



---

**FOR IMMEDIATE RELEASE**

---

**Peoria Regional Human Rights Authority  
Report of Findings  
Case #10-090-9014  
Community Workshop and Training Center**

The Peoria Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning the Community Workshop and Training Center:

1. The Center underpaid a workshop participant but then reimbursed the participant without explanation.
2. The Center fails to address physical accommodations in work assignments.
3. Center staff fail to address participant concerns.
4. The work area is cold and uncomfortable.

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1 et seq.), the Fair Labor Standards Act (29 U.S.C.201) and regulations that govern vocational programs (59 Ill. Admin. Code 119).

The Community Workshop and Training Center (CWTC) is located in Peoria and provides in-house vocational opportunities to approximately 350 individuals from the Peoria area. The Center also provides other, community-based vocational services and maintains 21 residential facilities. The complaints concern the in-house vocational program.

To investigate the allegations, an HRA team met with and interviewed an agency administrator and a caseworker. The team also observed the work area of a client. And, the team reviewed, with consent, a client's record. Finally, the team examined pertinent agency policies and regulations.

**COMPLAINT STATEMENT**

According to the complaint, a participant of the Center's vocational program stated that she received letters indicating that she was underpaid in 2007 and 2008 and would receive reimbursement. However, no explanation was reportedly provided regarding the underpayment and there was concern that the reimbursement would impact public benefits. In addition, the complaint states that the client has physical problems and the Center will not provide accommodations. When the client argued with staff over the provision of the accommodations, she was allegedly suspended. The complaint states that, in general, staff will not listen to the

client when she had concerns. The complaint also states that the client does not get enough work, enough days of work and does not like her assignments but voicing her concerns makes no difference. Finally, the complaint states that the work area was cold and uncomfortable during the winter season. According to the complaint, the furnace only kicked on once during the day on December 18, 2009.

## FINDINGS

### Interviews

Agency interviews began with an explanation of the vocational program. Staff reported that the agency serves a diverse population in which approximately 60% of clients have a developmental disability, 35% have a mental illness and 5% have a physical impairment. The in-house workshop program serves individuals who have barriers to community employment and an in-house developmental training program allows individuals to focus on developing daily living skills. A placement unit is also available for individuals approaching readiness for community employment. An individualized, person-centered vocational plan is developed on an annual basis and the client runs his/her own meeting; prior to treatment planning meetings, clients are asked to complete work self-assessments and satisfaction surveys. On a monthly basis, clients are kept informed of progress on work goals. A licensed individual reviews plans and any mental health assessments; mental health assessments are completed by a master's level professional. The agency handles contract work for several area companies that total approximately \$2 million. Most client referrals come from the Illinois Department of Rehabilitation Services although the Center maintains linkages with area community mental health centers and with transition specialists from local special education programs. Clients are paid for vocational work on a 2-week schedule. In the past year, the Center experienced a reduction in contract work which impacted work schedules for clients and staff alike. Benefit and holiday time were eliminated for both CWTC staff and clients; this was explained by the agency director and at monthly advocate meetings in July 2009. Clients in the regular workshop still accrue paid vacation time based on the amount of hours worked. Recently, the Center has seen an increase in contract work.

The agency then explained the manner in which rates of pay are determined using guidelines set forth by the Department of Labor. Basically, an annual prevailing wage is determined after evaluating the wage rates of experienced earners from other area employers; an average rate is figured and used as the prevailing wage rate. In the past year, staff identified, during an audit, that there was an error in the calculations used for the prevailing wage for 2007 and 2008. The difference impacted a few positions and only totaled a few cents; however, depending on the number of hours worked and the work situation, the difference could add up. Clients were reimbursed the difference. A memorandum was given to clients with the specific amount to be reimbursed. A consumer advocate discussed this issue during a presentation to clients and clients were encouraged to talk with their case managers if they had questions or concerns.

According to staff, the number of days a client works depends on a number of factors, including physical issues, stressors/coping mechanisms, individual preferences, interest in work and the potential impact on public benefits. There is no required minimum in the number of days

or the number of hours individuals are expected to work. In 1998, through the Illinois Department of Mental Health, the CWTC developed a more flexible program for persons with mental illness in which schedules and services were modified to accommodate the participation of persons with mental illness.

