



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 12-090-9002
Bradford School District

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at the Bradford School District. Complaints alleged the following:

1. The District is not following student's IEP, including placing student in a program that does not follow the student's IEP goals
2. The District made changes to a student's IEP without an IEP meeting

If found substantiated, the allegations would violate the Illinois State Regulations for special education programs (23 IL ADC 226) and Federal special education regulations (34 CFR s 300).

The Bradford School District services Marshall, Stark and Bureau Counties. 320 students attend the school district; 220 at the grade school through junior high school level and 100 at the high school level. Bradford School District's high school is deactivated, therefore the students are sent to other high schools in the region. There are approximately 30 students in the special education program and approximately another 20 receiving speech services. The school supplies an alternative behavior program where some students attend another school locating in another community. The District uses a special education co-op because they did not have a special education pre-kindergarten program until this school year.

COMPLAINT STATEMENT

The complaint states that the district did not follow a student's IEP, including placing the student in a program that is not included in the student's IEP goals. The student was attending another school in another town because the Bradford School District did not have a special education program. Bradford School District is the student's home school. Bradford created a special education program, and contacted the student's mother telling her that the student has to come back to Bradford even though the special education program is different. For the school year, the student was going to a blended program in which five students had IEP goals and five students did not have IEP goals. The Bradford special education program is a class with 20 to 25 students but none have IEP goals. The complaint alleges that the district told the parents that they would have to reevaluate the goals or take them away. This action was taken after the IEP

meeting in March where the IEP team agreed that the student needed a blended classroom. The parents talked to the Superintendent who said that the school would give the child what she needs and if she does not go to Bradford then she is not going to be ready for kindergarten. The complaint states that the parents are afraid that the student is going to regress.

FINDINGS

Interview with staff (8/22/2011)

The HRA began the investigation by interviewing a Bradford School District staff member about the complaints in the case. The staff member began by explaining that the student was being sent for special education pre-kindergarten in another town and was on a bus for 2 hours per day going to the city and back. The Bradford School District hired a special education teacher and decided to bring the student back to the school district. The staff member explained that this was the first year that they have a pre-kindergarten special education teacher at the school. They now have 9 students in the pre-kindergarten class. The staff member stated that 4 or 5 students have IEPs in the class. The school now has a pre-kindergarten class in the morning and then a special education pre-kindergarten class in the afternoon. The classroom has a teacher and 2 aides, and the aides are para-professionals who are qualified to teach the class. The staff member stated that the school year had started the Friday prior to the interview with the HRA (8/19/2011).

The staff member explained that a blended classroom meant that there are some students with IEPs and some students who do not have IEPs and are not part of the special education curriculum. The staff member explained that when the school was told about the HRA investigation, they had not even had the IEP placement meeting yet for the student who was proposed to be moved back to Bradford. The staff member stated that when they realized that they could have a pre-kindergarten, they conducted IEP meetings for all the students. The staff said that the only difference in the students' IEPs is a change of placement and everything else remained the same. At the end of May or June the school district discovered that they would be able to have a change of placement. The co-op coordinator staff member contacted the parents around May or June. The Bradford staff member thought that the coordinator probably contacted the parents via telephone but also had to send notification for the IEP. The student's family contacted the co-op and then contacted the Bradford superintendent about the change. The Bradford superintendent told the mother that they would probably bring the students back to Bradford and referred the student's family back to the co-op. The superintendent also said that no goals would change. The staff member stated that they were just changing placement and no goals were changed on the IEP. The staff member explained that at the IEP meeting, it was stated that there may be a Bradford special education program.

The Bradford staff member stated that the student's mother was never told that the IEP was going to be cancelled or that the goals were going to be removed. The staff member stated that it was explained to the student's mother that nothing was going to be changed. The staff said that the student came from another district and already had an IEP from that school district. The student is currently 4 years old and was in a 0-3 program but she received an IEP at 3 years old.

The placement meeting for the student occurred a week before the school year started. The staff stated that the IEP will be changed about half way through the school year. Bradford

School District is the student's home school district. The school that the student was attending had a blended special education program, which Bradford is now offering. The Bradford School district was not going to offer a blended program but they made the change specifically for the student's IEP. That student was the only one who had a blended IEP. The school co-op contacted the parents of the students who were not in special education and received their permission and also communicated with the parents of the students who were in the special education program. At the IEP meetings, changes were made to those students' IEPs to make them part of the blended program. All parents agreed to have their children's IEPs changed to a blended program. The staff explained that the student is classmates with the same children who attended school in the other town. The Bradford staff made the change to the IEPs because of the parent's concern that her daughter would no longer be in a blended classroom. The staff member also stated that the parents are happy with the situation as long as the student's needs are met and this fact is also noted in the student's IEP. The staff member stated that the parents were extremely concerned about their child and that it was at the August 10th IEP meeting with the parents-when they decided to create the blended class.

