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HUMAN RIGHTS AUTHORITY - PEORIA REGION  
REPORT OF FINDINGS

Case # 11-090-9011  
Peoria School District 150

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Calvin Coolidge Middle School within District 150. The complaints alleged the following:

1. Calvin Coolidge school staff violated the student's confidentiality by asking for information regarding a medical excuse in front of other students.
2. Calvin Coolidge school staff did not follow the student's IEP, including no one-on-one aide for the first day of school, student forced to handwrite notes when IEP states he should not, student was placed in 7<sup>th</sup> grade when he should have been in 8<sup>th</sup>, and mother is not receiving daily communication from school as stated in the IEP.
3. Calvin Coolidge school staff did not have paperwork regarding student and mother was told to wait a few weeks until they figure out the situation.
4. Calvin Coolidge school staff is not communicating with mother regarding the IEP, she does not know if the modifications are being done.

If found substantiated, the allegations would violate the Individuals with Disabilities Education Act (IDEA) (20 U.S.C.A 1414), the Illinois School Student Records Act (105 ILCS 10/6), and the Illinois Administrative Code (23 Il Admin Code 226).

District 150 has approximately 13,000 students and services the City of Peoria and one school in West Peoria. Approximately 23% of the student population has IEPs and the district is attempting to reduce those numbers and use more inclusion. The district offers Behavior Programs, Autism Programs, Independent Functioning Classrooms, and Severe and Profound Classrooms among other programs.

To investigate the allegations, HRA team members met and interviewed Calvin Coolidge and District 150 staff as well as reviewing documentation pertinent to the case.

COMPLAINT STATEMENT

The complaint states that the school violated the student's confidentiality by asking for information regarding a medical excuse in front of other students. The complaint states that the student has an excuse to not participate in gym class due to mental health issues and a doctor wrote a note to move him to band instead of gym. The homeroom teacher reportedly asked the student, in front of the class, why he had a medical excuse. The complaint also states that, on the student's first day of class at Calvin Coolidge, the student did not have a one-on-one aide, the student was forced to handwrite notes, and the student was in 7<sup>th</sup> grade when he should have been in 8<sup>th</sup> grade. The student's mother is also not receiving daily communication which is written into the IEP. All of these items were in the student's IEP. When the family went to correct the issue, it was discovered that the school did not have the student's file and did not have the student's IEP. When the family inquired as to why the school did not have the student's paperwork, they were allegedly told to wait a few weeks so the school could figure out the situation. It was said that the school is also not communicating with the mother regarding the IEP and the mother does not know if any of the modifications to the classroom that are in the IEP are being done. Also, at the date of the complaint, an IEP meeting had not yet been scheduled.

## FINDINGS

### Interviews with Calvin Coolidge and District 150 Staff

The HRA began the investigation by interviewing Calvin Coolidge and District 150 school staff. In regards to the complaint that the student's confidentiality was violated, the staff stated that the student went into his homeroom teacher one day and told the teacher that "I can't take PE anymore." The teacher's first reaction was to ask why and the student explained that he had a doctor's note. The teacher then asked if she could see the note. The staff explained that the teacher asked because she thought that something had happened to the student and her knee jerk reaction was to ask why out of concern. She did not realize that the student had a doctor's note. The staff stated that when the teacher asked "why," the student did not react and he was not embarrassed.

The school staff stated that students bring a doctor's excuse for PE to the homeroom teacher and then the notice is sent to the office. The staff explained that the student did not participate in gym until there was a new gym teacher from a previous school that the student's mother wanted. The school staff stated that if a student has an excuse to not participate in gym, then they do not participate in gym. As an alternative, this student went to his homeroom and worked with his one-on-one during gym class.

The school staff also stated that this was the first that they had heard about the confidentiality complaint. The staff also stated that the communication is daily with the student's mother. The staff explained that they have a daily log, which is a booklet of notepaper, where the teaching assistant writes back and forth with the student's mother. They explained that the mother had concerns with the one-on-ones in the building and she had wanted one specific aide who was not available. The school staff stated that they have used 3 different one-on-one aides with the student and they have been very proactive and have been accommodating the mother as much as they possibly could. They also stated the mother is happy with the current aide. The school stated that the student had a one-on-one on the first day of school. They stated that if a one-on-one calls in, they call the mother right away and sometimes she comes and picks up the

student and sometimes not. They also stated that they see her on a daily basis because she walks her son into school. They stated to their knowledge, the son did not handwrite anything and he had a one-on-one from the start. They also explained that he was never forced to handwrite anything lengthy. The staff said that they did not believe there was a delay in the aide starting at the school. They stated that at the start, there were a couple of days where there was a problem with the aide's attendance, but they did not recall the aide not being there at the start of school. They stated that maybe there was a mix-up on the first day but there is no real schoolwork on the first day anyway.

