



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 11-090-9012
Peoria School District 150

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations with Peoria School District 150. The complaints alleged the following:

1. Requests for evaluation of a student for special education services were not accommodated at both Whittier Primary and Thomas Jefferson Schools.

If found substantiated, the allegations would violate Federal requirements (34 CFR 300) 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 staff members from Whittier Primary School, Thomas Jefferson School, and School District 150 Special Education staff. The HRA also reviewed documentation pertinent to the case.

COMPLAINT STATEMENT

The complaint states that a mother requested to have her daughter evaluated for special education twice while the student attended District 150 schools and both requests were not accommodated. The complaint states that the first time the mother requested an evaluation was while her daughter was attending Whittier Primary, and a social worker called and questioned the evaluation because the student's grades were wonderful. The social worker then explained to the mother that they would have to follow a tier system process if they wanted to proceed with the evaluation. The social worker reportedly said that she would look into the evaluation but the mother never heard from her again. The second time the mother requested an evaluation was at Thomas Jefferson School. The staff and parent met for an evaluation at the beginning of May,

which was referred to as tier 2 interventions. The group was supposed to reconvene at a different date but the mother was told they could not due to the lack of data. When the meeting was finally rescheduled, the social worker allegedly did not show up for the meeting.

FINDINGS

Interviews with Whittier Primary, Thomas Jefferson, and District 150 Staff (11/9/2010)

The HRA interviewed Whittier Primary School, Thomas Jefferson School and District 150 staff members. The staff members from Whittier Primary explained that they did not recall speaking with the parent regarding the student. A staff member stated that this took place two years ago and they could not remember if this occurred. The staff stated that they never received a written or verbal request for an evaluation of the student from the parent. They stated that the student is currently under evaluation through District 150 for emotional issues. The Whittier staff members stated that they remembered the mother contacting them in the past but not about evaluations. The staff stated that if they told the mother that they were supposed to get back to her, they do not remember it. The staff also mentioned that the student performed very well and received good grades but the student's mother forced the staff to retain the student from moving to the next grade that year.

The staff explained that instead of an evaluation, they have been putting District 150 students through interventions that are driven through the Response to Intervention (RTI) process. The school goes through the RTI process to determine if the child is in need of special education. The staff stated that the process is completely data driven. The staff starts with pulling data, where they look at test scores, grades, and talk to teachers before the interventions are started. The interventions work in tiers. There is a tier 1 intervention, which is the basic intervention, a tier 2, which is a referral from the school or the parent, and then a tier 3 before special education begins. The staff explained that the parents are not completely aware of the new evaluation system through RTI but the process is on the district website and is called Comprehensive System of Student Support (CSSS). They also stated that the mother would have gotten a CSSS pamphlet so she would be aware of the process.

The staff explained that if a parent requested an evaluation, they would set up a team and call the parents. They stated sometimes they would type up a letter to the parents but usually it was verbal. They stated that in retrospect, they probably should have sent out a letter when the parent had an evaluation request at Thomas Jefferson. The staff did state that they send out letters to all students receiving interventions.

The staff declared that while attending Whittier, the student was very well adjusted and happy until the end of her time at the school when she had some bullying issues. The school staff stated that the student had an abrupt change in attitude socially. The school staff stated that they then discovered that the student was the aggressor in the bullying situations. There was a specific incident involving the student that occurred and the staff stated that is when the attitude

of the student changed. After another incident involving the principal, the student was suspended at Whittier Primary on December 17th, 2009.

The student started the second semester (January 2010) at Thomas Jefferson and the staff explained that her aggressive attitude continued. The Thomas Jefferson staff stated that by the end of March, the student's grades were declining in math and writing and, after spring break, the student's mother requested special education for the student. The mother called into the school and they explained the special education process. It was mid-April when they started the intervention process. During that time, the student accumulated quite a few school absences, and sometimes left in the afternoon. The school had put her in math and reading interventions and tried to put in interventions for peer social skills and absences but the mother was not interested. The group decided to go to Tier 2a with the student. On 5/26 there was a meeting but a special education coordinator did not attend the meeting. There also was not a teacher at the meeting but rather a substitute for the teacher. The staff stated that the coordinator and teacher not attending the meeting was offensive to the mother. They also explained that the meeting was mostly a data meeting anyway and the school did not have enough data due to the student's excessive absences. The mother then wrote a letter to the district's special education director and, once the student started at her new school, the evaluation process was started because of the letter.

