



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 10-090-9008
Illini Bluffs School District

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Illini Bluffs School District, a K-12 school. Complaints alleged the following:

1. An aide for the student has not been carrying out assigned duties.
2. The school violated the student's confidentiality.
3. There is a lack of communication between the special education program and the student's parents.
4. The student's IEP (Individualized Education Program) was not followed.
5. The staff who serve the student are not adequately trained on his needs.
6. The student was placed in time-out for behaviors that are considered traits of his disability.

If found substantiated, the allegations would violate Section 6 of the Illinois School Student Records Act (105 ILCS 10/6) concerning confidentiality and Special Education Regulations (23 IL. Admin. Code 226 and 34 C.F.R. 300) concerning the school's adherence to students' IEPs.

Illini Bluffs School District is a K-12 school with approximately 973 students. There is one Speech Pathologist on staff who is employed by the school district while the rest of the special education staff works through a special education co-op program. 13.76% of the Illini Bluffs students have IEPs. The school has separate special education classes and programs but the students with IEPs also participate in regular division classes. Illini Bluffs School District serves the Glasford area.

To investigate the allegations, HRA team members met and interviewed the school's superintendent, a co-op representative, and examined a sensory break log, the student's take home calendar, the student's IEP, a daily aide checklist, email correspondence between the school and the student's parents, and the school policy handbook. All documents were reviewed with the guardian's written consent.

COMPLAINT STATEMENT

According to the complaint, the student's aide had not been warming the student's food daily. The student has a special diet that requires heating daily in accordance with his IEP. Another complaint states that the school staff do not communicate well with the parents. The complaint contends that the school does not keep the parents informed for fear that the parents will take some adverse action against the school. It is also stated in the complaint that the staff do not send home the assignment notebook regularly and do not send home study guides as requested. It is also stated that the caseworker does not maintain regular contact with the parents, and the school does not follow the IEP in regard to modified assignments, modified tests, use of flash cards, and books being sent home with the student. The complaint also states that the student's confidentiality was violated due to the student's diagnosis being posted on the bus schedule which was hanging on a wall in the school. The diagnosis was removed after the parents complained. Finally, the complaint states that the student was placed in time-out for behaviors associated with the student's diagnosis, such as not listening and being off task.

FINDINGS

Interviews with Superintendent and Co-Op Representative

The HRA began its investigation of the complaints by interviewing the school superintendent and a co-op representative who works with the organization that employs most of the school's aides. In response to the confidentiality complaint, the superintendent explained that the incident occurred during the all school registration on the school grounds. The registration is made accessible to all students, and parents of students, who will be attending school that year, to register for classes, pay for fees, etc. Parents and students enter the school and proceed to different tables set-up within the school to carry out the different tasks needed to prepare their children for the school year. Each area was set-up with a staff member behind a table to assist the parents. Bus routes were hung on the walls behind the tables so that the parents could see the routes and times and also so that the bus drivers could bid on different routes for the year. On the bus route of the student named in this complaint, there was a note posted regarding the student's diagnosis. The superintendent explained that this note was posted due to the fact that the student had a specific seat on the bus that he sat in everyday. This seat was designated by the student due to the student's own comfort level with bus riding. This designated seat is not listed in the student's IEP. The student's parents saw the post regarding the student's diagnosis and complained to the superintendent. The posting was removed and the superintendent spoke to the staff involved with the posting. The superintendent was informed that this posting was not done in malice but rather to inform bidding bus drivers of the student's seating preference. Also, the superintendent informed the HRA that the bus route procedure has changed due to this confidentiality situation. The bus routes are now mailed individually to each student's family with no information about the students.

In regards to the complaint about the aide not warming the student's food, the superintendent explained that the aide did neglect to warm up the food on occasion. The aide responsible has left the school and the student has a new aide. The new aide is aware of the cold food issue and there have been no complaints regarding the food since the new aide has taken over duties. There is also a daily checklist for the aide that states each task the aide needs to carry

out for the student. This checklist is to act as a reminder and the aide must checkmark each task upon its completion. This list has items that appear in the student's IEP, as well as additional items that do not appear (e.g. "Meet [student] in the lobby and escort him to the gym in the morning"). Also, the daily checklist consists of notations for the given day (e.g. one task states that the aide will help the student complete his assignment notebook and pack whatever assignments are not completed during the day. A notation to this task reads "No Homework").