If a client experiences a physical issue that requires an accommodation, the client is to secure a physician's note. The crew chief is then notified and work assignments are given accordingly. Any accommodation would also be included in the client's treatment plan. The agency does not employ a nurse on staff; however, a consulting nurse visits the agency twice per month often providing educational seminars for clients on such topics as nutrition, safety and first aid.

The agency recognizes a client's right to grieve and maintains a formal grievance process which is described in the client handbook. When a client is suspended, he/she is provided a form for client feedback. The client advocate provides support and assistance to any client interested in filing a grievance. Clients also have access to a case manager for problem resolution; case managers handle caseloads of approximately 40 clients.

With regard to the temperature in the work area, staff explained that when the agency had two shifts, the heat was on until 10 p.m. The heat is typically cut back when clients are not in and the work area tends to be cooler in the morning hours until the area heats up. Upon receiving the complaint, the agency stated it conducted a six week study of the work area and found that the average temperature in the work area was 67 degrees. The heat was discussed during meetings with the consumer advocate. Agency staff indicated that the air conditioning will probably not be turned on until later in the summer.

The HRA inquired about the client in this case. The client has worked at the agency for more than 30 years. Staff reported that she has had Glaucoma in one eye since the age of 19 and although not considered legally blind, she attends an area center that assists persons with visual impairments but refuses any accommodations for her vision. Staff report that her quality of work is excellent. The client is also reported to have seizures at the rate of approximately one per month. She originally came to the agency due to a developmental disability but after a July 2003 psychological evaluation her treatment focus shifted to a mental health program. According to staff, the client has anger management concerns with repetitive themes, including distrust of others, concern for preferential treatment of others and the lack of personal insight. Some of the concerns are racially based. The client was actually suspended in August due to a behavioral incident involving a client from a different ethnic origin after which she temporarily resigned. However, the agency director reached out to her and asked her to return. Staff reported that the client was suspended twice in the past year for aggressive behaviors toward other clients; she did not appeal either instance. External counseling was attempted with the client but she would not attend; therefore, in-house counseling/anger management sessions are scheduled one time per week during the workday but the client does not always attend. These sessions occur at 12:15 p.m. on Thursdays. The client has no behavior plan in place.

Staff explained that the client had been scheduled to work 5 days but would only show up to work 3 days reporting that she had appointments or other reasons that interfered with the 5

day schedule; staff stated that on some days she would not always call in to report that she was not coming in. Therefore, a 3-day schedule was established with the client working Wednesdays, Thursdays and Fridays. There was recent discussion about the client's interest in increasing the number of days she works with staff informing her that they would need to see more progress in her goals including counseling and social interactions.

The client reportedly was part of the consumer advocate presentation that discussed the wage reimbursements but she did not raise any questions at the presentation or subsequently with her case manager.

A discussion ensued regarding the client's work. Staff indicated that the job is primarily sedentary with staff bringing her work to her. Staff explained that the packages she handles weigh approximately 8 ounces. She places the parts in a container and a table aide takes work, labels, etc. to her. Sometimes, items in the larger container will need to be configured so that bending is limited; staff asserted that after receiving a physician's note indicating the client's limitations that a staff person was made available to reconfigure the container if needed. Staff stated that the client now just drops items into the container. Staff concluded by stating that the client is familiar with and has used the agency grievance process.

### **Tour**

The HRA team toured the workshop and observed the work area of the client as well as the client at work. At the time of the tour, it was cool in the work area but it was unusually warm outside for the time of year; it was approximately 70 degrees outside. The HRA did observe a ribbon tied to a vent that demonstrated air flow. The team also saw an accommodation in place for an individual who apparently had a vision impairment; the individual was observing parts with the use of a magnifier. The team then observed the client who was sitting down and handling parts that were then placed in a box located at her side; the boxes were then placed in a container on the floor and the container was moved so that reaching was limited. The part weighed less than one pound. The client also placed a label on each box. The client worked very quickly and had handled more than 400 parts so far that morning.

