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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 12-090-9005
Midland School District

INTRODUCTION

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

1. Inadequate protection of special education students when a student left school without facility knowledge.
2. Inappropriate treatment of student, including student being yelled at when returning to school after leaving without telling staff.

If found substantiated, the allegations would violate the Illinois State Regulations for special education programs (23 IL ADC 226) and the Illinois School Code (105 ILCS 5/10).

The Midland School District services Sparland, Varna, Lacon, and other rural areas in and around Marshall County. The district has 813 students, 265 of which are in the high school. Approximately 12% of the students receive special education services. The District has 100 employees, 25 of whom are special education staff. The school uses a special education co-op service for occupational therapy, social workers, and a school psychiatrist.

To investigate the allegations, the HRA team members met and interviewed Midland School District staff and reviewed policies pertinent to the complaints. The HRA did not acquire a release for the student specifically named in this complaint, but the school district did provide masked records for a student with a supervision plan.

COMPLAINT STATEMENT

The complaint stems from a newspaper article which appeared in the Peoria Journal Star on 9/22/2011. The article stated that a five year old student with disabilities left Midland Elementary School without facility knowledge. The article states that the student was dropped off by a parent at 7:50am and that the student entered the building. Later the student left the building, and the staff were not aware that the student was missing until one hour later. An employee from a restaurant contacted the school stating that the student was at the restaurant.

An aide went to pick up the child and, upon returning to the school, was reportedly heard yelling at the child saying that the student was in big trouble.

FINDINGS

Interview with staff (1/24/2012)

The HRA spoke to a Midland staff member regarding the complaints in this report. The staff member explained that the student was lost and that the student was yelled at by the aide. The staff member also clarified that the aide was disciplined. There has not been a problem with the aide since the incident, and the aide is still with the student. The staff explained that the student's mother dropped the student off at the school in the morning, and the student walked into the building. Shortly after entering the building, the student went to the playground and then left the premises. The staff member said that the article that appeared in the Journal Star is completely accurate. It was estimated that the student was gone for 1 hour and 15 minutes without the school noticing the absence. The student was discovered at a restaurant by a restaurant employee who subsequently contacted the school. This was when the school became aware that the student was gone. The parents were contacted after the student was found.

The school staff stated they were embarrassed that this incident occurred and that they have made three major policy changes in response: the student involved in the incident receives more supervision, the school switched to electronic attendance/record keeping, and additional personnel provide supervision on the playground. Staff explained that there is a written plan for the changes made to school policy.

The facility transitioned to electronic record keeping for attendance so that the record keeping is immediate. Previously, the record keeping was handwritten so a student could be missing for an hour without the parents being informed. Under the old system, the completed roll call sheet was hung on the wall outside of the classroom. An aide would retrieve the roll call sheets and take them back to the secretary. The staff explained that they are not sure if the paper roll call process was even consistently completed. The facility staff stated that, previously, the roll call was not even entered into the computer system. The staff member explained that, with the new program, the teachers use their classroom computers. On the computer, there is a picture of each student in the classroom. The teacher selects the picture if he/she is not there, and an electronic report goes directly to the secretary in the office. If the student is absent, the secretary calls the student's parents. This process takes a much shorter time than the previous process. The staff member explained that School Code states that the roll call needs to be completed and the parents of absent students contacted by 10:30 AM but the school's new process is much quicker. The staff explained that the process takes seconds for the report to reach the secretary, and then she can begin calling. The staff member further explained that the absentee rate is so low--between 2 - 5% for Pre-K through 4th grade--that the entire process, from roll call to calling the parents, is very quick. The staff explained that there is still a chance for a potential accident if the secretary does not look at the roll call, but the electronic roll call is being done consistently. With the new system, it would be 30 minutes at the most before a student is discovered to be absent.

The staff member explained that, when it is discovered that a student is missing, the school first attempts to contact the student's parents. If the parents cannot be reached, then the school contacts the police. If the parents are reached, but say that their child was dropped off at the school, then the school calls the county and city police.