In regard to the issue of lack of communication between the aide and parents and the aide not carrying out duties or following the IEP, the superintendent and co-op representative presented the HRA team with the school's documentation of tasks and correspondence with parents. The documentation consisted of email correspondence with the student's parents, a log that lists the student's daily activities and sensory breaks, the aforementioned daily task list for the aide, and copies of a daily notebook that is sent home with the student. The daily notebook is sent home with the student and signed by the student's parent upon receiving the notebook. The notebook consists of assignments that the student needs to complete, school materials such as reading book and flashcards, and dates for classroom tests. The superintendent did explain that on occasion the student has taken the notebook out of his book bag after the aide placed it in the bag and the notebook did not get home to the parents.

The superintendent also presented the HRA team with a log that tabulates the amount of sensory breaks the student is taking on a daily basis. This log also documents what class subject the sensory break took place in, what activities took place in the class, daily notations on the student (ex. 1/11/10 "In Math class, [student] said his ear hurt"), as well as any additional comments that are pertinent to the school day. This log is made available to parents.

Also, as another mode of communication, the school provides a monthly meeting between the school faculty who work with the student, a co-op representative and the student's parents. These monthly meetings are part of the student's IEP.

Another complaint regarding the school not following the student's IEP stems from the student appearing in a picture during a school activity. The IEP states that camera flashes, darkness in the school's auditorium, and loud noises bother the student and that the parents are to be given advance notice of events like this that may trouble the student. The superintendent stated that there was a situation where a non-faculty member was in the school taking pictures that included the student. The superintendent also stated that the student is now taken out of all picture taking situations including school picture day.

When questioned about the complaint regarding the staff's insufficient training, the co-op representative stated that the student's original aide who started the school year had taken a 4-day training session and then left the position. A replacement aide was brought in to work with the student. The replacement aide did not receive the same training as the original aide who was hired because the sessions are only offered during the summer. The aide did receive one-on-one training with a specialist in the student's disability field before starting work with the student. Also, the specialist is available to the aide for any questions regarding the student's disability. The new aide will be taking the 4-day training when the class is offered in the summer.

Finally, in regards to the student being put into time-out for behavior that is considered to be part of his disability, the superintendent and co-op representative stated that sitting out the student from class for 5 minutes was more of a redirection rather than a traditional "time-out." It was also stated that the student did not have a Behavioral Plan because there was never a disciplinary problem with the student. Both the superintendent and the co-op representative stated that if the student was ever put into time-out, the parents would be notified.

Record Review

With consent, the HRA obtained and reviewed copies of the student's IEP, a copy of the school's Parent-Student Handbook which outlines the school's policies, the student's daily log that is updated by the faculty, email correspondence between the school faculty and the student's parents, and an unsigned letter regarding the possible use of a time-out with the student. This documentation review was conducted to ascertain if the complaint that the school had not been following the student's IEP is valid. Also, the Parent-Teacher Handbook was reviewed to determine the school's policy on confidentiality and to see if the school's confidentiality was in congruence with state and federal mandates. According to the student's IEP, the student was diagnosed with Autism. Within the student's IEP, it is stated that the student is bothered by camera flashes and the school is to "give advance notice of events that may trouble [the student]." The advance notice would be given to the parents of the student. In addition to this, the IEP states that the student's "Lunch is to be heated daily" to ensure that the student's dietary needs are met. Also, the IEP states that "all foods come from home and approved by parents." In regards to classroom work, the IEP states that, if needed, the student should be allowed extended time to complete classroom assignments, textbook and worksheets should be highlighted, tests and assignments should be modified, and the aide should provide sensory breaks. The IEP also states that there must be weekly reports on the IEP progress, a daily prompt sheet per doctor's request, and that the parents will be involved in a monthly IEP meeting. The IEP does not state that a daily log must be sent home with the student or that the parent must get advanced notice regarding testing. Also, the IEP does not state that the student has a specific seating arrangement on the school bus, that the aide must fill out a daily checklist, or that any specific study guides or flashcards need to be sent home. There are no other mentions in the IEP regarding a communication process involving the parents. There is not a Behavior Plan or behavior problem mentioned within the IEP and there is no mention of the use of time-outs as an approach to be used with the student.

