student was being helped with grooming. According to the documentation the parent/guardian accused the principal of being the only male alone with the student while he was in the shower and taking him to the high school on a daily basis for a shower. The principal recorded that he informed the parent/guardian that another male staff member was present at all times, and the student was only taken to the high school on one occasion to shower. Additional documentation indicated that the parent/guardian stated that she was unaware that school personnel were going to assist the student with his hygiene issues and she did not know that his clothing would be washed at school. According to the record, the principal reminded the parent/guardian that his issue had been discussed during a home visit, and she had agreed to the procedures. According to the Note, the parent/guardian requested that a note or a phone call be made any time grooming procedures were conducted or the student was taken to the high school or off the campus for any purpose. The principal recorded that he informed the parent/guardian that she would be contacted as requested; however, she continued to argue. The principal stated

that he politely told the parent/guardian that the conversation was over and hung up. Additional documentation on 02/09/09 indicated that the student continued to have an odor and students who were sitting by him in music class were covering their noses with their shirts. Additionally, an adult complained about the odor. The principal recorded that the student was escorted to the nurse's office and in the presence of the female nurse and a male staff member, the student was shown where his belongings were, how to wet the washcloth, and left in the nurse's restroom alone to wash.

C...Additional Information:

The Authority did not observe a form signed by the parent/guardian authorizing school personnel to take the student off the school premises for any reason.

III...Physician's Report (Report)

Documentation in a 02/13/09 Report indicated that the student was brought to the physician's office by the parent/guardian and another family member with concerns of "an overreaction from a school official." The physician recorded that the parent/guardian reported the school principal had been overreacting to alleged occurrences of the student's body odor and had informed her that he would like to have an aide in the home to teach the student hygiene. The physician recorded that the family reported that there had been a couple of incidences of the student being taken off campus to get a shower and to change clothes. Additionally, there was a report that school officials had brought up concerns that the student was having bowel and bladder accidents on the bus; however, bus attendants informed the family there were not problems. When the physician examined the student, he noted that his hair was clean; however, he did have "flaky scalp".

In the Impression Section of the examination the physician recorded the following: "History of body odor but there is no obvious physical reason for this and in viewing the child he does not have a body odor at this time and his feet do not smell because he has been sitting here with his shoes off. Probable body odor may be his activity level and because of his weight and hitting puberty he is starting to sweat and smells like a young man."

The physician provided the following plan to deal with the problem: 1) Review Mayo Clinic guidelines for persons with body odor; 2) shower daily; and 3) change socks and underwear.

The physician recorded that he had stressed the need for the student to start using antiperspirant deodorant regularly and the need to brush his teeth at least twice daily.

The physician documented that the problem appeared to be hormones, physical activity and sweating rather than inadequate cleanliness.

IV....School Policy:

When the Team requested the school's Policy pertinent to the allegation the follows, the "Release During School Hours Policy" was submitted. The Policy states, "Teachers may not release students from the school at other than regular dismissal times without prior approval of the Building Principal. No student will be released from school to any person other than the custodial parent(s)/guardian(s) without the written or oral permission of the custodial parent(s)/guardian(s).

V...Student Handbook (Handbook)

The Handbook is given to each student and their parents/guardians where a student is enrolled. The Handbook outlines programs, provides directions to students and outlines student rights and responsibilities.

In the Dress Code Section of the Handbook the following is documented: "The East Richland Board of Education believes it is advisable to govern to some extent proper dress at school. The mode of dress shall reflect the proper attitude toward school and promote self-respect. One should be clean, neat, and well groomed at all times. Appearance that will create undue distractions and is determined to be disruptive will not be allowed. Clothing or any item worn in a way that may reflect gang membership is prohibited. Generally, acceptable dress for both boys and girls should be in good taste. Dog chains are not to be worn on belt loops. Clothing is not to be suggestive, immodest, offensive, and otherwise disruptive to the education purpose. Clothing that displays inappropriate words, pictures, suggestive writing, and promotes alcohol, tobacco or illegal drugs will not be allowed to be worn in school. Unusual or questionable dress will be screened by the principal and students may be sent home to change clothing or given an appropriate outfit of clothing to wear."

Summary

According to the complaint, a student was taken off the school grounds without a parental consent. When the Team spoke with the principal, he stated that when he and another school staff member conducted a home visit the parent/guardian provided verbal consent for school personnel to do what was necessary to assist the student, including being transported from the grade school to the high school to take a shower. However, the parent/guardian and another family member, who was present at the time of the home visit, stated that the consent was given for the student to have an extra set of clothing at school. Conversely, consent was not given for the student to be taken off the elementary school campus for a shower; a trip to a beautician or lunch at a pizza parlor. According to the student's record, the home visit was conducted on 01/22/09, and the grooming issue was not addressed in the student's IEP until 02/19/09. Additional documentation indicated that the student was taken off the campus on 02/02/09 (for a shower at the high school), 02/05/06 (trip to the beautician) and 02/06/09 (lunch at a pizza parlor). According to the additions to the 02/19/09 IEP, the parent/guardian is to be notified prior to the student being allowed to shower. The HRA did not observe any written

documentation to indicate that the parent/guardian had provided written authorization for the student to be taken off the elementary campus.

Conclusion

Although the HRA believes the school personnel had concerns about the student's well-being and acted in a manner which they perceived beneficial to the student; written consent was not obtained from the parent/guardian to verify that authorization had been given for the grooming procedures, some of which required the student to be taken off the elementary campus. Therefore, the allegation that the Richland Elementary school personnel took the student off the campus without the parent/guardian's consent is substantiated.

Recommendations:

The following recommendations are issued:

1. Written authorization from a student's parent/guardian should be obtained prior to any student being taken off the elementary campus.
2. Problem areas should be listed in a student's IEP with goals and objectives listed to address those areas prior to implementation of any program/plan.

Suggestion:

The following suggestions are issued:

1. The HRA suggests that the school formulate a written policy with specific progressive steps listed to address students' inadequate grooming issues.
2. School personnel, students, and parent/guardians should be made aware of the specifics of the written policy.