



FOR IMMEDIATE RELEASE

**East Central Regional Human Rights Authority
Report of Findings
Case #09-060-9010
Bradley School District**

The East Central Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation, the following allegations concerning the Bradley School District:

1. The District's special education program did not adequately address a student's needs in his individualized education program (IEP).
2. The District disregarded the student's medical condition.
3. The district harassed the student over absences related to his medical condition.

If found substantiated, the allegations represent violations of the Illinois School Code (105 ILCS 5) and federal and state special education mandates (34 C.F.R. 300 and 23 Ill. Admin. Code 226).

According to the Illinois State Board of Education (ISBE) website, the Bradley School District had a student population of 1,524 during the 2008-2009 school year and students with IEPs comprised 19.6% of the student population. Approximately 45% of students with IEPs had specific learning disabilities and 6% had some type of health impairment. During the 2009-2010 school year, the student population totaled 1,560 with 19% of the students having IEPs; student with specific learning disabilities made up 37% of the student population with IEPs and students with health impairments totaled 6% of the students with IEPs. The school district is a member of a special education cooperative.

To investigate the allegations, an HRA team met with district representatives as well as representatives from the regional truancy program. In addition, the team reviewed relevant policies and procedures and, with consent, examined the record of a student. The HRA team also met with representatives of the regional superintendent's office that administers the area truancy program.

Complaint statement:

According to the complaint, a student has a learning disability in addition to kidney disease. As a result he has had multiple absences from school. However, the school reportedly has not addressed his medical condition and subsequent absences through the IEP process. Instead, a

truancy officer allegedly harasses the student over his absences and makes inappropriate remarks such as accusing the student of faking his illness or threatening to take the student away from his parents. The truancy officer also reportedly had the student sign a document without the parent being present.

FINDINGS

Interviews:

According to the school district, the student did not have an IEP and the district did not know that the student had a need. The district stated that the student's parent did not notify the district of any needs nor did the parent request services. The district indicated that it can and does offer home services should there be a medical need or concern that would prevent attendance at school. The school officials indicated that a parent can request an evaluation for services at any time and "response to intervention" (RTI) is another method of intervening for students experiencing problems at school before special education is considered. The district also explained its grievance process which starts with the school principal; if dissatisfied, grievances can be submitted to the superintendent and then to the school board.

The district and regional truancy program report that the difference between an excused and an unexcused absence is a physician's note. Plans are made to work with the student and parents to improve attendance and parents receive notices of the unexcused absences.

Representatives of the regional truancy program reported that the program's goals are for intervention and prevention. A school district makes a formal referral to the program typically when 10% of absences are unexcused. Each school is assigned a caseworker/truancy officer who makes home visits. For the student in this case, there was a reported medical condition but no physician recommendation for homebound services. The assigned caseworker assesses family and other needs that might facilitate attendance. Truancy officers, including the officer referenced in the HRA complaint, receive background checks and have a minimum education level of a bachelor's degree in either education or criminal justice. When interviewed by the HRA team, the truancy officer reported that she had past experience in working with children in need, that she would not make home visits for an absence that had been excused by a physician's note, that she did not have a student sign a document without the parent's involvement, and that she never made the statements as alleged in the complaint. She did report that the student's parent attempted to assault her over the situation.

Record Review

The HRA reviewed the grade record of the student. In the 2nd through 5th grades in other school districts, the student received mostly A's and B's. During the 2006-2007 school year when the student was in 6th grade, the student ended the year with the following grades: Reading - D; Language - F; Social Studies - C; Math - B+; Music - A; Choir - A; and, Spanish - Incomplete. He was absent 116 days and tardy 9 days.

Through the end of the 2nd semester of the 2007-2008 school year the student received mostly F's in all subjects.