The school's confidentiality policy reads:

In accordance with Policy 7:15 - Student and Family Privacy rights all surveys requesting personal information from students, as well as any other instrument used to collect personal information from students, must be for the purpose of research, of monitoring the quality of District's education programs or of assisting student's career choices. This applies to all surveys, regardless of whether the student answering the questions can be identified and regardless of who created the surveys.

This policy also mirrors the requirements of the Illinois School Student Records Act (105 ILCS 10/6).

As stated previously in the "Findings" section of this document, the HRA also reviewed copies of the daily calendar that is sent home with the student, the daily tabulation sheet of the student's sensory breaks, the daily aide checklist, monthly meeting agendas, and email correspondence that was sent from the parent to school faculty members.

The student's daily log and the unsigned record were reviewed in regards to the complaint that the student was put into time-out for behaviors that are associated with his disability. The student's daily log reads that on 11/10 the student sat out of recess for five minutes for "not paying attention after numerous requests." The daily log also states that the student rushed through assignments and had to redo the assignments because they were done incorrectly. Finally, the log states that the student was talked to because of the lack of focus that day.

The unsigned record from 11/10 states that an aide working with the student spoke with a supervising faculty member asking permission to put the student in a time-out. The supervising faculty member discussed the situation with the aide and then told the aide to sit the student out for 5 minutes. After sitting out for 5 minutes, the faculty realized the student still did not understand why he sat out. The faculty members then discussed the situation with a specialist in the student's disability field and decided to pursue the use of a positive behavior system if the behavior continued. The unsigned letter maintains that the student was not sat out due to behaviors that are traits of his disability.

The email between the faculty and the student's parents were reviewed in regards to the complaint about lack of communication as well as the complaint that the school was not adjusting the student's curriculum. The HRA also reviewed email correspondence between the school's faculty and the student's parents. One email, dated March 18th, 2010 between a faculty member and one of the student's parents reads "He got a 95% on his grammar test! I did not include the prepositions. We tried and tried to work on them this week, but it was a difficult concept for him. He was tested on all the other concepts." Another email, on October 22nd, 2009 between a faculty member and parent reads "I did find out that the new science study guide should be ready by the beginning of the week, As soon as I get it I will get it modified and send it home with [student]."

MANDATES

The HRA researched state and federal mandates in accordance with the complaints raised within this report. In regards to the complaint that the student's IEP has not been followed, Illinois' regulations state that "Each school district shall provide special education and related services to eligible children in accordance with their IEPs" (23 Illinois Administrative Code 226). Also, in accordance with the Special Education regulations (34 C.F.R. 300.322), the parents are to be a part of the IEP team and, if not, all information is to be communicated to them regarding the IEP meeting so that the parents can participate.

In regards to the complaint that the school violated the student's confidentiality, the Illinois School Student Records Act (105 ILCS 10/6) states that no student record, or information within the record, can be released unless the information is approved via written consent. The

only exception to this rule is if the information is released "To any person for the purpose of research, statistical reporting, or planning, provided that such research, statistical reporting, or planning is permissible under and undertaken in accordance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g)".

In regards to the complaint that the student was given a time-out for behaviors that are considered traits of his disability, it is stated, in accordance with Special Education regulations (23 Ill. Admin. Code 226.230) that the IEP would require a Behavioral Plan with a section to "Describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors."

In regards to the complaint that the staff are not adequately trained on his needs, Special Education regulations (23 Ill. Admin. Code 226.800) state that "Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities." Also, Federal special education regulations (34 C.F.R 300.156) state that "The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purpose of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities."

CONCLUSION

Complaint #1 and #4: An aide for the student has not been carrying out assigned duties and the student's IEP is not followed

The complaint states that the aide for the student has not been carrying out the assigned duties, which include not providing accommodations and not heating lunches. Through reviewing the daily notebook and the daily checklist provided by the superintendent, the evidence indicates that accommodations and heated lunches are being provided as per the IEP as per the current arrangement. Also, through reviewing the aide's daily checklist, tasks are logged as completed such as "clean off [student's] desk with special cleaner" and "Help [Student] complete his assignment notebook and pack whatever assignments were not completed during the day." Although the school admitted that there were situations where the student had not taken his notebook home, there is a good process in place and a solid line of communication with this process. Also, some of the assigned duties of the aide are not documented in the student's IEP and therefore are not direct violations of special education requirements. In regards to the complaint that the staff had not been modifying the curriculum or testing, the HRA reviewed emails between the faculty and the student's parents that discuss the student's curriculum being modified. The emails reviewed in the "Record Review" section of this document indicate that the curriculum and tests were modified for the student. The HRA **does not substantiate** the allegation that the aide is not carrying out assigned duties under this current scenario. However with regard to the complaint #4 that the student's IEP is not followed, the school superintendent acknowledged situations where the student's food was not warmed up in the past and that the student appeared in a photo. The superintendent did state that the food was not warmed by an aide who no longer works for the school district and there have not been issues with the student's lunch since the aide has left. Also, the HRA received an IEP Team Meeting agenda that stated