There is now more supervision on the playground. Some students proceed to the cafeteria for breakfast after being dropped off around 7:30 AM, but the vast majority of the students arrive at the school at 8 AM. At 7:30 AM, there are 4 or 5 students on the playground but by 8 AM or 8:05 AM there are around 150 students. At 7:30 AM there is only one supervisor, but, beginning at 7:45 AM, there are 5 supervisors scattered around the playground. At 8:15 or 8:20 the students line up by class and are taken into the school building for assembly. The assembly lasts 5 or 10 minutes, and then the students are taken to class for roll call. The staff explained that there is no roll call between the time that the students are dropped off and the first class. The staff member explained that if they housed the students in the gym instead of the playground, it would affect the student's health in the summer because of the heat; however, if it is 20 degrees outside, the students do go into the gym before school.

The drop-off procedure is the same for all students unless supervision is written into the student's IEP. The staff member explained that currently they have no students at the school that they would consider to have the propensity to elope. If there was a student at the school who had the propensity to elope, they would develop a supervision plan for them. The staff said that if a student has the need, the school has a program in place to orient the students to a morning routine, and they currently have 4 students going through this routine. For the student who eloped, the student's aide now meets the student at the front door when the student is dropped off in the morning and takes the student directly to the student's locker. This new plan has not yet been written into the student's IEP.

In reference to the second complaint, the staff member stated that the staff handbook has a code of conduct that specifies that teachers are not allowed to harass students. Teachers are also required to sign off on the Code of Conduct. All employees have a handbook that they must sign regarding employee harassment. Students can report abuse to the classroom teacher or the principal. If they are in high school, they can also report to the guidance counselor. Teachers, aides, and support staff members are mandated to report abuse and are trained yearly.

The staff member whom the HRA interviewed stated that the aides are employed by the school and are trained by the Special Education Co-op, as well as the school's principal, on how to interact with students. School staff do not receive blanket training on behavioral intervention plans because each plan is unique; however, they do receive training on the specific behavioral intervention plan needed by an individual student.

Record Review

The HRA reviewed a masked supervision plan for a student with the propensity to elope. According to this supervision plan, "aide will be outside to meet student and accompany [student] to breakfast. Aide will remain at breakfast with student until [student] is finished and then accompany [student] back outside (or to the gym during inclement weather). She will

remain on the playground with the sole responsibility of keeping visual contact on student until it is time to line up. Aide will assist with student and ensure that [student] lines up appropriately and enters the building with [student's] class." The plan goes on to specify that the student must be in the front of the class line when returning to the classroom from morning assembly and when going to and from lunch and recess. The student will be accompanied by an aide for bathroom breaks, and the student will wait with the teacher to be picked up at the end of the day.

A memo sent by the principal to all teachers and staff members regarding the incident was brought to the attention of the HRA. The memo describes the incident, indicating that the student exited school grounds via a gap in a fence near the school. A note attached to a masked supervision plan remarks that "temporary fencing was installed on 9/22 at the two open areas where the fencing from the alley meets the street fencing."

According to the Midland Elementary School Handbook, school policy for morning arrivals states that "students may enter the building before 8:20am only if they are participating in the breakfast program. Otherwise, when students arrive at school, they stay out on the playground and teacher supervision begins on the playground at 8:00am. If your child arrives before 8:00am, they will not be supervised" (page 9). The new supervision policy for all students described in the above-mentioned memo, however, details a plan that includes an additional supervisor (three instead of two) on the playground at 8 AM. A fourth supervisor will begin at 8:10 AM. In the interview with the HRA, the staff member stated that there is one supervisor on the playground beginning at 7:30 AM and five at 7:45 AM, but according to both the original and revised before-school supervision plans, no supervisor is on the playground until 8 AM. Versions of the revised plan exist for before-school and daily recesses and discuss procedures for walkie-talkie use. The plan also specifies areas near the road and the gaps in the fence which are now off-limits to students during recess.

The HRA reviewed the "Daily Attendance Procedures," a document giving the new computerized procedure for attendance. The procedure appears to be thorough, giving clear instructions for using the computer program and providing for attendance re-counts after the lunch period. Number seven in the procedure, however, indicates that substitute teachers "will have to complete the yellow paper attendance forms that we have used in the past." This process is consistent with that which was described in the HRA's interview with a staff member.