The school staff went on to explain that the log was the only communication means that the mother asked for. The homeroom teacher actually initiated emailing with the mother because the teacher said it was a little easier for her to communicate through email. The school staff explained that they call the mother if the aide is absent and they also call if there is anything out of the ordinary in general.

The school also explained that the student's Green File was picked up a week before school started. The school stated that the Green Files are the student's files for the teachers. The teachers retrieve the Green Files from the District 150 Special Education office before the school year starts. The staff explained that the student's information and records are located at the special education office.

The school staff also explained that the student entered the school on the 8<sup>th</sup> grade level, but the student's homeroom is split 7<sup>th</sup> and 8<sup>th</sup> grade. The staff stated that they have a document that states he was in 8<sup>th</sup> grade when he entered the school. The staff also stated that the student was on the original class list. The staff explained that there was open registration for school in the school's gymnasium. The school secretary knows the student, and when they entered the gym, she said hello and asked from what school he was transferring. The secretary did not know where the child was coming from because she did not have the record in front of her due to no computer in the gymnasium. The secretary also could not remember the details of the transfer. The staff thinks that the mother may have taken this questioning as the school not knowing about the child's transfer and grade level. The mother questioned the secretary and she told the mother that it would be a couple of weeks to get the student's record. The school stated that the registration was the 16<sup>th</sup> or 17<sup>th</sup> of August and not the first day of school. The staff also stated that saying the information would be there in two weeks is the standard answer but it could be sooner. The mother never asked a follow-up question about the two weeks. The school stated that all the student's files did get to the school and that they have documented electronically that the student is in 8<sup>th</sup> grade. Also, while at the registration, the secretary mentioned that the child was in 7<sup>th</sup> grade because his current grade status slipped her mind. The staff explained that this was a mistake that was again due to the fact that the secretary did not have a computer in front of her at the gym. This statement was also made at registration and not on the first day.

The school staff stated that they also communicate with the mother at the IEP meetings. They stated that the mother attends the meetings and the student has attended many meetings. The school staff stated that they had an IEP meeting on October 6<sup>th</sup> and it was the mother that requested the meeting. They stated that February 17<sup>th</sup> was the annual meeting and then they have one in January for the student's high school meeting.

## Record Review

The HRA reviewed policy and records pertinent to the complaints addressed in this report. In regard to the complaint that Calvin Coolidge violated a student's confidentiality, the HRA reviewed the school's handbook. In the "Records" section of the handbook, it states that "All information that we possess on any current or former student (or the family of the same) is always confidential and thus cannot be shared with anyone but the immediate family." In the same handbook, it states that all students are required to participate in physical education unless there is a doctor's request to exclude. There is also a document titled "Notice of Procedural Safeguards for Parents/Guardians of Students with Disabilities" which states that "A local district is responsible for protecting the confidentiality of your child's educational records." The HRA also reviewed a note from the student's doctor, written on a sheet from a prescription pad that excuses the student from physical education class.

In regard to the complaint that the school did not follow the student's IEP and that the school did not have paperwork regarding the student when he started, the HRA reviewed a sign in sheet for the student's behavioral attendant (one-on-one). The sheet started on the date of 8/31/10 and the aide had signed in. In accordance with the Calvin Coolidge newsletter from August, the first day of school was 8/31/10. The newsletter also states that there was a registration day on 8/18/10 and 8/19/10. The HRA also reviewed a class list, which dates the class to begin on 8/31/2010 and states that the student is in 8<sup>th</sup> grade. The class list also states that the student does have a disability and documents the date of the student's next review.