there would be spring pictures taken the next day, which indicates that the parents were being notified in advance as requested on the student's IEP, but, even with the advanced notice, the student still appeared in a picture. The superintendent admitted that in one instance, the student was removed from a group photo but, later that day, was captured in another photo situation. The HRA finds the complaint that the student's IEP was not followed to be **substantiated**, only in regards to complaints that the student's food was not heated and that the student appeared in a photograph.

The HRA makes the following recommendations:

- Follow the IEPs as per the Special Education regulations. When there is a photography situation within the school, contact the student's parents in advance and follow any directions provided by the parents for removing the student from these situations. Also, on any day that the student's parents do not want the student to appear in pictures, notify the 1:1 aide to assure that the student is not involved in any situations where his photograph could be taken.

The HRA offers the following suggestion for consideration:

- Random checks by the superintendent or designee of the aide's daily checklist, as well as random checks on the food to see if it has been warmed.
- In the student's IEP, move the statement regarding the heating of the food to the "Accommodations and Modifications" section of the IEP. These tasks categorically belong in this section of the IEP and future readers, who are familiar with the IEP form, will easily be able to access this section. This will also limit the possibility of the task being overlooked on the form. It is also suggested to move the section regarding the special cleaner to the "Accommodations and Modifications" section of the IEP for the above reasons.
- Review the daily tasks assigned to the aide and ensure inclusion of each task on the list in the student's IEP. This will help in the communication of what is exactly needed for the student's IEP.

Complaint #2: The school violated the student's confidentiality

The complaint states that the student's diagnosis was displayed on a bus route that was in a common, public area. This violation would be in direct conflict with the Illinois School Student Records Act (105 ILCS 10/6) which states that no school records or information can be shared with the exception of certain circumstances that benefit the student (see above Mandate Section). This action also violates the Illini Bluffs School policy which ensures confidentiality.

As previously stated, the superintendent of the school admits to the confidentiality violation and has put a new process in place. While the HRA **substantiates** a violation of confidentiality, there is no recommendation as the matter has been resolved. The HRA offers the following suggestions for consideration:

- Mention the student's sitting preference to the bus driver who will be in charge of the route (and any substitute bus driver) only after the driver for the route has been chosen.
- Include the student's preferential seating on the bus in the student's IEP.

Complaint #3: There is a lack of communication between the education program and the parents

The complaint states that there is a lack of communication between the school and the student's parents. The school has provided the HRA with documentation of the different modes of communication between the school and the parents. The school provides the parents with a daily calendar that the parents must sign once receiving and a daily log that tabulates the student's sensory breaks. The school also provides a monthly meeting with the parents that involve the superintendent, the co-op representative, the student's aide, and other members of the school's faculty who are involved in the student's daily activities. The HRA has also reviewed emails that have been sent between the parents and the staff working with the student. Because of these multiple communication channels between the parents and the school being used consistently, the HRA finds this complaint **unsubstantiated**.

The HRA does offer the following suggestions for consideration:

- Include the daily communication notebook, as well as any other means of communication desired by the parent, in the student's IEP.

Complaint #5: Staff who work with the student are not trained on his needs

This complaint states that the staff involved with the student are not trained to handle the needs associated with the student's diagnosis. The co-op representative acknowledged that the current aide working with the student did not have the same 4-day training as the aide who started the year with the student. The co-op representative assured the HRA that the aide will get the same training as the previous aide the next time the training is available (the training sessions only occur once during the year). In the meantime, the aide received training with an individual who has expertise in the field of the student's diagnosis and the aide has referred any questions involving the student to the expert. Also, the student's teacher for the next year has already had the training. Due to the fact that there are many individuals involved with the student who have had experience with the diagnosis, the HRA finds this complaint **unsubstantiated**.