The HRA also reviewed the "Student Assistance Procedures," a document delineating the procedures for teachers needing assistance in the classroom or for missing students. For missing students, the policy reads, "In a situation where a child has left the classroom and immediate assistance is needed to find the student, the teacher will contact the office. An 'all call' of '22, the child's name, the location in which the child was headed' will be announced on the intercom. Those teachers/staff members who are able to assist in a search for the student should contact the office via walkie-talkie." An inventory of quantities and locations of walkie talkies is listed. The document also includes a masked list of students who have a propensity for elopement, even though the staff member indicated in the interview that there were no students with a propensity for elopement.

Regarding the second complaint, the Midland Staff Handbook, under the section Student Behavior, declares that "Rules are for everybody - Not just students" (page 15). Immediately following this mandate is the policy on abuse: "Students and faculty in the classroom or hallways will not tolerate any form of abuse, verbal or physical, to others. Abuse includes the following: use of obscene or profane language or gestures; shouts, blocking or running in the hallways; use of violence; and ridicule of the ideas or beliefs held by others" (page 15). According to the passage from the Staff Handbook, both students and teachers are forbidden from shouting at another individual.

The school district also has a policy regarding discipline of students with special needs. For students who have a Behavior Management Plan included in their IEP, "the district will provide a copy of this policy on the use of restrictive behavioral interventions to all parents or guardians of students receiving special education or related services in the district within fifteen (15) days of the beginning of each school year. At the same time the district will inform those same students of the contents of this policy in a manner appropriate for each student's level of functioning" (Midland Elementary School Handbook, page 20). For students with disabilities who do not have behavioral intervention plans, "the district will provide a copy of this policy on the use of restrictive behavioral interventions to all parents or guardians of students receiving special education or related services in the district within fifteen (15) days of the adoption of district policy, upon the initial IEP conference, and upon any IEP conference in which a Behavioral Management Plan is incorporated. Annually the district will inform those same students of the contents of this policy in a manner appropriate for each student's level of functioning" (Midland Elementary School Handbook, page 20). The school's procedure for the use of restrictive behavioral interventions, along with a list of teachers trained in the process, was also reviewed by the HRA. Only trained staff members are allowed to engage in any type of restraint.

Mandates

The HRA reviewed legal mandates pertaining to the complaints in this report. Illinois Administrative Code mandates a comprehensive program of special education for children with disabilities that should include "qualified personnel who are employed in sufficient number to provide...supervisory services" and "procedures for internal evaluation of the special education services provided" (23 IL ADC 226.700a). Furthermore, in-service training programs must "be made available as necessary in school districts, in educational service centers, and by regional superintendents of schools to assure that adequately trained staff are available to work effectively with the behavioral intervention needs of students with disabilities" (105 ILCS 5/14-8.05). In order to be a paid employee of the State of Illinois, Individual Student Aides must possess "training specific to the needs of the students being served, as determined by the school district under Section 226.800(k) of this Part" (23 IL ADC 226.750).

Regarding the maintenance of discipline, "subject to the limitations of all policies established or adopted under Section 14-8.05, teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities" (105 ILCS 5/24-

24). Furthermore, "each [school] board shall establish a policy on discipline" (105 ILCS 5/24-24). However, the Code of Ethics for teachers given under Illinois Administrative Code indicates that teachers have a responsibility to students to "respect the inherent dignity and worth of each student by assuring that the learning environment is characterized by respect and equal opportunity for each student, regardless of race, color, national origin, sex, sexual orientation, disability, religion, language or socio-economic status" (23 IL ADC 22.20a). Teachers also have a responsibility to "encourage and advocate for fair and equal educational opportunities for each student" (23 IL ADC 22.20d). Furthermore, "Illinois educators are committed to compliance with the School Code and its implementing regulations, and to State and federal laws and regulations relevant to their profession" (23 IL ADC 22.20e).