The HRA reviewed the student's last two IEPs: one with the most recent meeting date of 10/5/10 and one with a most recent meeting date of 11/19/2009. Within the IEPs, under "One-To-One Aide/Teachers" it states, as an objective to "Complete assignment notebook for each subject on a daily basis." Upon talking to a staff member for further clarification, it was stated that this action of keeping an assignment notebook was to be completed by the student with assistance from the one-to-one. In the IEP, it does state, under "Supplementary Aids, Accommodations, and Modifications," that "Alpha Smart is used for deficits in writing, given extra time or write notes and other education materials for him. An audio recorder will be used as needed in the classroom to record lengthy lectures." The IEP does not state that the One-On-One needs to take all of the student's notes. The most current IEP also states that the Alpha Smart accommodation has been discontinued as of 10/06/10. There is also a typed note from a staff member, dated 9/8 which reads, "We can give this a chance for until midterm. It looks like he is supposed to tell Ms. Elliot what to write and I have yet to see him speak. I could see this possibly working for reading, but definitely not for Language arts. He needs to be able to compose simple and complex sentences. He must eventually be able to compose persuasive, expository, and narrative essays. Journal logs will begin next week. I can give him shortened assignments as a modification, but zero writing will NOT work."

As to the complaint that the school does not communicate with the family not regarding the IEP and the family does not know if the modifications are being done, the HRA reviewed a "Communication Notebook" that is sent back and forth between the staff and the family. The information passed back and forth deals with the student, how he is doing that day, homework

assignments, and anything remarkable that happened that day. The first dates in the notebook are 9/7/10, 9/8/10, and 9/9/10 but then there is a large gap in the communication in the notebook until 9/24/10. An email from 9/7/10, between the student's parent and the staff reads "The Communication notebook I sent in is, again, designed as a tool to be used by the one on one and myself. It will give her an opportunity to log [Student's] hourly schedule each day, reference the subject and location of any class notes she has taken as [Student's] scribe, and, if needed, to give detailed descriptions of daily lessons and homework assignment in order for me to assist him at home." The email mentions that this was a tool used when the student was in sixth grade and has worked well in the past. The student's IEP does not state that this communication notebook is a required accommodation.

The HRA also reviewed emails between the faculty and the student's family regarding the student. The content is similar to the communications notebook and includes communications regarding incidents at school, incidents with the one-on-one aid, etc. One of the emails reads "[Student] is not and should not at any time be required to be responsible for any written tasks. If he chooses to assist himself and his one on one, it should be as he feels capable. This should be clearly stated in his IEP. All written and organizational requirements should be fulfilled by his one on one." The most recent IEP has discontinued the use of an Alpha Smart for writing, and it states that the student should get extra time or have notes written for the student. The IEP also states to give extra time for written work. The IEP does not state that the student should not be responsible for any written tasks whatsoever. The IEP also shows that there was an IEP meeting on 2/17/2010 at the student's previous school and then another IEP meeting on 10/5/2010 at the student's current school. The HRA also reviewed a "Parent Contact Log" on which a staff person logs dates where they had to contact an individual associated with a student. On the dates of 9/1, it is logged that the student's homeroom teacher spoke with the student's mother outside of the school and then, on 9/2, there was email contact between the teacher and the student's mother. There were also 10 other instances, between September and October, on the parent contact sheet where the staff had interaction with the student's mother. Most of those contacts were the school alerting the mother that the one-on-one would not be there.

### Additional

The HRA was alerted that there were possible amendments that were taken over the phone while the student was attending his previous school (prior to attending Calvin Coolidge) that may not have made it into the student's IEP. The HRA questioned the District 150 staff for clarification and was told that there was only one amendment taken over the phone regarding the Language Arts portion of the reading class being taught in the special education classroom, and that amendment is currently in the IEP. The HRA reviewed the IEP and saw one amendment where the Language Arts portion of the reading class and where it would be taught. There were no other amendments in the IEP.

### MANDATES

The HRA reviewed regulations relevant to the complaints listed in this report. In regard to the complaint that Calvin Coolidge violated a student's confidentiality, the Illinois School Student Records Act states that "(a) No school student records or information contained therein

may be released, transferred, disclosed or otherwise disseminated, except as follows ..."(105 ILCS 10/6 a). The Act proceeds to list the different scenarios in which a student's records can be released, none of which state that it is allowable to release records to other children in the student's classroom.

In regard to the complaint that Calvin Coolidge did not follow the student's IEP, 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).

In regard to the complaint that Calvin Coolidge did not have the documentation regarding the student when he transferred to a new school and that mother was told that she had to wait a few weeks until they figure out the situation, the School Code states "(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act" (105 ILCS 5/2-3.13a).