The school explained that they will look at social-emotional issues with students but it is still based on data, such as missing school and behavioral issues. The school stated that if the student was having social-emotional issues, her grades would have been affected. They saw no signs of issues in the school setting. They stated that they know their district teachers and they would have referred the student.

The staff said that the parent did give them a physician's letter but they do not know who it came to or when it came in. They stated that they have a copy of the physician letter but it did not come through the office because it was not stamped as letters mailed to the District generally are.

The HRA received further clarification in a subsequent phone call about the evaluation process. The District 150 staff member stated that when a parent asks for an evaluation, the District starts with the three-tiered RTI system. They stated that they encourage the coordinators to write a letter back to the parents when an evaluation is requested, explaining the process, but the coordinators will also verbally explain the process. When a parent requests an evaluation, they will receive a document from the school within the 14 day time frame stating that the school does not believe the student needs an evaluation based on their academic success, or that the school does not think that an evaluation is appropriate at the time, but they will put the student through the tier process to collect data, and then they will review the data. The staff member stated that generally, the tier system will be all the data that they need to see if the student requires special education, and the student generally does not need an evaluation if they move through all three levels of the tier system with no progress. The staff stated that the RTI process is required by law for students with learning disabilities, but not for other disabilities.

The staff member also stated that the school will test differently for different disabilities. They will put the students through the tier system, and then give a test for the specific disability

that they believe the student to be diagnosed. Also, the school calendar has a statement regarding what parents need to do if they believe their child needs special education services.

Record and Policy Review

The HRA reviewed records and policy regarding the complaints in this report. The HRA reviewed a document titled "Parent/Guardian Notification of Decision Regarding a Request for an Evaluation." The document states that "A request for a special education evaluation was made for your child on 4/16/10 by [parent] and [physician] for the following reasons ..." the document proceeds to list the reasons the parent and physician requested an evaluation. The document then reads "A review of the request has determined that an initial evaluation is **not appropriate** at this time." The document proceeds to state "At a meeting on 5/3/10, [student's] teacher and mother met with PPS team members and the targeted team leader to discuss the concerns that led to the request for evaluation. While [student] has not received any formal interventions through CSSS, she has received some extra help in class. Since no formal interventions have been tried, the team agreed to start her at Tier 2A interventions for math and written expression. The group will re-convene to evaluate data on 5/26/10. Currently, there is no data that indicates a need for a special education evaluation. If data is obtained that indicates a concern, the possibility for an evaluation will be re-visited." This document was dated 5/3/10.

The HRA also reviewed a document titled "CSSS Procedures" which documents the CSSS procedure and how to complete the different tier forms. Within the procedure, it states "Every parent with a student in a CSSS school will receive a *CSSS Parent Brochure*."

The "Notice of Procedural Safeguards for Parents/Guardians of Students with Disabilities" states that "Either you or the school district may initiate a request for an initial evaluation of your child. If it is determined that an evaluation is necessary, the district must complete the evaluation within 60 school days of receiving your written consent." The HRA also received clarification from the District 150 staff that the Procedural Safeguards are the only documents given to parents when they request an evaluation.

In a letter from the Director of Special Education of the district to staff members, regarding the intervention, the Director states "We don't have a lot of data from previous interventions and mom was expecting some decisions at the meeting on May 26th (I believe that is the date)." On the student's intervention integrity worksheet, it indicates that the student was absent on 5/11, 5/14, 5/18, 5/19, 5/20, and 5/25. This indicates that the student missed 6 of the 15 days between the program start date of 5/6 that is indicated on the worksheet and the progress review date of 5/26 date that is indicated on the worksheet.

The HRA also viewed a copy of the school calendar. In a section of the calendar, titled "Instruction for Students with Disabilities" it reads "Inquiries regarding the identification, assessment and placement of children with disabilities should be directed to the Director of Special Education ... When parents suspect their child may have a disability, they should consult their school principal."

There was no documentation given for the first alleged request for evaluation. There were also no meeting notes for the last data meeting between the school and the family.

MANDATES

The HRA reviewed regulations and requirements dealing with the complaint listed in this report. The Illinois Administrative Code states "2) To determine whether the child requires an evaluation, the district may utilize screening data and conduct preliminary procedures such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child. 3) Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted. If the district determines not to conduct an evaluation, it shall provide written notice to the parents in accordance with 34 CFR 300.503(b)." The Code also states "Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested" (23 Ill. Adm. Code 226.110).