A review of the student's absences starting 08-21-2007 through 05-21-2008, indicate that the student was absent part or all of approximately 113 days; most absences were for the entire day. Approximately 60 of the part or full day absences were excused. The student's individualized optional education plan (IOEP) developed by the truancy program (vs. special education program) lists the following goals: improving attendance from 18% to a minimum of 90%; completing 100% of academic assignments on time; displaying appropriate, safe and healthy behavior at all times; and, attend 100% of all appointments arranged to meet physical and mental health needs. Services to facilitate meeting the goals include an alarm clock, transportation arrangements, face-to-face meetings with truancy officer 1-2 times per week, truant officer contact with parent when student is absent, student access to health care, adequate school supplies, and academic counseling. A letter from the district to the parent, dated 04-29-08, warned that the student had missed participation in the remediation program on multiple occasions and a letter dated 05-27-2008 indicated that the student failed to meet requirements of the remediation program and would be retained in the 7th grade for the next school year.

The HRA team reviewed physician notes provided for the student for the 2007-2008 school year. A note dated 02-21-08 indicated that the student was at a hospital for the diagnoses of hematuria and testicle microlithiasis. According to the Medline Plus on-line medical dictionary, microlithiasis is the presence of deposits and hematuria is the presence of blood in the urine. A statement from a hospital outpatient center indicated that the student was seen for outpatient services on 02-20-08, 02-21-08 and the date of 02-22-08 appears to have been added. A note from another hospital indicated that the patient was ill and in the hospital from 03-10-08 through 03-11-08. According to another hospital note, the student was unable to attend school due to illness from 03-17-08 through 03-20-08 due to the flu. A hospital emergency room's instructions indicate that the student was seen in the emergency room on 04-01-08 due to an ankle sprain. A follow-up note from an orthopedist indicates that the student had not been in school from 03-31-08 to 04-08-08 due to a right fibula fracture and ankle sprain. A physician's note indicates that the student should be excused from school on 04-15-08 due to a broken foot and dizziness. The student received a note from a pediatrician for absences from 04-22-08 through 04-23-08. The student was absent on 05-07-08 due to an appointment with an orthopedist. And, a note dated 05-20-08 seems to indicate that the student saw a counselor in the community. It appears that the student had excuses for approximately 23 days beginning in February 2008. The HRA team compared the physician notes with the attendance list and found discrepancies for dates that the school listed as unexcused when there was an available note on four of those dates: 04-15-08, 04-22-08, 04-23-08, and 05-07-08. The school also listed 05-20-08 as unexcused although the parent had a receipt for 5-20-08 which seems to indicate a counseling session although the time of the session is not listed.

The HRA examined records maintained by the regional truancy program. A handwritten, unsigned note that appears to have been written by the truant officer and dated April 7 indicates that a home visit was made to the student's home, that the student was in his bedroom and was home because he was getting a cast off today, and that the parents argued with the officer and threatened to sue her and get a restraining order against her. Another handwritten and unsigned note dated April 8th indicated another visit to the student's home with a police escort. The parent reportedly stated that the student is going to the doctor this a.m. and would be pulling him out of school to provide home school instruction. The parent asked the police to remove the truancy

officer from the property and the officer explained that she is there because of the court's intervention. A petition filed on 07-03-08 indicates that the student was a truant minor in need of supervision with a recommendation for a foster home and counseling. A summons for the student was issued regarding a motion to terminate parental rights on 07-03-08. On 08-25-08 the court ordered supervision due to truancy and required the student to attend school with no unexcused absences, tardies or suspension, to participate in counseling, to cooperate with service plans, to pay a fine of \$1000 per day of absence without valid cause, to perform 90 hours of public services and to have driving privileges suspended until age 25. A police incident report dated 08-25-08 documented that the police accompanied the truant officer to the student's home and discussed the possibility that parents could be arrested and other opportunities for educating the student such as home schooling. Correspondence from an attorney to a junior high school dated 10-09-08 asked that the student's absence on 09-26-08 and 10-01-08 be excused due to a mandatory court hearing; the letter also states that the truant officer from the regional program is contacting the student's current junior high for information even though she is no longer on the case. A statement dated 09-29-08 and signed by the current junior high school principal indicated that the truant officer from the Bradley School District requested information on the student on 2 separate occasions: 09-18-08 and on 09-22-08.

Finally, the HRA examined the parent's notes regarding the visits from the truant officer. According to the notes, the officer began visits in December 2007 and then saw the student almost weekly through June 2008. In some weeks the officer saw the student two to three times per week. Sometimes, the officer visited the home when the student was absent and at other times the officer saw the student at school. The parent contends in the notes that some of the visits involved accusations that the student was faking being ill and the student was at risk of being removed from the home.