The Individuals with Disabilities Education Act (IDEA) states that "(I) Transfer within the same State. In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law" (20 U.S.C.A 1414 I). The Act also states "(ii) Transmittal of records. To facilitate the transition for a child described in clause (i)-- **(I)** the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and **(II)** the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school" (20 U.S.C.A 1414 ii).

The HRA also reviewed Federal Regulations which state that an IEP must include "(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications" (34 CFR 300.320).

## CONCLUSION

**Complaint #1: Calvin Coolidge violated the student's confidentiality by asking for information regarding a medical excuse in front of other students.**

The complaint states that the school violated a student's confidentiality when the student's homeroom teacher asked for information regarding a medical excuse in front of other students in the classroom. The student had a medical excuse to not participate in physical education class and it was suggested by the doctor to be in band instead. In the interview with the staff, it was stated that the student went into his homeroom teacher and said "I can't take PE anymore." The staff explained that the teacher's first reaction was to ask why and the student then told the teacher that there was a doctor's excuse. The teacher then asked if she could see the note. The staff explained that the teacher asked because she thought that something had happened to the student and her first reaction was to ask out of concern because she did not know about the excuse and thought that he may be hurt. School policy written in the handbook, as well as in the procedural safeguards notice state that student's records must be kept confidential. The Illinois School Records Act (105 ILCS 10/6 a) also states that a student's records must be kept confidential. Due to the fact that the HRA found no evidence that the supports either interpretation of the incident that occurred, the complaint is **unsubstantiated**, but offers the following **suggestion**:

- The HRA recognizes that there are situations where a teacher may have to ask a student about confidential information or may inadvertently ask about confidential information. The HRA suggests that whenever a situation has the appearance that it may lead to a confidentiality problem; remove the student from the presence of others before inquiring about confidential information.

**Complaint #2: Calvin Coolidge did not follow the student's IEP, including no one-on-one aide for the first day of school, student forced to handwrite notes when IEP states he should not, student was placed in 7<sup>th</sup> grade when he should have been in 8<sup>th</sup>, and mother is not receiving daily communication from school as stated in the IEP.**

The complaint states that Calvin Coolidge did not follow the student's IEP, specifically the student did not have a one-on-one aide, the student was forced to hand write his own notes, the student was in 7<sup>th</sup> grade when he should have been in 8<sup>th</sup> grade, and the mother is not receiving daily communication which is written into the IEP. The staff stated that they did not recall the aide not being there for the start of school, but the aide did have an attendance problem. The staff also stated that they did not believe that the student had to hand write anything because there was an aide from the start, and if there was anything handwritten, it was not long. They also stated that the student's homeroom class was split between 7<sup>th</sup> and 8<sup>th</sup> grade, which could account for the confusion regarding what grade the student was in. The staff also explained that the school secretary asked where the student was transferring from at the school registration and then told a family member that it would be a couple of weeks to get the student's record. At the orientation, the secretary also stated that the student was in 7<sup>th</sup> grade accidentally because she did not have a file or computer with her to reference. This orientation was on August 18<sup>th</sup> and 19<sup>th</sup> and the first day of school was August 31<sup>st</sup>. The HRA reviewed a one-on-one sign-in sheet which documented that the school one-on-one was there for the first day of school (8/31) for the entire duration of the school day. The student's IEP also states that the

student is to have extra time when writing or the one-on-one is supposed to write for him, but the IEP does not state that the student is not supposed to write anything at all, and that everything handwritten is supposed to be done by the one-on-one. The HRA also reviewed the student's class list which stated that the student was in 8<sup>th</sup> grade. The HRA also reviewed a daily communication folder that is to be sent from the staff to the family and then back. The first dates of the notebook is 9/7/2010 - 9/9/2010, then there are larger communication gaps and the log is not written in everyday. In reviewing the student's IEP, it does not state that the school is to give the family daily communication, but rather there is only a homework assignment book that is to be filled out by the student with the one-on-one's assistance. Due to the fact that there is evidence that the student's one-on-one was there for the first day, that the student was enrolled in the proper grade, and that the IEP does not state that the family is supposed to receive daily communication or that the one-on-one is supposed to write all notes for the student, the HRA finds this complaint **unsubstantiated**, but offers the following **suggestions**:

