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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 11-090-9007

Community Workshop and Training Center (CWTC)

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at the Community Workshop and Training Center (CWTC). Complaints alleged the following:

- Inadequate grievance process and internal investigation process, including not taking action on grievances made.
- Inadequate discharge process.
- Individual was discharged in retaliation for prior complaints against CWTC.

If found substantiated, the allegations would violate the Rehabilitation Act of 1973 (45 CFR s 84), the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), and the Illinois Administrative Code (59 Il Admin Code 132).

CWTC provides residential services to Fulton, Tazwell, and Peoria Counties and vocational services to Peoria, Tazwell, and Woodford Counties. Approximately 400 individuals use the vocational services, including the Employment Placement Program and Community Employment Program.

CWTC has 145 employees who work directly for CWTC and the facility offers programs such as the sheltered workshop, developmental training, psychosocial rehab, community training program, and older adult program.

To investigate the allegations, HRA team members met and interviewed CWTC staff in the Peoria office, and examined pertinent documents regarding the case. All documents were reviewed with written consent.

COMPLAINT STATEMENT

The complaint states that the individual was discharged from her position for making a racially insensitive statement that she did not actually use. The complaint states that the individual tried to explain her perspective as to what happened, but no one took it seriously. She said that at first, she was only told that she was suspended, then later that day she was called and told she was fired. The complaint states that the individual tried to use the internal grievance process but, once she got to the internal human rights meeting to speak about the grievance, she was told that she only had 15 minutes to speak, no one was introduced during the meeting, and she was not allowed to tape the meeting. After the meeting, the staff member that terminated the individual talked to the human rights board without the individual present. The complaint stated that eventually she got a letter from the rights board stating that the decision was not overturned and she was still terminated. The complaint also states that the individual did not know why she was terminated until after she was already let go from the position.

The complaint also states that the individual tried to enter a grievance regarding another coworker who said that she would "take my knife and cut both your arms off," but the grievance was not taken seriously. When she told a supervisor about her grievance, she was told that they would talk to the other person but the complainant was not aware that anything happened regarding her grievance. In another instance, the individual walked past a coworker who pushed a box into her neck, when the individual pushed the box back, she was talked to and no one believed that she did not shove the box first. In a different instance, the individual asked an aide how many parts she had packed and they told her "None of her business," and nothing happened to that individual. The complaint states that CWTC did not want to talk about other grievances, only grievances against the individual. The complaint also states that no one gets suspended other than the individual in this complaint and this is unfair treatment. The complaint states that individuals who have housing through the CWTC do not get talked to about grievances so they do not lose their housing, only people who do not have housing are investigated. The complaint also states that this discharge was retaliation for another grievance that the individual had made in the past where CWTC was found guilty.

FINDINGS

Staff Interviews

The HRA interviewed the CWTC staff regarding the complaints about the facility. The staff stated that the consumer in the complaint has mental and physical disabilities that qualify her for the vocational program. Her mental disability diagnosis is Paranoid Personality Disorder and, the staff added that many of the complaints seem to match up with her diagnosis. The staff informed the HRA that the consumer has had 175 incidents at CWTC since 1975, most of which were verbal or physical, and most of which deal with people of color. The staff stated that most of the verbal or physical incidents were directed towards African Americans. The staff said that the consumer is paranoid that people of color get better treatment than Caucasian consumers. The CWTC staff indicated that they attempted to get the consumer outside help with her diagnosis in the form of other agencies or outside psychiatrists but the consumer would not follow through with any agencies. CWTC then moved the therapy in-house to a social worker within their own psycho-social rehab program, but the consumer would not follow-through with counseling or any skills training that CWTC organized for the consumer that dealt with the diagnosis. The CWTC staff explained that the consumer's verbal and physical aggression

towards people of color started to affect the safety of other consumers. The staff said they tried to explain this to the consumer but it would not sink in.

The CWTC staff explained that psycho-social rehabilitation, which the consumer received, is a Medicaid funded program for people with mental illness. The consumer was receiving individual counseling with a Master's Level Counselor. The consumer was also in a recovery based work program, where the goal is to try and place the individual into regular employment.

The CWTC staff stated that the final incident happened on July 8th, when the consumer called other African American consumers "black asses," "devil black asses," and stated that "Your black asses should be in prison." Two of the staff members called the consumer into an office but she would not talk. The consumer then left the building and walked to a local department store located next to the facility and called the police, who would not do anything because no laws were broken. The CWTC staff met as a team later to discuss the incident and decided that, because of the incident severity, they would terminate her. The consumer was notified by phone later and they told her that she could access the grievance process.

The consumer met with the Executive Director, who upheld the termination, and then the consumer met with CWTC's Human Rights Board, which also upheld the process. The consumer was called on August 6th and was told that CWTC would mail her the decision of the Board. This was the last time anyone from the staff spoke to the consumer.

The staff explained that the consumer traditionally misinterprets motives and intentions of other people. As an example, her chair was moved one day and she thought someone was out to get her. The staff stated that when the consumer gets angry, they generally pulled her out of her job and tried to get her to de-escalate. They said that all of her ongoing events happen on a daily basis and the consumer focuses her aggression and anger on authority figures or ethnic groups. The staff stated that the consumer often came into work angry, before anything even happened in the workplace, and they would try to intercept her and talk to her before the work day started. The staff explained that it was hard to reason with the consumer. They would tell her that her mistrust was misplaced and that no one was out to get her, but the consumer could not get past the paranoia and the mistrust. The staff described the consumer as agitated, angry, and suspicious with overwhelming paranoia. The staff also explained that her symptoms got worse as time went on. Other consumers were fearful of her and it forced CWTC to act because of the general population. The staff explained that a table aide was on work release, and the table aide, as well as other consumers, started to express that her aggression was impacting their work and their desire to come to work. The other consumers were beginning to feel a reluctance to come to work.