Policy Review:

The HRA examined the school district's policy on attendance and truancy which states that:

Subject to specific requirements in State law, the following children are not required to attend public school: ... (2) any child who is physically or mentally unable to attend school....

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness...other stances that cause reasonable concern to the parent/guardian for the student's safety or health, or other reason as approved by the Superintendent or designee....

The attendance/truancy policy then details School Code requirements for a school board policy and truancy program although the policy does not delineate any further requirements related to excused absences, such as doctor's notes, other than those described above. A separate policy on release from school states the following:

For safety and security reasons, a prior written or oral consent of a student's custodial parent/guardian is required before a student is released during school hours: (1) at any

time before the regular dismissal time or at any time before school is otherwise officially closed, and/or (2) to any person other than a custodial parent/guardian.

The school district maintains a policy that prohibits harassment of a student by district employees. In addition, the district's policy on students with disabilities indicates that the district follows special education mandates. A separate policy for students at risk of academic failure describes programs available to assist the student.

The district's website maintains information about special education as well as Response to Intervention (RTI) which is described as "a multi-tier approach to the early identification and support of students with learning and behavior needs. The RTI process begins with high-quality instruction and universal screening of all children in the general education classroom. Struggling learners are provided with interventions at increasing levels of intensity to accelerate their rate of learning. These services may be provided by a variety of personnel, including general education teachers, special educators, and specialists. Progress is closely monitored to assess both the learning rate and level of performance of individual students. Educational decisions about the intensity and duration of interventions are based on individual student response to instruction. RTI is designed for use when making decisions in both general education and special education, creating a well-integrated system of instruction and intervention guided by child outcome data." There is no clear explanation as to how to access RTI other than the description indicates that universal screening is done for all students.

The referral procedure for the Regional Attendance Assistance Program was also reviewed. The referral begins with a school notifying the program of a student's attendance issues. The student is assigned a caseworker and an "Individualized Optional Education Plan" is developed. The caseworker meets with school officials, the student and the student's parents. When a student who has been referred is absent, the caseworker makes a home visit to verify the absence. When a student's attendance has improved by 90%, program participation is discontinued. However, if attendance does not improve, the program makes a referral to the Truancy Review Board and a contract is developed involving the student, parent/guardian, caseworker, and school principal. If the contract is not followed, further court action follows. Sample forms related to the referral process were reviewed. The referral form documents a variety of information including attendance data, participation in special education, the presence of physical or emotional problems, homelessness concerns, etc. A truancy intervention checklist allows the caseworker to document interventions attempted before referring to the truancy board such as counseling with student and parents, providing an alarm clock, weekly visits to the student, referrals to medical services, providing school supplies, referrals for tutoring, etc. A sample contract identifies requirements to be fulfilled by the student and parents such as attending classes, being on time for school, providing written verification of illness, etc. The contract requires signatures by the student, parent, school administrator, truancy board chairperson and caseworker. The Program also publishes a Directory of Family Services for families residing in Kankakee and Iroquois Counties.

Mandates:

The Illinois School Code (105 ILCS 5 et seq.) provides guidance on truancy issues. According to the Code (105 ILCS 5/3-13), "Each county superintendent of schools shall appoint a county truant officer."

The Code (105 ILCS 5/26-1) addresses attendance issues as follows:

Whoever has custody or control of any child between the ages of 7 and 17 years (unless the child has already graduated from high school) shall cause such child to attend some public school in the district wherein the child resides the entire time it is in session during the regular school term, except as provided in Section 10 19.1, and during a required summer school program established under Section 10 22.33B; provided, that the following children shall not be required to attend the public schools:

1. Any child attending a private or a parochial school where children are taught the branches of education taught to children of corresponding age and grade in the public schools, and where the instruction of the child in the branches of education is in the English language;

2. Any child who is physically or mentally unable to attend school, such disability being certified to the county or district truant officer by a competent physician licensed in Illinois to practice medicine and surgery in all its branches, a chiropractic physician licensed under the Medical Practice Act of 1987, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or a Christian Science practitioner residing in this State and listed in the Christian Science Journal; or who is excused for temporary absence for cause by the principal or teacher of the school which the child attends; the exemptions in this paragraph (2) do not apply to any female who is pregnant or the mother of one or more children, except where a female is unable to attend school due to a complication arising from her pregnancy and the existence of such complication is certified to the county or district truant officer by a competent physician;....