### **Client Contact**

In a phone call subsequent to the site visit, the client stated that staff just started configuring the container so that bending would be limited. The client asserted that she is interested in working more days and would only need to take time off approximately one time per month. The client also stated that she wants to work a different, counting job but staff reported that she needs to work four more months at her current job before moving elsewhere; the client stated that she has been at current job since September 2009. Finally, the client stated that advocacy meetings are held on Mondays but the client does not work on Mondays and is reportedly not allowed to attend advocacy meetings if she is not working.

Follow-up was made with a CWTC administrator who confirmed that advocacy meeting days are held on Mondays and clients can attend the meetings even if they are not working. Also, meeting minutes are posted the following day and meeting information is shared in the monthly newsletter distributed to clients.

## **Record**

With client consent, the HRA team examined the client's record. The client's Individualized Service Plan, dated 03-12-10, documents the client's seizures and glaucoma as well as a knee pain from a prior surgery. The plan notes her restrictions of no repeated stooping, bending or lifting of items over 10 pounds. Various aspects of her situation and needs were reviewed and interdisciplinary team (IDT) recommendations were made. Examples of recommendations included the following: continue participation with the blind center; secure a new vision exam; continue therapy sessions focused on anger management, relationships and communication; learn tolerance and acceptance of other cultures; maintain her level of independence; and meet with her vocational counselor for mental health case management, community support and vocational engagement services. Several sections reference her anger, acceptance issues and aggressive behaviors. In the client's dreams section, the client indicated her interests in doing more "counting jobs," learning Braille, and maintaining her independence. The identified goals were listed as follows: 1) Increase ability to access mental health, vocational, educational, and community services; 2) Increase coping, anger management and behavioral skills through weekly counseling sessions; 3) Maintain rehabilitative, resiliency and recovery skills through participation in community support services; 4) Improve ability to seek competitive employment, volunteer opportunities or learn Braille; and, 5) Maintain productivity rate. The client participated in and signed the treatment plan. In the plan's narrative section, it is noted that the client often feels that she is treated differently/unfairly, that she requests physical accommodations for her work, and her current work area provides for needed accommodations.

A satisfaction survey completed by the client on 03-12-10 indicated that the client is generally satisfied with services although she added in a note that "I want people to start believing me."

Correspondence from the Center to the client dated 10-02-09 stated that the client was underpaid during 2007 and 2008 and the client would be reimbursed \$191.73. A similar statement was received by the HRA from another CWTC client who was being reimbursed \$331.58. Neither statement describes the reasoning for the underpayment.

## **Policies/Correspondence**

An unsigned statement dated July 2009 was provided to the HRA. The statement describes the prevailing wage survey and the error in calculations as well as the plan for reimbursing clients. It is unclear to whom this correspondence was directed or who wrote it.

The HRA examined the Vocational Handbook which contains policy information. The Handbook, dated 2008, is provided to clients. The handbook describes the various services offered by CWTC and the treatment planning process. In the description of the treatment planning process, a review of reasonable accommodations is included. Under a section entitled, Program Hours/Distribution of Work, the handbook indicates hours of operation as 8 a.m. to 4:30 p.m. with schedule adjustments being made due to increased work load, low contract work or special work schedules. The use of accommodations is referenced in its own section and indicates that a vocational counselor will assist with arrangements for accommodations. A section on General Vocational Guidelines includes the rule that fighting, swearing and other non-adult work behaviors are not allowed and can result in suspension. The handbook indicates that

wages are paid at either a piece rate or hourly rates and mentions the prevailing wage for a particular job - information that can be secured from a vocational counselor. Disciplinary action is discussed, including discipline for abusive language or striking another person. Behavior management is mentioned with the individualized program process serving as a primary mode for addressing behavior unless there is an emergency. Also described are the client satisfaction surveys, conflict resolution process and the formal grievance procedure. The grievance procedure is a 4-step process that begins with the vocational counselor and, if still dissatisfied, the client can take complaints up through the chain of command to the Director of Quality Improvement, the Associate Executive Director of Vocational Services, the Executive Director and then to the Human Rights Committee. On an annual basis, an incident review committee reviews all grievances. The client may not receive a written response until the complaint reaches the Executive Director. External advocacy resources are also included in the grievance procedure. Finally, the handbook documents a client rights statement, including the right not to be hit, the right to be paid for completed work, the right to contact the Guardianship and Advocacy Commission, the right to complain, and the right to non-discrimination based on race, age, religion, sexual orientation or disability.