Regarding the staff member's assertion during the interview that School Code mandates alerting parents/guardians to unauthorized absences, the regulation states, "if any child enrolled in a public school in grades Kindergarten through 8 is absent from school, and there is no record that such absence is for a valid cause, as defined under Article 26 of this Code, nor notification that the absence has been authorized by the parent, legal guardian or other person having legal custody of such child, an employee or other agent, whether a volunteer or otherwise, designated by the public school in which the child is enrolled shall, within 2 hours after the first class in which the child is enrolled, make a reasonable effort to promptly telephone and notify the parent, legal guardian, or other person having legal custody of the child, of the child's absence from school" (105 ILCS 5/26-3b).

Findings

Complaint #1: Inadequate protection of special education students when a student left school without facility knowledge.

The school's original attendance and before-school supervision policies were lacking in effectiveness. The staff member interviewed admitted that the paper-based attendance system was slow and often neglected. The school's before-school policy given in the Midland Elementary School handbook indicates that students would not be supervised if they arrived at the school prior to 8 AM, even though staff acknowledged in the interview that students begin arriving at 7:30 AM and that there are over 100 students on the playground *by* 8 AM. The new policy that was put into practice by the school to correct these errors includes increased supervision, but it is not clear whether supervision is provided for students arriving before 8 AM. Also, it appears that the electronic attendance program is fast, efficient, in use, and in compliance with 105 ILCS 5/26-3b; however, substitute teachers must use the old paper-based system. A more stringent supervision plan is in place for all students, and a gap in the fence through which students with the propensity to elope may flee has been closed. The school also has emergency procedures in the event that a student goes missing.

The Illinois Administrative Code requires that school districts "shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district" (23 IL ADC 226.800). The school has reassigned personnel as needed to provide for additional supervision of all students on the playground and of the student in this complaint in particular.

In addition, the school's policies on special services, disciplining students with disabilities, and teacher responsibilities are consistent with state and federal mandates. The aide's behavior, however, was a violation of state regulations in that the aide did not "respect the inherent dignity and worth of each student by assuring that the learning environment is characterized by respect and equal opportunity for each student" (23 IL ADC 22.20a).

An individual supervision plan written by the school for a student with the propensity to elope provides for any time that the student is not in the classroom. The staff member interviewed stated that a similar supervision plan is now in place for the student indicated in this complaint; however, the staff member indicated at the time of the interview that this supervision plan has not yet been written into the student's IEP.

Because the school district freely admitted that this incident occurred, the HRA finds the complaint of inadequate protection of special education students to be **substantiated**, but feels that the school district made an appropriate effort to revise its policies for the safety of all students. Therefore, the HRA makes only the following **recommendation** for further action on the part of the school district:

- The school should devise a way in which substitute teachers can use the electronic attendance system to ensure that children do not go missing even when their regular teacher is absent. The school district should provide some evidence to the HRA of the fulfillment of this recommendation.

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

- The special education team, in cooperation with the parents of the student, should include the student's new individual supervision plan in the student's IEP at the earliest opportunity. The team may also consider the appropriateness of including a behavioral intervention plan for the safety of the student.
- While interviewing a staff member and reviewing documents provided by the school district, the HRA discovered several different versions of the new before-school playground supervision plan. To prevent confusion and to maximize the safety of students, the school should establish a consistent and sufficient playground supervision plan in writing for students arriving prior to 8 AM.

Complaint #2: Inappropriate treatment of student, including student being yelled at when returning to school after leaving without telling staff.

School policy clearly states that no teacher should harass or shout at any student. According to Illinois State Code, teachers must be adequately trained to work with students with disabilities and/or behavioral intervention plans (105 ILCS 5/14-8.05). Aides in particular need "training specific to the needs of the students being served, as determined by the school district under Section 226.800(k) of this Part" (23 IL ADC 226.750).

During the interview with the HRA, school staff admitted that the aide sent to retrieve the student from the local restaurant did indeed raise her voice to the student, contrary to state regulations and school policy. Since this incident, the aide has been reprimanded-

The staff member interviewed by the HRA admitted that the aide did raise her voice to the student in question. For this reason, the HRA feels that the rights of the student were violated and finds the complaint that the student was treated inappropriately **substantiated**. Because the school district has already disciplined the aide, however, the HRA makes only the following **recommendation**:

- The school should provide further training for Individual Student Aides on appropriate disciplinary procedures and treatment of students with disabilities and should provide documentation to the HRA of this training.