Most of the other parents were fine with the change in services; they just did not want their children to ride in a bus for an extended period of time. The staff member also informed the HRA that the students' IEPs are written by the co-op. The staff member explained that parents receive a handbook when they become part of the school system. When or if they inquire about special education, or become part of the special education system, they receive information about procedural safeguards. Parents also receive procedural safeguards with the IEP. The staff member said that rights and procedures are not in the handbook and that they have to be requested. The notice for requesting the rights and procedures are in the handbook as well.

Bradford staff discussion at HRA regional meeting (9/14/11)

Staff from the Bradford school district, as well as the co-op that provides special education to the school district attended the September 14th, 2011 HRA regional meeting to make statements regarding the case. The special education co-op representative stated that the parents called the co-op regarding the change of placement. The parent's daughter was in a self contained classroom and was moved into a blended classroom. The co-op representative stated that all the parent's concerns were addressed and the school staff says that they are happy. The student's parents signed off on the paperwork for the blended class. The school district's main concern for the student was the travel. The school decided to move the students back to Bradford because they had enough students in the district to constitute the move. The co-op representative stated that the other program class was self contained and not blended. The co-op representative explained that the location was the parent's concern; the student's parents wanted the student to stay in the other program. The co-op representative and Bradford staff member stated that the student has not had a transition problem. They said that there was a meeting on March 11th for a change of placement and it was to move the child into a blended classroom. The parents wanted a different time of day. On August 10th there was an IEP meeting where they discussed the transition to Bradford and decided to place the child in the afternoon classroom which was blended.

Additional Conversation with Special Education Co-op (10/20/11)

The HRA had an additional conversation with the special education co-op that worked with the school to request some further documentation. In that conversation, the co-op staff member stated that, at the 3/11/2011 IEP meeting, Bradford stated that they would have blended classes. After the meeting, the school district stated that they would not have blended classes, only self-contained classes. The special education co-op staff member defined self-contained as 10 students all with IEPs, while blended is 5 students with IEPs, and 10 at risk students without IEPs. The staff member stated that prior to the 8/11/2011 meeting; Bradford decided that they would offer a blended classroom after all.

FINDINGS (Including record review, mandates, and conclusion)

Before providing a review of the findings, the HRA would like to assemble a timeline of events that occurred surrounding the complaints. The HRA received the complaint on 7/8/2011 and opened the case at its 7/13/2011 meeting. The student's first IEP meeting was 3/11/2011, so in between 3/11/11 and 7/8/2011 is when the alleged incidents occurred. On 8/10/2011 there was another IEP meeting and a new IEP was created. The HRA conducted its site visit regarding the complaints on 8/22/2011.

Complaint #1 - District not following student's IEP, including placing student in a program that does not follow the student's IEP goals & Complaint #2 - District made changes to a student's IEP without an IEP meeting.

The HRA began the record review by reviewing the students' IEPs. The HRA was provided with three IEPs for the student, the first IEP was from 3/10/10, the second IEP was dated 3/11/2011, and the third IEP was dated 8/10/11.

In the IEP dated 3/10/2010, the IEP states that placement is not in the resident school, and that the serving district is another district and the serving school is another school. In this IEP, the HRA saw no indication of blended classrooms. In the facts tracking sheet of the IEP, it is also stated that the student will have separate and not blended classes.

In the IEP dated 3/11/11, it states that the student's serving district is Bradford 1 and the serving school is Bradford Elementary. The educational services and placement section reads that the student will be in a blended PK (Pre-Kindergarten) program for 720 minutes per week, and this will be initiated on 8/16/2011. The additional notes/information reads "With parent permission, [student] will continue to receive the services as stated in the IEP dated 03-10-10 for the duration of the 2010-2011 school year. In August of 2011 the most current IEP will be instated." This was signed by the student's mother.

The next IEP for the student is dated 8/10/11. The newest IEP, like the previous IEP reads that the student's serving district is Bradford 1 and the serving school is Bradford Elementary. In reviewing the educational services and placement, it reads that the student will be in a blended PK program for 720 minutes per week, which is also what is stated in the previous IEP, and this is to be initiated on 8/16/2011. Although both IEPs state that the student