Furthermore, the School Code (105 ILCS 5/26-5) outlines the role of truant officers as follows:

The truant officer of the school district, whenever notified by the Superintendent, teacher, or other person of violations of this Article, or the county truant officer, when notified by the County Superintendent, shall investigate all cases of truancy or non-attendance at school in their respective jurisdictions, and if the children complained of are not exempt under the provisions of this Article, the truant officer shall proceed as is provided in this Article. The county truant officer, within the county and the district truant officers, within their respective districts, shall in the exercise of their duties be conservators of the peace and shall keep the same, suppress riots, routs, affray, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view and cause them to be brought before proper officials for trial or examination.

Finally, the School Code (105 ILCS 5/26-13) states that "School districts shall adopt policies, consistent with rules adopted by the State Board of Education, which identify the appropriate

supportive services and available resources which are provided for truants and chronic truants."

Federal special education regulations (34 CFR 300.101) require that "A free appropriate public education" be available to children with disabilities. A child with a disability is defined as a child "having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as 'emotional disturbance'), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services." (34 CFR 300.8). "Other health impairment is further defined as "having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance." (34 CFR 300.8)

State special education requirements (23 Ill. Admin. Code 226) require districts to seek out students who might be eligible for special education services as follows:

Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district...who may be eligible for special education and related services. Procedures developed to fulfill the child find responsibility shall include: 1) An annual screening of children under the age of five for the purpose of identifying those who may need early intervention or special education and related services. 2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems which interfere with their educational progress and/or their adjustment to the educational setting, suggesting that they may be eligible for special education and related services. 3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines....b) When the responsible school district staff members conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for evaluation set forth in this Subpart B shall apply. (23 Ill. Admin. Code 226.100)

According to the evaluation procedures (23 Ill. Admin. Code 226.110) districts are to make available information on the process for requesting evaluations and parental rights associated with evaluation requests. Parents or school representatives can request evaluations and requests made by parents are to receive a district written response.

CONCLUSIONS

Complaint #1: The special education program did not adequately address a student's needs in his individualized education program.

Complaint #2: The district disregarded the student's medical condition.

According to the record the student did not have an individualized education program for special education. Although absences for medical reasons (about half of all absences) were documented as well as failing grades, there was no apparent referral for a special education evaluation or RTI. However, the student did have an "Individualized Optional Education Plan (IOEP)" under the attendance assistance program. This attendance plan includes specific, measurable goals and identifies activities to be provided by the truancy program such as the provision of a clock, transportation arrangements, access to medical care, school counseling and face-to-face visits with the truancy officer. It is unclear the extent to which the activities were carried out as notes provided by the program were sketchy at best and some notes were unsigned. However, it appears that between documentation and reports provided by the program and the parent, the truancy officer did make regular visits.

The district maintains information about special education, including RTI, but the website, which is the source referenced to the HRA for policy information, does not clearly describe the means to pursue RTI for students having difficulty in school. The attendance program maintains policy and procedural information related to the "Individualized Optional Education Plan."

Special education regulations require school districts to seek out and identify students in need of special education services and provide evaluations. Furthermore, special education regulations indicate that students with health impairments can be eligible for special education services if the health impairment impacts educational performance.

The School Code requires districts to have policies in place with supports and resources for truant students.

Because the student in this case did not have a special education IEP, the complaint that his needs were not addressed in the IEP cannot be substantiated. However, the HRA does have concerns that, given absences some of which were documented as health-related as well as the student's failing grades, a referral for special education evaluation or at least RTI was not pursued consistent with special education requirements that districts are to seek out and identify students in need of special education services. **Therefore, the complaint that the district disregarded the student's medical condition is substantiated.** Furthermore, the HRA questions if the complainant in this case may have been confused with the acronyms for special education (IEP) being so similar to the acronym to describe the plan for attendance services (IOEP). Finally, that HRA notes that evidence that the IOEP was followed was sketchy due to limited documentation that was not always signed or dated.