The CWTC staff stated that the consumer in this complaint had been moved through every work department at CWTC because her coworkers were having problems dealing with her. The consumer's last work area was in the psychosocial rehabilitation area. The CWTC staff explained that they moved her to this area because the staff offices were there, there were fewer clients, the staff could do more one-on-one work, and they could de-escalate her better. The CWTC staff explains that verbal and physical aggressions are serious offenses that can lead to

termination which this is stated in the CWTC handbook. All consumers receive a copy of the handbook and they also have the handbook on tape if the consumer needs to listen to it. The consumers also receive a copy of the handbook once a year and sign off that they have received the copy.

The staff stated that people are not suspended often, maybe just once a month. They deal with such a broad spectrum of individuals, that they feel the suspension rate is good. The staff explained that the suspensions are short, usually only that day. They have a form for the suspension that states the problem and how they are dealing with it so that the staff are not just saying "go home!"

The CWTC staff stated that everyone goes to their case manager for a grievance. If the case manager cannot resolve the grievance, then they start the grievance procedure. The consumer will sit with the Quality Manager, who will type up the concerns. The Quality Manager deals with grievances against policy or decisions, not against another client. For the Quality Manager to be involved, the client has to want something changed as far as a policy, procedure, or decision that was made. The grievance will then go to the co-executive directors. If the grievance is not resolved with satisfaction by the co-executive directors, then it will go to the executive director. If the grievance still is not resolved, it goes to the Human Rights Board, which has guidelines for grievances. With the grievance by the consumer in this report, step number two was skipped because one of the co-executive directors was directly involved and it would have been a conflict of interest.

The CWTC staff stated that there is no situation where grievances are ignored and it is up to the consumer to see how far the grievances go. The staff stated that they have reversed decisions in the grievance process. They also explained that it is rare that a process gets to CWTC's Human Rights Board. They stated that a grievance has gone to the Human Rights Board 3 or 4 times since 1989. The CWTC staff stated that they have an open door policy and any client can speak to any member of the staff at anytime. The staff also stated how badly they feel in not being able to serve the consumer in this complaint. They stated that they tried every avenue that they could but had to weigh benefits to other consumers in terminating the consumer.

All four individuals, the two clients and the two case managers, will then get together and try to resolve the problem. The complaint is always followed through with the case manager talking to everyone in the area trying to substantiate what happened. In this consumer's case, the complaints were usually not substantiated. Other consumers who interacted with her did get suspended in the past but not for the box complaint or the knife complaint. When the grievances are consumer on consumer, case notes are typed up on actions taken and the resolution. Consumers are involved in the whole process and see the resolutions. The consumer in this complaint was involved in grievances as much as they could keep her engaged, but the staff stated that she usually would leave during the process.

The staff explained that they referred the consumer to an external private practice psychiatrist, but the consumer would not follow through. They stated that when the consumer's paranoia issues were addressed, she thought they were making accusations and would quit. They stated that the consumer was suspended for attacking a staff member, and had to be evaluated

and recommendations were made that she had to follow to come back. The consumer still did not follow the services. They made the services in-house with individual therapy and anger management during the work day, and the consumer still did not follow through on the therapy. In the last 24 months, they emphasized to the consumer that she had to stop being aggressive and angry but the number of incidents increased as well as the intensity of the incidents. The consumer would not take medications and would not stay with a psychiatrist.

The CWTC staff stated that in 6 months they discharged 5 employees for disciplinary reasons, such as people not paying attention to the rules. They stated that individuals with personality disorders get discharged the most.

The CWTC staff explained that they took the consumer to another vocational program outside of CWTC and tried to possibly get her work at that agency. The consumer was not interested in working at that agency. The staff stated that she liked it but there were no jobs where she could be seated while working, which is one of her needs.

Throughout each step of the grievance process, the consumers receive paperwork about the process. For the Human Rights Board meeting, they told the consumer where to go for the meeting and told her that she had 15 minutes for each grievance. The consumer's grievance actually went for 20 minutes and she brought along an advocate. They have guidelines for the Human Rights meeting but CWTC stated that they are not sure that the consumer received the guidelines. They said that during the meeting, the consumer came in and gave her grievance, and they worked on keeping her on track because she would begin speaking on items that were unrelated to the grievance process. They did clarify to her that the termination was not based on one incident. The consumer's advocate was told that she could not tape the meetings but there is no written rule stating that meetings cannot be taped. The CWTC staff stated that they did not know if not tape recording the meetings should be part of the guidelines but they did not think they needed a reason for telling her that she cannot tape the meetings. They stated that the procedures for the meetings are spelled out. They also said that during the meeting they questioned the consumer on why she should come back and focused on if she was going to be happy at CWTC.

The CWTC staff stated that the consumer does not have a behavioral plan, just a regular plan. They also stated that they did not have to contact any specific group, such as the Department of Human Services, regarding her discharge. They also stated that the program that she is under is covered under Rule 132 of the Illinois Administrative Code (59 Ill. Admin. Code) which governs Medicaid funded mental health programs. The CWTC staff explained that the termination process under Rule 119 (59 Ill. Admin. Code 119), which covers developmental training programs, is very specific, but there are no guidelines under 132 that govern terminations. The staff explained that discharges are done for a lot of reasons, such as attendance, behavioral reasons and individuals not wanting to participate in treatments. Discharge is also considered a successful completion of the individual's service because the individual has a job outside of CWTC and no longer needs CWTC to work with them.