- The HRA suggests that when a student is transferring from another school and that student uses special education services that the IEP team meets before the school year starts to discuss the student's IEP. This will assure the family that the IEP is being implemented and that the IEP team is on the same page.
- In reviewing the IEP, the HRA felt as though the language on the IEP could be more detailed and specific. For example, in the IEP it states "Complete assignment notebook for each subject on a daily basis." Upon clarification, a staff member explained that this task was to be completed by the student and not be the one-on-one, even though the goal is in the one-to-one aide/teachers section. This goal could be more specifically written to state exactly whose responsibility it is to complete the goal, the student or one-on-one aide. In another example, part of the IEP reads "Alpha Smart is used for deficits in writing, given extra time or write notes and other educational materials for him." The accommodation could state the amount of extra time the student is to get or in which situations notes are supposed to be written for him. The HRA suggests that the IEP be written in a more detailed manner that will eliminate any possible confusion by staff or family members involved in the IEP.
- There is documentation that was reviewed by the HRA that indicates the IEP team is not on the same page. Documentation from the student's parent indicates that the student should not be handwriting anything while at school and this is the one-on-one's responsibility, but documentation from the staff states that this method will not work and, as stated above, the IEP is not specific regarding the accommodation. As stated above, more specific language in the IEP will assist in problems such as these, but the HRA also suggests that the IEP team decide on specific accommodations, and ensure that everyone the team are aware of these accommodations, so that there is no confusion regarding roles and responsibilities by the one-on-one and so that the IEP team is in agreement with accommodations. Also, as per federal regulations, the IEP should address the specifics with regard to accommodations, including the start date, modifications and the "anticipated frequency, location, and duration of these services and modification" (34 CFR 300.320).
- In reviewing the documentation, there seems to be a miscommunication in accommodations on the IEP. For example, an email from the student's mother discusses a communication notebook that is to have daily communication between the staff and the



mother, and the HRA reviewed a communication notebook that had some communication between the staff and the family, but there is no mention of this accommodation in the IEP. The HRA suggests that if there is to be a specific accommodation, that the accommodation is added to the IEP so that all the details of what the accommodation entails and what the accommodation will accomplish are documented and understood by the IEP team.

**Complaint #3: Calvin Coolidge did not have paperwork regarding student and mother was told to wait a few weeks until they figure out the situation.**

The complaint states that the family discovered that, when the student started at the new school, that the school did not have the student's file or the student's IEP. When the family asked why the school did not have the student's paperwork, they were told to wait a few weeks so the school could figure out the situation. In the interview with the school staff, who stated that the special education teachers pick-up Green Files a week before school starts, which are the teacher's files for the students. The staff also stated that during the school registration, which was on August 18<sup>th</sup> and 19<sup>th</sup> and the first day of school was the 31<sup>st</sup>, that the school secretary told the mother that it would be a couple of weeks before the school got the student's record. The staff also stated that telling a family that the documentation would be there in two weeks is the standard answer and it could be there sooner. As stated above, the HRA also reviewed the student's class list which stated that the student was in 8<sup>th</sup> grade and also reviewed a sign-in sheet for a one-on-one which showed that the one-on-one was there the first day. This information seems to indicate that the school was prepared for the student and had reviewed his IEP to see that he did need a one-on-one. Due to the evidence that the school had the student's documentation before the first day of school, the HRA finds this complaint **unsubstantiated**.

**Complaint #4: Calvin Coolidge is not communicating with mother regarding IEP, she does not know if the modifications are being done.**

The complaint states that Calvin Coolidge is not communicating with the mother regarding the IEP and the mother does not know if any of the modifications to the classroom are being done. In the interview, the Calvin Coolidge staff stated that they have daily communication with the student's mother, through the mother walking her son to school. The staff also stated that they have a communication log that they write in and the student takes the booklet back to school. In reviewing the IEP, this communication log is not included in the student's IEP. The communication log was not a daily log, but there were notes written back and forth between the staff and the family. The school staff also indicated that the homeroom teacher suggested emails between the staff and the parent. The HRA reviewed several email exchanges between the two. Also, in the school's "Parent Contact Log" there is a meeting between the parent and the homeroom teacher on 9/1, which was the second day of school, as well as email contact on 9/2, among 10 other instances of contact between September and October (some where alerting the mother that the student's one-on-one was not at school that day). Due to the fact that the communication log is not in the student's IEP and the school still is accommodating the log, and the fact that there are multiple modes of communication documented between the

parent and the school staff, the HRA finds this complaint **unsubstantiated**, but offers the following **suggestion**:

- If the school is going to accommodate the communication log, the HRA suggests that it is put into the IEP with details regarding what is added to the log (eg. Homework, daily events, etc.).