The Illinois Administrative Code also states " b) Provided that the requirements of this subsection (b) are met, each district shall, no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation" (23 Ill. Adm. Code 226.130 b).

The Federal Code states "(b) Request for initial evaluation. Consistent with the consent requirements in 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability" (34 CFR 300.301). The Federal Code also states "(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) Content of notice. The notice required under paragraph (a) of this section must include-- (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action" (34 CFR 300.503). The Federal requirements also state that the evaluation must be conducted within 60 days of receiving a consent for the evaluation (34 CFR 300.301).

CONCLUSION

Complaint #1 - Requests for evaluation of student for special education were not accommodated at both Whittier Primary and Thomas Jefferson Schools.

The complaint states that requests for an evaluation of a student for special education services were not accommodated at both Whittier Primary and Thomas Jefferson Schools, both in School District 150. In the staff interview, staff from Whittier Primary stated that they did not

remember speaking with the student's mother regarding an evaluation because the action took place over two years ago. The staff stated that they never received a written or verbal request for an evaluation for the student and the student never had academic concerns. The Whittier staff members do recall the mother contacting them but not about evaluations. In reviewing the documentation from Thomas Jefferson, there was a document titled "Parent/Guardian Notification of Decision Regarding a Request for an Evaluation" in which an evaluation of the student was declined by District 150 on the basis that there was no data that indicated the student needed to be evaluated for special education. Within the document, the staff did agree to conduct interventions to collect data to review and see if an evaluation was needed, but not enough data was collected to determine whether an evaluation was needed. There was a data meeting which some staff members did not attend; the staff stated that this resulted in the mother writing a letter to the Director of Special Education for the district. This letter prompted an evaluation of the student when the student began attending her new school. The Illinois Administrative Code states that, if a district determines to not evaluate a student, they must provide written notice to the parents within 14 school days of receiving the request. The Code also states that the district may use screening data and conduct preliminary procedures to determine whether a child needs an evaluation. (23 Il Admin Code 226.110). In accordance with Federal Code, the notice must contain a description of the action refused by the agency and an explanation of why the agency refuses the action (34 CFR 300.503). District 150 did supply the student's parent with a written decision that declined an evaluation and gave a reason for declining the evaluation. The written decision came 12 school days after the request for the evaluation, which follows the Illinois Administrative Code. Although the evaluation was denied, the District did state that they were to collect more data and reconvene to review the collected data to see if an evaluation was needed, which still allowed the possibility of an evaluation. During the time of the data collection, the student missed 6 of 15 days, which the staff thought was not enough information to properly determine whether the child needed an evaluation, therefore some staff did not attend the scheduled 5/26 meeting to discuss the data. There is no documented evidence regarding the parent's first request for evaluation at Whittier Primary, and requirements were followed regarding the second evaluation request. Also, the HRA found that the RTI process is, in fact, used rather than evaluations unless it is an emergency situation. Illinois Administrative Code states that "no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304" which would describe the RTI process. The same Code goes on to say "When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation" (23 Ill. Adm. Code 226.130 b). In accordance with the notification regarding the request for an evaluation, "Since no formal interventions have been tried, the team agreed to start her [student] at Tier 2A interventions for math and written expression." This is essentially stating that the evaluation has been declined so that the school could work through the intervention process to collect data. Due to the fact that District 150 declined an evaluation to use interventions, which is a violation of Illinois Administrative Code 226.130(b), the HRA finds the complaint **substantiated**. This substantiation is only in regard to the second request from Thomas Jefferson due to the lack of evidence that the first request at Whittier Primary was made. The HRA offers the following **recommendation**:

- Review and update District 150 evaluation policy to adhere with 23 Il. Adm. Code 226.130 (b) in regard to not denying parent's request for an evaluation due to the school implementing a tiered intervention system.

The HRA also makes the following suggestions.