The CWTC staff said that no one has spoken to the consumer since the grievance. They stated that anyone can reapply to the CWTC programs but they have a 3 month waiting period to

reapply and usually individuals that reapply have not been discharged. If there was documentation that the consumer is actively addressing her issues, she could possibly come back. The intake committee for reapplication would be looking to see if she was addressing her aggression and anger and would be very interested in her most recent history and progress over the last 6 months.

The CWTC staff explained that they have a policy against retaliatory action in the grievance procedure and this is explained through the rights information that the consumers receive. The CWTC staff stated that they believe the consumers feel comfortable complaining, and often they are too comfortable at CWTC. They stated that the consumers complete satisfaction surveys around their birthdays and the facility's satisfaction rate is always around 98-99%.

In a subsequent conversation with the CWTC staff, they stated that often times the consumer was sent home and no suspension form was filled out. The staff explained that they tried not to use suspension because it did not seem to work, so they would de-escalate after an outburst and send her home for the day. This action was done as more of a cooling off action rather than acting on a suspension. They would also try to get the consumer to realize what happened and then have her leave for the day.

The staff stated that the complaint the consumer had regarding another consumer threatening to cut her arms off with a box cutter happened on the consumer's last day when she was speaking to the police officer at the department store, therefore there were no case notes or investigation because the consumer was suspended and then discharged later that day. The staff also explained that they would not log the consumer's incidents as complaints in the case notes and fully investigate because incidents with the consumer would never take place in an unsupervised area and there were always eyewitnesses. For example, the consumer once struck a staff member in front of other staff members and other clients. They stated that when incidents occurred, they would bring the consumer into a staff member's office, de-escalate, and then the consumer would start telling far fetched stories that did not happen, like saying another particular client was on parole when he was not. The staff also stated that the consumer would never report grievances to the facility but rather to her family, who would come into the facility and ask about it. The staff also stated that they would not log and investigate complaints because the consumer complained daily and that staff was dealing with these complaints on a daily basis. The staff also explained that sometimes complaints were logged in the Medicaid billing forms.

The staff stated that 12 months before discharge, they explained to her that they were at a point where the other consumers' complaints may result in a discharge. The staff explained that the complaints are coupled with the individual's resistance to meet with a social worker, a one-on-one, and to participate in anger management. The staff tried to enforce to her that she is not an employee, and that she is a consumer and they want her to make progress but her barrier was the extreme behavior. The staff stated that this discharge warning was not documented; it was verbally expressed from the staff to the consumer.

Policy and Record Review

The HRA reviewed CWTC policies and records that pertain to the complaints stated in this report. As stated in the staff interview section of this report, CWTC views grievances and complaints as separate actions. Grievances are complaints against the process and they fall into the grievance process while complaints against coworkers are handled through the case managers. The HRA began by reviewing documents pertaining to the complaint that CWTC has an inadequate grievance process. The CWTC Vocational Handbook illustrates the steps which need to be taken in the grievance process. The introduction to the grievance procedure reads "If I am dissatisfied with any CWTC vocational service (policies, procedures, programs, decisions about me) there is a grievance procedure I can use." The procedure proceeds to state that if a consumer has a grievance, they should talk to their Vocational Counselor to try and solve the problem. If the consumer is not satisfied with the Vocational Counselor's solution to the problem, then they will involve the Director of Quality Improvement who will address the problem with conflict resolution. If the consumer is not satisfied with the results from the conflict resolution, they proceed to step 1 of the grievance process which is documenting the grievance with the Director of Quality Improvement and then the documentation will be given to the Associate Director of Vocational Services. From there, three days later a meeting will be arranged with the Associate Executive Director of Vocational Services to speak about the grievance. The Associate Executive Director will, as stated in the policy, "look into and write down what he learned about my complaint and he will make a decision." If the consumer is still not satisfied with the outcome, they will move on to step 3, which is a discussion with the Executive Director. The Executive Director will meet with the consumer within 7 days after the Associate Executive Director's decision is made and will "examine and look into my complaint" according to the grievance policy procedure. The Executive Director will then write down what was learned about the complaint and a decision. If the consumer is still not satisfied with the decision, then it is arranged that the consumer speak with the Human Rights Committee of CWTC. Step 4 is the meeting with the Human Rights Committee, where the consumer can explain the complaint to the committee. The Director of Quality Improvement will be present at the meeting to help the consumer. It is stated in the policy that the committee will tell the consumer their decision on the day that they meet with them unless more information is needed. The consumer will also get the committee's decision in writing within 10 days of the meeting. If the consumer is still not satisfied with the decision, then the Director of Quality Improvement will give the consumer the address and telephone number of the Illinois Guardianship and Advocacy Commission and the Equip for Equality (Note; in the policy, the group is mistakenly called "Equipped for Equality"). The policy proceeds to explain that the Director of Quality Improvement will keep all the original information on each step and file the info in the consumer's file as well as give it to the consumer. There is also a signed form stating that the consumer received the Vocational Handbook and that the handbook has been reviewed with them in terms that they understand. The HRA also reviewed the "Person Served Grievance Policy and Procedure" documentation which mirrors the grievance policy and procedure that is explained in the handbook, with the exception of a sentence that reads "This policy covers complaints, grievances and appeals."