will have special education classes, separate schooling, or removal from the regular education environment because of the nature or severity of the disability, as stated in the first IEP, both IEPs also state the student will be placed in "31 - Reg EC 600+ mpw 50% + SPED services outside Reg EC" while the 2009 IEP only stated that the student would receive "Separate Class." The special education co-op staff member, that the HRA contacted on 10/20/11, verified that code 31 is the blended Pre-K, and code 23, which reads "23 - SPED Program-SPED Class less than 50% nondisabled" is the self-contained class. Both IEPs from 2011 indicate that the team does not accept placement in the self-contained class. The placement statements indicate services in the regular education curriculum and outside the regular education curriculum. The additional notes/information on the newest IEP reads "Team met to discuss appropriate placement for the 2011-2012 school year ... [staff] prepared a handout for the team that highlights [students] strengths and areas for development. The handout also included placement options with pros and cons of each type of placement ... Parents want [student] to continue placement at [other school] because of the availability of the blended class. As discussed, [student] is academically advanced beyond the level of the peers in the Bradford PM and is not yet socially ready for the AM class due to communication needs. The team discussed the possibility of starting a blended class in the PM in Bradford. Bradford has a waiting list for children for that at-risk program. [Staff] shared that it was important to Bradford to reduce travel time for PK students. Some children were being bussed from 2 to 2.5 hours each day. She also shared how Bradford is able to support student needs within the district. Parents are happy that she would be able to be located closer to home, as long as [students] needs are able to be met within the Bradford district. Parents main concern for this school year is that [student] does not regress, but that her skills continue to develop so she will be ready for Kindergarten next year. [Staff] posed the question as to whether or not changing the Bradford program to a blended program would be in the best interest of all the special needs students in the program. [Staff] shared that the district is willing to provide 2 aides for the classroom in the afternoon to address the needs of all the students."

The HRA also reviewed a class attendance sheet that has the student's name and the current grade for the 2011-2012 school year as Pre-K P.M. The sheet does not indicate whether the class is a blended class room but the facility verified verbally that the class is blended.

The HRA reviewed both the 3/11/2011 and 8/10/11 IEP and found no real differences between the two IEPs. In the facts tracking sheet, the beginning date on the 3/11/11 IEP states that the date was 11/16/2009. On the 8/11/11 IEP, it states that the date completed is 3/11/2011 and that there is now an assigned case manager. Also, on the 8/10/2011 IEP, there is an eligibility determination sheet attached which indicates that the student is eligible for special education services.

The procedural safeguards, which are distributed to parents who have children who participate in special education services, discusses IEP meetings. The safeguards read "After the annual meeting, you and the school may agree not to convene an IEP meeting for the purpose of amending your child's IEP, and instead may amend or modify the IEP through a written document."

In regard to the first complaint, the HRA researched state and federal mandates in accordance with the complaints raised within this report. In regards to the complaint that the student's IEP has not been followed, Illinois' regulations state that "Each school district shall provide special education and related services to eligible children in accordance with their IEPs" (23 Illinois Administrative Code 226.200).

The Code of Federal Regulations also states "Free appropriate public education or FAPE means special education and related services that . . . (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324" (34 CFR 300.17). The Code further states in Section 300.116 that a child's placement should be determined annually, be based on the student's IEP, be "...as close as possible to the child's home...", ensures that "Unless the IEP...requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled...[and] consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs...."

Regarding the second complaint, the federal special education regulations state "(i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. (ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes . . . (6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated" (34 CFR 300.324).

Compliant #1 & #2 conclusion:

Both IEPs from 2011 (3/11 and 8/11) state that the student is to be in a Blended Pre-K program and the IEP was to be initiated on 8/16/11 and the school year began on 8/19/11. The co-op staff member stated that the school offered a blended program with the first IEP, then stated that they were not offering the blended program after the initial IEP meeting, but then decided to offer the blended program at the 8/11 IEP, which would explain why both IEPs are the same and would also explain why the complaint was made. Because the student did attend a blended class which is compliant with the first IEP, the HRA finds both complaints **unsubstantiated** because the district followed the student's IEP and also did not make changes to the students IEP. The HRA does offer the following **suggestions**:

- Although the complaints are unsubstantiated, according to the co-op, the school did unofficially cancelled services for the student that were in the student's IEP but then reinstated the services. The only reason why this compliant was not substantiated is because the services were reinstated before the student attended class, therefore voiding any non-compliance. The HRA suggests that the school use caution when working with IEPs and review the regulations illustrated in this report (34 CFR 300.324) regarding changes made outside of the IEP meeting. Also ensure to involve student's parents in all

decision making regarding IEP changes. The HRA also suggests that district assures that they follow all IEP goals.

- Due to the differences between the complaint statement, what was stated in the school district interview, and what was stated at the HRA meeting and the phone discussion with the co-op staff, the HRA suggests that the district work on improving communication and understanding as to what is occurring with students. The HRA feels as though that some of the cause for this complaint may have also been miscommunication between the school and the student's parents and improvement in knowledge of the student's situations and communication skills could be a proactive approach to assuring future complaints do not occur.
- The HRA discovered some errors on the IEPs and suggests that those errors are fixed. The first is the date completed on the 3/11/11 facts tracking sheet is inaccurate and reads 11/16/2009. Also the 8/11/11 IEP reads that the date completed is 3/11/11. The HRA suggests that these errors are changed.
- The HRA notes that a 2 ½ hour travel time for special education services exceeded the travel time recommended in state special education requirements (23 Ill. Admin. Code 226.750) which state that "Every effort should be made to limit the child's total travel time to not more than one hour each way to and from the special education facility."