#### MANDATES

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102) guarantees the right to adequate and humane care and services pursuant to an individual treatment plan developed with the participation of the service recipient.

Regulations that govern vocational programs (59 Ill. Admin. Code 119) state in Section 119.200 that programs must provide 5 hours of programming per day but individuals may attend less than 5 hours. Section 119.205 defines exit criteria from a vocational program as either meeting certain skill sets or due to maladaptive behavior that totals more than 5% of a day. Section 119.210 describes reasons for exclusion, suspension or discharge due to client request, attainment of exit criteria, a medical condition or maladaptive behavior that puts the client or others in serious danger. Before pursuing exclusion, suspension or discharge, the treatment team is to discuss, summarize and place in the client's record the reason for the action; a ten-day notice is required unless a client is a danger to self or others and a client can appeal the adverse action. Section 119.215 states that each client is to have access to a qualified professional who handles the treatment plan, assures that services are provided, advocates for the client's rights and maintains a written record. In section 119.230, the individual service plan is discussed and requires the identification of services and supports. The rights section (Section 119.235) lists the right to file grievances and not be excluded or suspended for exercising rights. Section 119.240 stresses the following:

*The plan of an individual who exhibits maladaptive behavior shall include provisions to train the individual in circumstances, if any, under which the behavior can be exhibited adaptively, or how to channel the behavior into similar but adaptive expressions, or how to replace the maladaptive behavior with adaptive behavior....Procedures used to prevent individuals from harming themselves or others that are not part of the plan shall not be repeated more than three times within a six-month period without being incorporated into the plan....The program's behavior management committee and human*

*rights committee shall review and approve the procedure in accordance with Section 119.245.*

Section 119.245 describes the various committees that programs are to have in place and the composition of those committees, including the human rights and behavior management committees.

Section 119.255 explains environmental requirements of vocational programs and state that the programs are to:

*Have a normal temperature and humidity comfort range in accordance with the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Handbook of Fundamentals.*

Section 119.260 addresses administrative requirements of vocational programs and requires written quality assurance plans and ongoing quality assurance activities. The quality assurance plan requires a review of treatment planning, special training procedures, behaviors, any unusual incidents, record reviews, service use, subcontracted services, and the status of persons using services.

The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) maintain environmental standards related to heating and air conditioning. Standard 55 specifically addresses thermal comfort and states that many factors impact thermal comfort including air temperature, air movement, humidity, clothing and activity levels. According to Standard 55, the optimal temperature in an office building where people are doing sedentary work should be 69 to 73 degrees in the winter although it is noted that certain individuals have a lower tolerance to non-ideal situations and this should be taken into consideration; individuals who potentially have a lower tolerance include pregnant women, persons with disabilities and individuals under the age of 14 or over the age of 60.

Finally, the Fair Labor Standards Act (29 U.S.C. 201) in Section 14 (c) allows the employment of workers with disabilities at prevailing wages based on the wage rates of area experienced workers when the workers have disabilities that impact productivity and performance.

## CONCLUSIONS

### **Complaint #1: The Center underpaid a workshop participant but then reimbursed the participant without explanation.**

Staff explained that an error in figuring the prevailing wages for 2007 and 2008 resulted in underpayments that were reimbursed. A letter indicating the amount of reimbursement was provided to each client; however, the letter did not provide an explanation for reimbursement. Staff stated that the client advocate met with clients and provided an explanation. For clients who may have been off on the day of the advocate meeting, staff indicated that meeting minutes are posted and meetings are summarized in client newsletters. A case manager is also assigned to each client to answer questions. A statement regarding the prevailing wage error was provided to the HRA but it was unsigned and the intended audience was not identified. The use

of prevailing wages is mentioned in the vocational handbook provided to clients but the HRA did not find any mandatory requirements regarding client notification. The Fair Standards Labor Act allows for the determination and use of prevailing wages. In conclusion, documentation in this case indicates that clients were informed, in writing, of the underpayment and the amount of reimbursement and a discussion regarding the reason for the underpayment occurred at advocate meetings. If a client was unable to attend an advocate meeting, the case manager is an alternate source for answering questions. Also, due to the limited amount of documented reimbursement (less than \$350), it does not appear that the reimbursement would have affected public benefits. Based on the evidence, the HRA does not substantiate the allegation but offers the following suggestions:

1. When adjusting wages or making reimbursements, consider providing clients with a more detailed, written explanation of the reason for the adjustment or reimbursement.
2. Consider adding more information to the Vocational Handbook to describe the prevailing wage process.