The HRA reviewed forms titled "Person Served Grievance Procedure" which documents each step in the consumer's grievance regarding her discharge. Step 1 is the initial written grievance which is signed by the consumer and the Director of Quality Improvement. On the

Step 1 form, it is stated that "Grievance will go directly to Step 3 since the Administrator of Vocational Services was involved in the decision." The form also states that "[Staff member's name], Administrator of Vocational Services, reports that [Consumer] was using racial slurs. She has been suspended many times over the years for ethnic or racial slurs. [Consumer] will not stop this repeated behavior." The form proceeds to state that the consumer disagrees with the decision of being discharged and requests to come back to work. The consumer's disagreement states "[Consumer] states that [Staff Member] explained that she was fired for saying a racial word. [Consumer] states she was packing valves and the aides said there was no paperwork ... So [Consumer] said 'no paperwork, no pay, right? We have to volunteer just like the black have to.' ... [Consumer] reports that [Co-worker] told staff that [Consumer] said 'black asses' and staff believed [Co-worker]." This form was signed by the consumer. The Step 3 "Person Served Grievance Procedure" states that the Executive Director met with the consumer and the consumer's mother on July 22nd. They spoke regarding the grievance and it is written in the form that the Executive Director called the consumer on July 26th and informed her that she was upholding the termination. The Step 4 procedure states that the Human Rights Committee had the case presented before them on August 5th and the Committee upheld the decision of termination.

The HRA also reviewed the "Human Rights Committee Guidelines for Hearing Person Served Grievances," which is the form that the CWTC staff stated in the interview that they are unsure as to whether the consumer received. A description of the Human Rights Committee states that "The role of the committee members is to determine if the individual's rights have been violated and to recommend a solution." The document proceeds to lay out general guidelines for the meeting, such as the consumer will be asked to explain the grievance in their own words, the atmosphere should be comfortable so the individual can express themselves freely, the Director of Quality Improvement will be present to assist the consumer unless the consumer does not want them there. The guidelines also state that the consumer will have approximately 15 minutes to present the grievance and that after the meeting, the consumer will be excused so the committee can discuss their recommendations. The documentation states that the committee members may ask staff for their input at this time. The form does not state that the meetings cannot be recorded.

The HRA also reviewed a summary of the consumer's presentation to the Human Rights Committee. The consumer stated her view regarding the situation and what happened on the day of her termination, as well as other points of view regarding the CWTC. The consumer also brought along an advocate who spoke on her behalf and stated that the consumer did not make any racial slurs and that she felt that the consumer should be placed in another program. As described in the guideline documentation, the consumer left that room and the Committee spoke with staff members involved in the case. The Committee discussed their individual thoughts for making the decision to uphold the discharge decisions without the staff members in the room and then informed the Director of Quality Improvement of their decision. It is also stated in the summary that the Director of Quality Improvement called the consumer later that afternoon with the Committee's decision.

The HRA also reviewed 5 documented suspensions of the consumer. Of the 5, three of the suspensions were related to the consumer using racial slurs while at the facility.

In regard to the complaints that other workers were not questioned or suspended when the consumer made a complaint about them, which were stated are different than the grievances, the HRA reviewed "Case Notes" involving the consumer, which is one place where the complaints were logged per the staff interview. The case notes for the consumer range from 6/3/08 to 7/8/10 which is the last day of the consumer's employment. The case notes summarize situations that happened on a specific day, for example, on 6/3/08 there is a case note which states that the consumer was offered an hourly position at the workshop to tape boxes of nuts and put them in a tri-wall but declined the offer. The note states that the consumer "frequently complains that she does not get enough hours or make enough money at CWTC. She was given an opportunity and declined." On 6/19/08, there is a case note describing an incident that the consumer had with a table aide and was sent to her Vocational Counselor, where the consumer stated "They're trying to get rid of handicapped people here." The consumer continued to argue with the Vocational Counselor who eventually asked her to leave for the day. Another case note from 1/12/09 describes an incident where the consumer left work, and went to the department store next door to call the police, much like the incident that occurred before the consumer was let go from her position. Other incidents in the case notes include summaries of the consumer's Person Centered Plan Meeting, incidents with the consumer throwing boxes, an incident where the consumer yelled at another consumer and made racial slurs towards that consumer, updates on the consumer's physical restriction due to her knee, and a summary of the incident that occurred on the day of the consumer's termination (7/8/10).

The HRA saw no evidence of complaint investigations regarding a coworker threatening to cut the consumer's arms off, a coworker pushing a box into the consumer's neck, or an aide telling the consumer "None of her business" when inquiring about how many parts she had packed.

The HRA did not see any evidence regarding guidelines for a separate complaint process or any documentation informing the consumers that a complaint process against coworkers is separate than the grievance process. The only statement that was found that pertains to the grievance process being split is in the Vocational Guidelines Handbook which reads "If I am dissatisfied with any CWTC vocational service (policies, procedures, programs, decisions about me) there is a grievance procedure I can use."

In regard to the complaint that CWTC has an inadequate discharge process, the HRA reviewed the "Disciplinary Action" section of the Vocational Services Handbook. The handbook reads "If I don't follow the rules, my counselor will sit down with me and talk about the problem and the reasons why I should follow all the rules. If I continue to refuse to follow the rules my counselor will develop a program to address the problem. Serious breaking of the rules involving other people or property may end in a meeting of my team and possible suspension or discharge from services." The handbook defines "Excessive abusive language (cursing, swearing, threatening)" as extremely serious actions. The handbook also states "Multiple suspensions may end in a suggestion to my interdisciplinary team for ending services at CWTC" and "If I am in the Community Integration program and living at a long-term care residence (a nursing home or an ICF/DD), I will not be suspended before I have an interdisciplinary team review and a notice of a minimum of 10 calendar days is written, unless my behaviors are

determined to be harmful to myself or others." The handbook does not differentiate between consumers covered under Rule 119 or consumers covered under Rule 132.