- The HRA feels the process of requesting an evaluation could be better illustrated to the parents in accordance with Illinois Administrative Code 23 Il Admin Code 226.110. Although the Code does not directly require schools to document the process, the HRA feels as though it would be best practice to describe, step-by-step, the actual process of requesting an evaluation to give to parents. The HRA suggests making the process description available to all parents, regardless if they have a student in special education or not. The request process could be added to the school handbook, website, etc. so that all parents receive the information before the school year.
 - Although the regulations do not state that the parent's request for an evaluation has to be in written form, the HRA suggests that, whenever a parent makes a request for evaluation, as best practice, the school asks the parents to fill out a request form that the school can put on file or the school should clearly document the parent's request in the student's record.
 - The staff stated that, when a parent requests an evaluation, sometimes the school would type up a letter confirming the request, but generally it has been handled verbally. They also stated that, in retrospect, the staff should have sent a letter in this case. The HRA suggests always sending letters and documenting that the letter was sent in the student's record when a parent requests an evaluation.
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RESPONSE

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



June 10, 2011

Guardianship & Advocacy Commission
Gene Seaman
Human Rights Authority Coordinator
401 Main Street, Suite 620
Peoria, IL 61602

Dear Mr. Seaman:

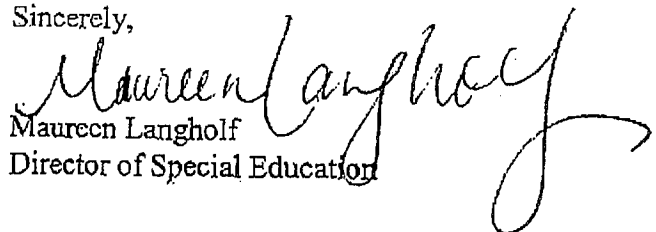
The investigation that was conducted on Case #11-090-9012 by the Peoria Regional Human Rights Authority of the Illinois Guardianship & Advocacy Commission has provided a welcome opportunity for Peoria Public Schools District 150 to clarify our special education evaluation procedures. The HRA investigation resulted in the following recommendation:

“Review and update District 150 evaluation policy to adhere with 23 Il. Adm. 226.130 (b) in regard to not denying parent’s request for an evaluation due to the school implementing a tiered intervention system.”

The investigation and resulting recommendation has highlighted an oversight in the evaluation procedures. The lack of procedures to address the course of action that should be taken in the event a parent requests an evaluation has resulted in confusion and lack of communication. In an effort to address the oversight I have created a memorandum that explicitly states District 150’s procedure that shall be followed when a parent or agency makes a request for a special education evaluation. This memorandum will be sent to all school psychologists and school social workers as well as building administrators and school problem solving teams. The document is attached for your review.

I believe that an explicitly stated procedure that will be followed by all staff members will prevent further complaints of this nature. Thank you for your efforts to ensure the rights of all students.

Sincerely,


Maureen Langholf
Director of Special Education



MEMORANDUM

June 10, 2011

To: Building Administrators, Special Education Coordinators, Problem Solving Teams

RE: Request for special education evaluation procedures

The Illinois Administrative Code states "b) Provided that the requirements of this subsection (b) are met, each district shall, no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientifically based interventions as part of the evaluation procedure described in 34 CFR 300.304. When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation." (23 Ill. Adm. Code 226.130b).

In an effort to comply with this mandate, I have updated the evaluation procedures to address the steps that should be taken when a parent or agency requests an evaluation.

The following procedures should be implemented immediately:

- I. A parent or agency makes a verbal or written request for an evaluation.
- II. School personnel will take the written request (if it is not in writing, the school personnel will give the parent or agency a "Request for Special Education Evaluation" form) and sign and date that it was received. A copy will then be given to the parent.
- III. The Pupil Personnel Services staff (PPS) will be immediately contacted and the written request will be forwarded/faxed to the PPS office.
- IV. A request CANNOT be denied on the basis that the student is or is not in the process of receiving tiered interventions through the Comprehensive System of Student Support process.
- V. If after the PPS staff has reviewed the relevant data which may include screening data and preliminary procedures such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child, within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted.
- VI. The PPS staff will fill out the "Parent/Guardian Notification of Decision Regarding a Request for an Evaluation."
- VII. If an evaluation is warranted, the PPS staff will convene a problem solving meeting to include the parent with the purpose of developing or reviewing tiered interventions and identifying needed assessments to complete the evaluation. Once the team has identified the needed assessments, the parent will be given their procedural safeguards and the opportunity to sign consent for the evaluation.
- VIII. Within 60 school days of receiving the written consent for an evaluation an eligibility meeting will be held to determine if the student is entitled to special education services.