The HRA does offer the following suggestions for consideration:

- Any aide working with the student in the next year should have training in the area of the diagnosis and also a back-up for that aide should receive the same training.
- Periodically check with aides on any further training needs.

Complaint #6: The student was placed in time-out for behaviors that are considered traits of his disability

The complaint states that the student was put in time-out for behaviors that are considered traits of his disability. The complaint states the student was put in a time-out rather than given a sensory break to assist the student to remain on task on 11/10. Both the school superintendent and the co-op representative stated that the student does not have a disciplinary problem and does not have a behavior plan in place. The superintendent and co-op representative maintain that on 11/10 the student was not disciplined but rather removed from the situation as a way to refocus the student's attention. The student's daily log from 11/10, which was referenced earlier in this document, states that the student was sat out of class for 5 minutes but never specifically states that the student was put into time-out. The unsigned letter, which was referenced earlier in this document, mentions that the student may have been put in time-out, but maintains that the student was not sat out due to behaviors that are traits of his disability. The HRA cannot conclude from this evidence that the time-out was taken due to characteristics of the student's disability and finds this complaint **unsubstantiated**.

The HRA does offer the following suggestion for consideration:

- Whenever the student is removed from an activity, even if this removal is not considered a disciplinary time-out, contact the parents to explain the situation.
- Define possible scenarios for time-out requests or situations where the student would need to "sit out" within the student's IEP.

The HRA acknowledges the full cooperation of the Illinois Bluffs School District during the course of its investigation and commends them on their data collection to monitor and ensure service provision.

RESPONSE

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

Illini Bluffs Unit Dist. 327

GLASFORD, IL 61533

**Samuel P. Light
Superintendent**

9611 S. Hanna City - Glasford Rd.
Glasford, IL 61533
Phone 309-389-2231
Fax 309-389-2251

Joseph M. Stoner, Principal

Illini Bluffs High School
212 N. Saylor St.
Glasford, IL 61533
Phone 309-389-5681
Fax 309-389-5682

Karen R. Peterson, Principal

Illini Bluffs Middle School
212 N. Saylor St.
Glasford, IL 61533
Phone 309-389-3451
Fax 309-389-3454

Gavin R. Graham, Principal

Illini Bluffs Elementary School
9611 S. Hanna City - Glasford Rd.
Glasford, IL 61533
Phone 309-389-5025
Fax 309-389-5027

June 7, 2010

Guardianship & Advocacy Commission
Gene Seaman
Human Rights Authority Coordinator
5407 N. University, Suite 7
Peoria, IL 61614

Mr. Seaman,

On behalf of the Illini Bluffs Community School District #327 and Special Education Association of Peoria County, I want to thank you and the Peoria Regional Human Rights Authority of the Illinois Guardianship & Advocacy Commission for your professionalism and support of special education students and adults. The investigation conducted on case number 10-090-9008 was a learning experience that produced positive results for everyone involved. The recommendation resulting from the investigation is documented below:

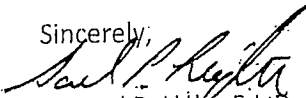
The recommendation:

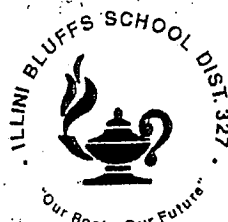
- Follow the IEPs as per the Special Education regulations. When there is a photography situation within the school, contact the student's parents in advance and follow any directions provided by the parents for removing the student from these situations. Also, on any day that the student's parents do not want the student to appear in pictures, notify the 1:1 aide to assure that the student is not involved in any situations where his photograph could be taken.

This recommendation is not only good direction for the student and family involved in case number 10-090-9008, but for the entire population of Illini Bluffs CUSD #327. Every parent/guardian will be provided prior notice of known picture opportunities a minimum of three days prior to the event. This notification will provide parents an opportunity to communicate with the school for additional directions in regards to their student. If a parent requests that a student not be photographed, supervision will be made available for the student to remove them from the possible situation of being photographed. Additional attention to detail will be provided for students with special needs that have difficulty being photographed. This level of attention will increase the productivity of the educational process.

Thank you very much for your recommendation and suggestions, we will review our procedures and make every available adjustment to provide a better learning environment for all students.

Sincerely,


Samuel P. Light, Ed. D.
Superintendent



RECEIVED
JUN 10 2010

**GUARDIANSHIP &
ADVOCACY COMMISSION
PEORIA REGIONAL OFFICE**