The HRA also reviewed the CWTC "Referral, Exit/Discharge and Follow Up Policy and Procedures" In the section titled "Request For Discharge From Services to Discharge Committee" it reads "Upon development of the Interdisciplinary Team Discharge Plan, the CWTC Vocational Counselor may request formal discharge of the person served by completing the Request For Discharge From Services." The next step reads "Form 84, with a copy of the individual's discharge plan and any other supportive documentation, is submitted to the Vocational Discharge Committee for review." The third step reads "The Vocational Discharge Committee will review the documentation for discharge and render a decision of approval or disapproval. Rejection of the request will result in the Discharge Committee presenting discharge alternatives to the Vocational Counselor/IDT." The section proceeds to list potential reasons for discharge to use on the request form, such as individual served refuses to follow rules and regulations; individual served constitutes a threat to himself, individual served refuses programming services, etc." In the section of the policy which reads "Discharge Plan," it reads "All individuals served being discharged from CWTC Programs to an outside service program will have a discharge plan developed by the interdisciplinary team."

Also, in the policy, it reads "If the individual served needs services not available at CWTC, as determined by the interdisciplinary team, a formal referral for accessing those services or programs is initiated on CWTC Referral Form #813 by the CWTC Vocational Counselor with the informed consent of the individual served."

The CWTC "Vocational Disciplinary Action Policy and Procedure" states that "Violations of rules and guidelines affecting other individuals or property may result in an interdisciplinary team meeting concerning suspension from the work environment for one to three days. Behaviors considered as serious violations listed below may result in either a suspension or discharge from services." Two of the "serious violations" listed on the policy are "Striking another person" and "Excessive threatening or abusive language." The policy also states "Repeated suspensions may result in the interdisciplinary team recommending discharge from services."

In reviewing the "Request For Discharge From Services" form that was completed for the request of the consumer's discharge, it states "N/A" for the Interdisciplinary Team Discharge Meeting/Discharge Plan Date, and it also reads, in the determination of reasons for requesting the discharge, that the consumer has "Diminished mental health (aggression, threatening behavior). The request for discharge was also approved by the Vocational Discharge Committee. The form is signed by the Administrator of Vocational Services on 7/27/10 and the Administrator of Residential Services on 7/28/10. On the consumer's "Program Service Exit Summary" it reads that "[Consumer] can reapply with evidence of receiving psychiatric counseling."

The HRA received 3 suspension notifications from 2009, one suspension for 5 days, one suspension for 2 weeks, and one for 1 week (and/or after seeing a physician for letters of restrictions). The suspension from 8/11/09 stated that the consumer was verbally abusive towards another consumer and "She used ethnic comments toward the consumer saying," Go

back to your own country.' When the consumer tried to get away from her, [Consumer] followed her yelling at her. [Consumer] was seen by several staff members, yelling and cussing at this consumer after work in front of the building." The suspension from 11/13/09 stems from an incident where the consumer started yelling and swearing while walking up and down an administrative hallway over a discussion with staff about her work hours. A suspension from 1/12/09 stems from an incident mentioned earlier in this document regarding the first time that the consumer left the building and contacted the police.

In the documentation for Step 3 of the "Person Served Grievance Procedure," the Executive Director writes "While [consumer] and her mom were in my office, I suggested that she may want to try [facility name]." The statement proceeds to say that the consumer toured the facility but was not interested in any jobs because she could not sit down while working.

The HRA reviewed other incidents involving the consumer from the case notes. On 12/9/08, the consumer's case notes state "[Consumer] began displaying more frequent outbursts and anger toward her crew chiefs and supervisors. This began to escalate again 3 months ago. She had made improvements in her behavior after meeting with her mother this summer. [Consumer] displays symptoms of agitation, frustration, anger, paranoia and is sometimes verbally explosive when not getting her way. She refuses to seek counseling or to attend PSR skills development classes at this time. She meets with her vocational counselor to discuss these issues." On a 3/3/09 case note, the consumer was "asked to participate in individual therapy sessions with the CWTC/QMHP focused on anger management. [Consumer] was not thrilled with this arrangement and expressed thoughts of being victimized. She repeatedly states that she is treated different than all other consumers. [Consumer] and I have often talked about how angry she seems. She can not recognize that she is angry and deflects it to being everyone else's issues at CWTC." On a case note dated 8/11/09 - 8/10/09 "[Consumer] began harassing a coworker at the table in which they were working . . . As soon as she [the consumer being harassed] came to my office, [Consumer in this complaint] came running in after her yelling at her. She was yelling, 'You get to start work before me and work through your break.' I assured [Consumer] this was not the case and she continued to get in the consumer's face and yell louder." A case note from 1/6/10 reads "A meeting was held today for [Consumer] to discuss her recent progress. She was requesting a move back to the regular workshop area. This area has not been successful for her. She was asked to avoid being suspended, to refrain from yelling, cussing and being disrespectful to her coworkers and supervisors at work and to attend meetings with [CWTC QMHP] for her to be considered to return to RWS. [Consumer] was suspended in November and continued to display anger and disrespect toward coworkers and supervisors. She met with [CWTC QMHP] on some occasions, actually improving in this area some." On 6/18/10 the notes read "[Consumer] was talking badly to her table aides today. She would not follow work area rules and was even displaying defiance by throwing boxes in the walk area. This was unsafe and done repeatedly by [Consumer]. At one point, she jumped up and pushed a table aide who pushed back. Both were taken to the Executive Director's office. They met to discuss the behavior and both were allowed to return to work. [Consumer] is displaying more anger and aggressiveness toward others." On 6/30/10 the consumer "... arrived at work very angry and in an aggressive mood. She was argumentative with everyone in her work area resulting in her throwing a box at her table aide. She was escorted to the Associate Executive Director's office by her vocational counselor where we met to discuss her mood and aggressive behavior ... She

continued to blame and be accusatory toward others resulting in the decision that she needed to go home for the day to calm down."