Recommendations:

1. Follow special education requirements to seek out and identify students who may need special education services, including students with repeated absences for medical reasons who are experiencing problems with educational performance. Utilize RTI and special education evaluations to confirm or deny special education eligibility as per regulations.

2. Since the school uses the website as a reference for school policies, ensure that the website includes information about the referral process for special education evaluation and RTI.

The HRA also suggests the following:

1. Request the provision of clear, dated and signed documentation of the attendance program's activities on behalf of district students.
2. Ensure that parents and students understand that a referral to the attendance program and the subsequent IOEP is not related to special education services. Consider requesting that the attendance program change the acronym of its documented plan so that it does not resemble special education terminology.

Complaint #3: The district harassed the student over absences related to his medical condition.

According to the complaint, the truant officer harassed the student over medically related absences, made inappropriate remarks and had the student sign a document without involving the parent.

Although the truant officer is not a direct employee of the district, the officer's visits are triggered by the district.

The School Code mandates compulsory student attendance with some exceptions noted, including for physical disabilities if certified by a medical professional. The Code also mandates that the officer investigate truancy and non-attendance. The district's attendance/truancy policy allows a student to have excused absences for health reasons but does not place any requirements on the parent/guardian or student to provide proof of a health related absence.

The student had significant absences for the time period reviewed by the HRA. Approximately half of the absences appeared to be health related and were excused. On at least 4 occasions, the HRA found discrepancies between the district's record indicating an unexcused absence and an available physician's excuse. Regardless, the School Code provides for investigations of non-attendance by the truancy officer. The HRA could not confirm or deny that the truant officer made inappropriate comments as this would be one person's word against the other's. The HRA does note that the police were contacted on at least one occasion. Also, the truant officer did pursue student contact after the student left the school although this action may have been responsive to a court requirement. The HRA did not find evidence that the student sign or was asked to signed a document without involving the parent.

Based on the available evidence, the HRA does not substantiate the complaint that the district harassed the student over absences related to his medical condition.

The HRA does take this opportunity to suggest the following:

1. Ensure that documentation regarding excused and unexcused absences is accurate.
2. Consider updating attendance/truancy policy to include requirements related to physician excuses for absences.
3. If a parent voices concerns regarding a truant officer's behavior, notify the program and pursue a review.

RESPONSE

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

BRADLEY WEST SCHOOL
200 WEST STATE ST.
BRADLEY, IL 60915-2064
(815) 933-2216
Fax (815) 933-2071

BRADLEY ELEMENTARY SCHOOLS

DISTRICT NO. 61
DR. SCOTT GOSELIN, SUPERINTENDENT
BRADLEY, ILLINOIS 60915-2064

www.bradleyschools.com

BRADLEY CENTRAL SCHOOL
260 NORTH WABASH AVE.
BRADLEY, IL 60915-1697
(815) 939-3564
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SUPERINTENDENT'S OFFICE
111 NORTH CROSSWELL AVE.
BRADLEY, IL 60915-2064
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BRADLEY EAST SCHOOL
610 EAST LIBERTY ST.
BRADLEY, IL 60915-2424
(815) 933-2233
Fax (815) 933-3810

December 20, 2011

Thomas Larison Phillips, Chairperson
Regional Human Rights Authority
2125 South First Street
Champaign, IL 61820

District Response Human Rights Authority Case #09-060-0910

Dear Mr. Phillips:

Bradley Elementary School District 61 has reviewed the findings regarding Human Rights Authority Case #09-060-9010, and maintains that the district has policies and procedures in place to ensure that every child has access to a free, appropriate, public education. Staff and families are informed of the policies and procedures regarding Response to Intervention, Special Services, Truancy and Medical Concerns through our district handbook. Bradley Elementary School District 61 acknowledges the recommendation provided by the Guardianship Committee and intends to have this information made available through our district website.

Please feel free to contact me if you have additional questions.

Sincerely,


Dr. Scott A. Goselin

RECEIVED DEC 21 2011

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 09-060-9010

SERVICE PROVIDER: Bradley School District

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

Scott Heselri
NAME

Superintendent
TITLE

12-20-2011
DATE