**Complaint #2: The Center fails to address physical accommodations in work assignments.**

Staff reported that accommodations are made for clients based on need and a physician's statement is needed. In reviewing a client's record, the identification of accommodations was clearly indicated in the service plan. In touring the vocational site, the HRA saw evidence of the use of accommodations for the client and for at least one other client. Agency policy, the Mental Health Code and vocational regulations all stress service plans based on recipient needs.

Based on the evidence, the HRA does not substantiate the complaint that the Center fails to address physical accommodations in work assignments.

**Complaint #3: Center staff fail to address participant concerns.**

Staff reported that they were well aware of the client's concerns and that she actively engages the grievance process. As required by vocational regulations, the agency maintains a grievance process that is clearly described in the Vocational Handbook. Accommodations were made as requested by the client. The client's concerns about her work assignment and number of days worked were reported to the HRA; staff reported that her work activities were related to her need for accommodations and the work schedule was established based on the number of days that the client seemed willing to work. There was no documentation in the client's recently held service plan meeting indicating her interest in increased work days or a change in work assignments. Based on the available evidence, the HRA cannot substantiate a rights violation related to the agency's grievance process. There was no documentation of a request by the client for increased work days or a job change; and, at the time of the HRA's visit, the client appeared to have ample work. However, the HRA offers the following suggestions:

1. Meet with the client in this case to discuss her interest in a different work assignment and an increased work schedule. Document the results of the meeting.
2. The HRA noted that the client has been suspended for aggressive behaviors and while the client's service plan identifies this issue and has implemented counseling sessions for the



client, there is no behavior plan to dictate consistent procedures for handling the client's behaviors when it occurs. The HRA suggests the development of client specific procedures for handling behaviors consistent with vocational regulations (59 Ill. Admin. Code 119.240)

**Complaint #4: The work area is cold and uncomfortable.**

The complaint stated that the work area was uncomfortably cold during the winter months. Upon receiving the HRA's complaint notification letter, the agency began monitoring the temperature in the work area and identified an average daily temperature of 67 degrees. Vocational regulations (59 Ill. Admin. Code 119.255) require compliance with standards issued by the American Society of Heating, Refrigerating and Air Conditioning Engineers; the Society recommends an office building temperature of between 69 to 73 degrees with consideration being given to special populations, including persons with disabilities. **Based on staff report and existing requirements, the HRA substantiates this allegations and recommends the following:**

- 1. Maintain temperatures consistent with standards put forth by the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRA) as required in vocational regulations. Take into account tolerance issues for persons with disabilities.**

**The HRA acknowledges the full cooperation of CWTC and its staff during the course of the investigation.**

---

**RESPONSE**

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

---



Where people with disabilities  
live, work and grow.

June 9, 2010

Mr. James Runyon  
Regional Human Rights Authority Chairperson  
5507 N. University Street, Suite 7  
Peoria, IL 61614

RE: Human Rights Authority Case #10-090-9014

Dear Mr. Runyon:

We appreciate the advocacy efforts made by the Human Rights Authority on behalf of persons with disabilities.

The complaints referenced in this case have all been considered and addressed with appropriate staff members. Regarding complaint #4 that the work area is cold and uncomfortable, we offer this response to your recommendation. The work area has a dedicated furnace and air conditioning system so that temperatures can be well maintained. In reference to the complaint, the program is not mandated by the Department of Human Services Rule 119 and the area is not considered an office, but a warehouse. Every effort will be made to maintain a moderate temperature to maximize a comfortable work environment for people with and without disabilities.

Please contact me if any further response is needed.

Sincerely,

Gail M. Leiby  
Executive Director

GML/lb

**RECEIVED**  
JUN 16 2010

GUARDIANSHIP &  
ADVOCACY COMMISSION  
PEORIA REGIONAL OFFICE