The consumer's Individualized Service Plan reads "[Consumer] has difficulty communicating with people with whom she disagrees. [Consumer] has a tendency to use racist language when angry. [Consumer] continues to have difficulty communicating with people in a positive manner." The ISP also reads "[Consumer] needs to continue her individual therapy sessions with the CWTC QMHP focused on anger management, interpersonal relationships and effective communication." Another section of the ISP reads "[Consumer] believes others do not like her, is being forced out of her job and that people are talking about her. She has been suspended for aggressive behavior in the past and again this year. [Consumer] refuses to take any responsibility for her actions even with witnesses to her behavior." The document also reads "It has been agreed upon, that [Consumer] would participate in therapy sessions at CWTC focused on anger management and tolerance of others. She has not been consistent in meeting with the QMHP." Another section reads "I am not always kind and have used racially motivated language." A final section reads "[Consumer] has experienced instability in her vocational program due to anger management issues, low tolerance of others especially people of color or other cultures and the inability to accept responsibility for her own behavior and actions. [Consumer] also has a tendency not to follow policy and procedures at CWTC."

A Monthly Progress Report from 7/12/10 reads "[Consumer] has been verbally and physically aggressive at work focusing on individuals of African American descent. This is becoming almost daily behavior with [Consumer], using racial slurs toward others. She could benefit from meeting for her therapy sessions more often." Another Monthly Progress Report from 4/9/10 reads "[Consumer] is scheduled for individual therapy sessions with the CWTC QMHP. She continues to have difficulty taking responsibility for her anger issues. She has missed all of her sessions for the last 2 months."

In regard to the complaint the consumer was discharged in retaliation for prior complaints against the CWTC, the HRA reviewed the CWTC handbook which reads "If I exercise my right to file a grievance CWTC can not come back at me by excluding, suspending, discharging, or reducing services for filing a grievance." The "Person Served Grievance Policy and Procedure" reads "The individual served shall not be excluded, suspended, or discharged from service and services are not to be reduced for exercising any of his or her rights regarding the grievance procedure (there shall be no retaliation)." In the "Summary of Rights" section of the handbook, one of the rights reads "I have the right not to be left out, suspended, fired, or asked to move out of my CWTC home and help from staff will not be reduced for complaining and wanting answers about decisions to deny, change, reduce or stop services."

MANDATES

The HRA reviewed pertinent regulations in regard to the complaints stated in this report. In regard to the complaint that CWTC has an inadequate grievance process and internal investigation process, the Illinois Administrative Code reads "5) The right or the guardian's right to present grievances up to and including the provider's executive director or comparable position. The client or guardian will be informed on how his or her grievances will be handled at

the provider level. A record of such grievances and the response to those grievances shall be maintained by the provider. The executive director's decision on the grievance shall constitute a final administrative decision (except when such decisions are reviewable by the provider's governing board, in which case the governing board's decision is the final authority at the provider level)" (59 Ill. Adm. Code 132.142).

In regard to the complaint that CWTC has an inadequate discharge process, the Illinois Administrative Code states that "A provider shall comply with the following: ... f) When discharging a client from services, the provider shall ensure the continuity and coordination of services as provided in the client's ITP. The provider shall: 1) Communicate, consistent with the requirements of Section 132.142, relevant treatment and service information prior to or at the time that the client is transferred to a receiving program of the provider or is terminated from service and referred to a program operated by another service provider, if the client, or parent or guardian, as appropriate, provides written authorization; and 2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services" (59 Il Admin Code 132.145).

In regard to the complaint that the facility discharged an individual in retaliation for prior complaints, the Illinois Administrative Code reads that individuals have the "6) The right not to be denied, suspended or terminated from services or have services reduced for exercising any rights" (59 Il Admin Code 132.142).

CONCLUSION

Complaint #1: Inadequate grievance process and internal investigation process, including not taking action on grievances made.

The complaint states that CWTC has an inadequate grievance process and internal investigation process, including not taking action on grievances made. An individual was discharged from a position at CWTC and, when the individual tried to explain her perspective as to what happened, no one at the facility took the complaint seriously. The complaint states that she tried to use the internal Human Rights group but was not satisfied with the group's process, including only having 15 minutes to speak, no one was introduced at the meeting, and the meeting was not allowed to be recorded. The complaint also said that after the meeting, the staff member that terminated the individual met with the board without the individual present.

The complaint also states that an individual attempted to enter grievances regarding a coworker who stated that they would take a knife and cut both the individual's arms off, a coworker who shoved a box in her neck, and then another coworker who told the individual "none of your business" when they asked about their production.

In the interview with CWTC staff, they stated that grievances were when an individual has an issue with a policy, a procedure, or a decision, but not against another worker. The consumer has to want to have something changed to file a grievance. If a complaint is against another consumer, the case managers and the consumers get together to handle the complaint.

The complaint in that case is documented in the case notes but there is no documentation regarding the facility's response to the complaint. The HRA reviewed the grievance policy, which is a four step process that is based on the consumer's satisfaction of the outcomes. The HRA also saw that the grievance process was followed in this case with the consumer, and each step was filled out and documented.

In reviewing the record, the HRA did not see any documented evidence within the case notes that the complaints of the consumer, regarding the threat by another consumer, the physical violence by another consumer, or the verbal abuse by the other consumer was investigated. The CWTC staff stated that the consumer's incidents did occur in a well supervised area where there were many eyewitnesses; therefore they did not feel the need to investigate occurrences.

Code 132 and the Federal Mandates state that grievance policies must be implemented and do not differentiate between the types of grievances that policies are created for; there is no mention within each regulation that grievances must be against a policy, procedure, or decisions. Due to the fact that the facility splits grievances into two different categories rather than one large grievance category, and that HRA found no evidence that CWTC investigated grievances named by the consumer in this complaint, the HRA **substantiates** the complaint that CWTC has an inadequate grievance process and makes the following **recommendations**:

- Illinois Administrative Code and Federal Regulations dictate that there must be a grievance procedure but, in this case, but the HRA found no indication of the a grievance process involving coworkers at CWTC. CWTC does follow a grievance procedure in accordance with the Illinois Administrative Code for grievances against policy or procedure but does not follow this Code with grievances between coworkers. The HRA recommends that CWTC create a grievance policy and procedures, with a clear due process procedure that is documented, that covers not only grievances concerning policy and procedure but also grievances and complaints regarding coworkers. Documentation should also indicate the facility's response.
- Even if an instance is seen by eyewitnesses, the HRA recommends that formal documentation be drafted and an investigation be completed when there are incidents involving physical violence or verbal aggression.

The HRA also makes the following **suggestions**:

- CWTC mentioned that the consumer's advocate could not tape the meetings, but there is no documentation as to whether the meetings could be taped or not. Before forbidding an action to occur at the Human Rights meeting, assure that it is decided and documented that this action could not occur. CWTC should also review other practices including the time frame allotted for speakers, introductions of participants and the opportunity to hear and respond to staff reports.
- In the "Grievance Policy" section of the handbook, Equip for Equality is referred to as "Equipped for Equality." Please correct this error in the handbook so to not cause confusion with consumers.
- CWTC mentioned in their interview that they were unsure if the consumer received a copy of the internal Human Rights procedure. Assure that when a consumer is attending a

Human Rights meeting, that they receive a copy of the procedure prior to the meeting.

Complaint #2: Inadequate discharge process.

The complaint states that CWTC has an inadequate discharge process and that a consumer was told she was suspended but later told that she was fired. The HRA reviewed case notes, the consumer's Individual Service Plan, Medicaid billing and letters involving the suspension of the consumer. The documentation indicates that the consumer was aggressive and used profane language and racial slurs in the workplace. In reviewing the document "Referral, Exit/Discharge and Follow Up Policy and Procedures", it is stated that the consumer's interdisciplinary team must meet and create a discharge plan for that individual to be discharged from the program. Also, as a part of that document, it reads that "If the individual served needs services not available at CWTC, as determined by the interdisciplinary team, a formal referral of accessing those services or programs is initiated ..." The vocational handbook also reads "Serious breaking of the rules involving other people or property may end in a meeting of my team and possible suspension or discharge from services." The Illinois Administrative Code reads "f) When discharging a client from services, the provider shall ensure the continuity and coordination of services as provided in the client's ITP. The provider shall: 1) Communicate, consistent with the requirements of Section 132.142, relevant treatment and service information prior to or at the time that the client is transferred to a receiving program of the provider or is terminated from service and referred to a program operated by another service provider, if the client, or parent or guardian, as appropriate, provides written authorization; and 2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services" (59 Il Admin Code 132.145). The discharge notice states that the discharge meeting or discharge plan date is "N/A" and the HRA found no evidence of a discharge plan being created for this individual. The HRA does recognize that the individual was referred to one other program but this occurred on 7/22/10 (after she was discharged) with the Executive Director and does not constitute efforts to keep continuity with the consumer's treatment. Although the facility did not follow the handbook policy and procedure regarding discharge, including the development of discharge plans and referrals, the Illinois Administrative Code 132, which the consumer is covered under, does not offer a clearly defined termination/discharge procedure to which the facility must adhere. The HRA notes that the reasons for the consumer's discharge were consistent with discharge rationale listed in the facility's policy and handbook. And, the consumer was allowed to appeal the discharge through the facility grievance process. Because of the undefined discharge process in the Rule 132 mandates that covered the consumer in this case, the HRA is unable to substantiate a rights violation related to the discharge process used in the case; however, the HRA strongly offers the following **suggestions** to CWTC regarding the discharge of consumers:

- As it stands, the vocational handbook and procedures indicate that a consumer's discharge process runs through an interdisciplinary team who makes recommendations regarding discharge. Rule 132 does not require this team process and it is not stated in the handbook. If the facility is going to differentiate in rules between consumers covered under Rule 119 and Rule 132, the handbook should address this issue and it should be explained to the consumers the difference between the two as well as the rights of individuals covered under these separate regulations. The individuals should also be told

which rule they are covered under. Within these guidelines, the CWTC should specifically address the fact that consumers covered under Rule 132 may be discharged without an interdisciplinary team meeting, referral, or a discharge plan, within the handbook so that the consumers are aware of the process and repercussions of the process.

- The vocational handbook reads "If I am in the Community Integration program and living at a long-term care residence (a nursing home or an ICF/DD), I will not be suspended before I have an interdisciplinary team review and a notice of a minimum of 10 calendar days is written, unless my behaviors are determined to be harmful to myself or others." Part of the complaint listed in this report states that consumers who have housing do not get spoken to about complaints or investigated. Some of the reason behind this thought may be in the wording of the passage of the handbook, which suggests that if you have housing, you will fall under a different disciplinary process than others. The HRA suggests changing the wording of this passage so that it shows a more equitable disciplinary process between those who are in housing and those who are not.

Complaint #3: Individual was discharged in retaliation for prior complaints against CWTC.

The complaint states that a consumer was retaliated against for previous complaints against CWTC. The staff stated that, over the years, the consumer has filed at least 5 grievances with the Human Rights Authority, and the consumer has also complained about other situations in the facility concerning prevailing wage among other things. The staff also stated that the consumers within the facility do feel comfortable making grievances against CWTC. The facility does have policy against retaliation and this policy is also stated in the handbook. The rights documentation that the consumers read and sign also states that "I have the right not to be left out, suspended, fired, or asked to move out of my CWTC home and help from my staff will not be reduced for using my rights." The HRA found no evidence that the discharge was in retaliation for prior complaints and found evidence that the facility has policy against retaliation, therefore the complaint is **unsubstantiated**.

In a previous case report (10-090-9014) the HRA suggested that, because the client was suspended for aggressive behaviors to implement a behavior plan for the client because there was no behavior plan to "dictate consistent procedures for handling the client's behaviors when it occurs." The HRA suggests that, in the future, even though a client may not be a consumer that is participating in a program guided by the vocational regulations of 59 Illinois Administrative Code 119, that if they have consistent behavioral problems, there should still be consideration in starting a behavior plan for the consumer as an attempt to ensure success in the program.

RESPONSE

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

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 11-090-9007

SERVICE PROVIDER: CWTC

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.

Paul M. Leiby
NAME

Executive Director
TITLE

2.22.11
DATE



CWTC

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February 24, 2011

Mr. Steven Watts, Chairperson
Regional Human Rights Authority
Guardianship & Advocacy Commission
5407 N. University, Suite 7
Peoria, IL 61614

Re: Human Rights Authority Case # 11-090-9007

Dear Mr. Watts,

We appreciate your review of this case and are responding to your recommendations. Attached please find a new policy and procedure for the consumer to consumer conflict resolution. Additionally, this policy and procedure will be explained in the consumer handbook.

We take consumer to consumer conflict very seriously. If you have any questions, please contact me at 309-686-3307.

Sincerely,

Gail M. Leiby
Gail M. Leiby
Executive Director

GML/dc

Encl.

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& Training Center

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Conflicts between Consumers Policy and Procedures

I. POLICY

It is the policy of Community Workshop and Training Center, Inc. that all persons served (consumers) shall be free from mistreatment from other persons served (consumers).

This policy covers all CWTC consumers. Consumers are not to use demeaning, intimidating, or threatening words, signs, gestures or other actions which are humiliating, frightening or belittling to other consumers. Consumers are not cause bodily harm to another consumer. Consumers are not to take advantage other consumers concerning their money, assets, property or other financial resources. Consumers can not retaliate against other consumers who report conflicts.

II. PROCEDURE FOR REPORTING AND INVESTIGATING AND DOCUMENTING CONFLICTS

A. Step 1

If conflicts between consumers arise, it shall be reported to their case managers.

B. Step 2

Cases managers are to investigate and help the consumers resolve their conflicts (within the same day). The case managers may utilize CWTC Conflict Resolution Policy and Procedure to help resolve the conflict. Case managers are to document the conflicts on the CWTC Consumer Conduct/ Conflict Report Form. These forms will be filed in each consumer's file. In the case notes of each file, the case manager will reference this form. To assure confidentiality, the name of the other consumer involved will be occluded.

C. Step 3

If the case manager is not able to help the consumers resolve their conflicts to the satisfaction of the consumers, the Director of Quality Improvement will become involved and implement the CWTC Conflict Resolution Policy and Procedure (not to exceed two working days from the initial complaint). Any action performed by the Director of Quality Improvement, will be documented by the Director of Quality Improvement.

D. Step 4

If the Director of Quality Improvement is not able to help the consumers resolve their conflicts, the Executive Director will discuss the issues with the consumers involved (not to exceed three working days from the initial complaint). The Executive Director will document her meeting with the consumers.

E. Step 5

Anytime throughout the above process, the consumers may contact the police.

Conflicts between consumers involving physical violence or verbal aggression must always be investigated and must be documented on the CWTC Consumer Conduct / Conflict Report Form regardless of the number of individuals witnessing the event.



CWTC

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CWTC Consumer Conduct/Conflict Report Form

Date of Event: _____

Time of Event: _____

Alleged Victim(s): _____

Alleged Violator(s): _____

Witnesses: _____

Location(s) of Event (please specify): _____

Type of Violation: (please mark all that apply)

- | | | |
|--|---|--|
| <input type="checkbox"/> Verbal Threats | <input type="checkbox"/> Physical Threats | <input type="checkbox"/> Harassment |
| <input type="checkbox"/> Sexual Misconduct | <input type="checkbox"/> Racial/Ethnic Bias | <input type="checkbox"/> Financial Exploitation |
| <input type="checkbox"/> Bullying | <input type="checkbox"/> Intimidation/Retaliation | <input type="checkbox"/> Stalking |
| <input type="checkbox"/> Recording of Images w/o Authorization | | <input type="checkbox"/> Destruction of Property |

Details of event: (please describe the details of the event in as much detail as possible):

Please use the back of this form if additional space is needed to document details of the event.

I agree that the above statement is true and accurate to the best of my knowledge.

Consumer Signature

Date of Report

Investigation, Follow-up and Resolution:

Case Manager Signature

Date

**Case Managers are to reference this report in the
case notes section of each consumer's case file.**