



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 12-090-9009
Midland School District

INTRODUCTION

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

1. Inadequate protection of special education students from harassment, including special education students being bullied on bus.

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 which 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 a Midland School District staff member and reviewed policies pertinent to the complaints. The HRA does not have a release for the records of the students who were allegedly harassed so no specific student records could be requested.

COMPLAINT STATEMENT

The complaint states that two students who receive special education services at Midland School District were being harassed on the school bus.

FINDINGS

Interview with staff (1/24/2012)

The HRA interviewed a Midland School District staff member regarding this complaint. The staff member stated that all school buses have onboard cameras. If there was an allegation of bullying on the bus, then staff would review the video taken by the camera. Staff would then call the student and the student's parents and discipline him/her accordingly. The staff member stated that the facility did not know of any actual instances where harassment occurred on a school bus. One incident that did not necessarily involve harassment was reported, but once the video footage was reviewed, it was discovered that the incident did not actually occur.

The staff member stated that bus drivers are employed by the school and have their own handbook that covers, among other things, harassment and safety. All the drivers must sign a form acknowledging these policies. The staff member did not believe that any of the school's bus drivers would be negligent in reporting negative behavior on the bus. The staff said that bus monitors are unnecessary because of the presence of cameras. The staff member also stated that students who are receiving Special Education and students who are in general education sometimes ride the same bus. Students that are placed outside of the district have a separate bus, but the students who are educated inside the district are not segregated. The school district has a program for students with severe and profound disabilities that requires the home district to provide busing. The staff member was unsure if specific disability training was provided to bus drivers, but seemed to think that it was not.

The staff member explained that the district does not have a history of bullying and that he feels it is not occurring, even with students receiving special education. The staff member said that the biggest problem occurs outside of school and involves students texting potentially harassing statements to each other. The staff member stated that the school does have an anti-bullying policy and provides anti-bullying programs for the students in elementary, middle and high school. Every year the principals meet with the students and review the handbooks regarding bullying. Parents are invited to the bullying presentation, but the staff member was unsure if many attended. The staff member did say that some school buildings also have anti-bullying programs for staff members but was doubtful that any disability awareness programming exists.

Record Review

The HRA reviewed the Midland School Board Policy 7:20, which states that "No person, including a District employee or agent, or student, shall harass, intimidate or bully another student based upon a student's race, color, nationality, sex, sexual orientation, ancestry, age, religion, creed, physical or mental disability, gender identity, order of protections status, status of being homeless, or actual or potential marital or parental status, including pregnancy, or other protected group status. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidation, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, causing psychological harm, threatening or causing physical harm, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above." The policy also states, "complaints of harassment, intimidation, or bullying are handled according to the provisions on sexual harassment below." The procedure for

complaints indicates that "students who believe they are victims of sexual harassment or have witnessed sexual harassment are encouraged to discuss the matter with the students' Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint manager. Students may choose to report to a person of the student's same sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined."

The bullying prevention and complaint policies of the School District Support Staff handbook, the Midland Elementary School handbook, the Midland Middle School handbook, and the Midland High School handbook are consistent with the Midland School Board's policies. The Elementary, Middle, and High School handbooks also include Handbook Acknowledgement forms that both students and their parents/guardians must sign to verify that they have reviewed the schools' policies. The School District Support Staff handbook is distributed to and binding for all hourly employees, including "Instructional Teacher Aides, Non-instructional Teacher Aides, Cafeteria Workers, Part-time Secretarial, Bus Drivers, Library Aides, and Custodial Personnel" (Support Staff Personnel Handbook, page 4). The Support Staff Handbook was most recently revised 02/01/2012. It did not contain guidelines for working with students with disabilities. The Staff handbook does not contain a section specifically pertinent to bullying, but does indicate in the Student Discipline section, "for desirable school behavior, it is important that faculty and students follow the Student Handbook" (page 15). In addition, "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, ridicule of the ideas or beliefs held by others" (page 15).

The School District's Transportation Department also distributes an Employee Handbook. Under the section labeled "Discipline; Philosophy of Discipline," Point 3.A reads, "All unusual or hazardous behavior involving students or school employees must be reported to the appropriate Building Principal as soon as possible." Point 3.C reads, "Drivers are responsible for maintaining students' behavior and following through with the consequences of the unacceptable behavior." The policy also urges drivers to "Always discipline--Letting behavior slide gives mixed messages and causes confusion and resentment." The Handbook also includes a form entitled Job Description for School Bus Driver, listing a driver's required qualifications, job goal, and performance responsibilities. Under Performance Responsibilities, number eight states that drivers must "maintain discipline while students are on bus." Number ten mandates drivers to "report undisciplined students to the proper authority." The Handbook was adopted 07/08/2011 and does not include guidelines for working with students with disabilities. In addition, the Midland Elementary School Handbook says, "While students are on the bus, they are under the supervision of the bus driver. In most cases, bus discipline problems can be handled by the bus driver" (page 10). The Handbook also lays out several rules for students' safety and behavior on the bus. Rule #11 says, "No unacceptable conduct and/or use of unacceptable language. Loud conversation, singing, boisterous conduct, unnecessary noise or profanity is not allowed" (page 10). There is no rule specifically against bullying. The Middle School and High School handbooks are consistent with this policy.

Each school handbook also includes a provision that the parent(s)/guardian(s) of a student who demonstrates aggressive behavior will be notified. The reporting form for this behavior is included in the Midland High School handbook. It reads: "Illinois law requires a school district to notify the parent or guardian of a child who engages in aggressive behavior, including such behaviors as bullying. The School Board policy prohibits a student while at school from engaging in aggressive behavior that causes physical or psychological harm to someone else and/or urging other students to engage in such conduct. Prohibited aggressive behavior includes, without limitation, the use of violence, force, noise, coercion, threats, intimidation, fear, bullying or other comparable conduct. This early notification is intended to help all of us work together to avoid repetition of the behavior" (page 45). The form includes spaces for the name of the offending student; the incident location, time, and date; the name of the person who reported the incident; when the incident was reported; a description of the behavior; and recommended consequences. The recommended consequences include in-person meetings with the Building Principal, school counseling, non-district psychological counseling, alternative school assignment, or community agency service. The form is to be signed by the Building Principal.

Midland Middle School conducted an extensive anti-bullying program throughout the spring semester of 2011. Students in 5th grade received bi-monthly presentations, and students in 6-8th grades met monthly, according to a schedule provided by the school district. A Speaker Request Form and the school's description of the program indicate that the presenters were from the Office of the Attorney General's High Tech Crimes Bureau. The HRA reviewed the curriculum, activity schedules, and handouts for the program. The program was varied in its use of group activities, written work, short stories, questionnaires, and lectures. It tended to teach and ask questions from the perspective of the student being bullied. In addition, according to a flyer provided by the school, the district invited all parents to a parent meeting on 01/05/2011 to discuss strategies for identifying and counteracting bullying behavior.

The HRA also reviewed a memo sent to all teachers at Midland Elementary School, introducing a series of anti-drug and anti-violence presentations to be conducted in each classroom in the school. The post-presentation letter from the administering agency was also attached.

Mandates

The HRA reviewed legal mandates pertaining to the complaints in this report. The Illinois State School Code states that "The General Assembly finds that a safe and civil school environment is necessary for students to learn and achieve and that bullying causes physical, psychological, and emotional harm to students and interferes with students' ability to learn and participate in school activities...Because of the negative outcomes associated with bullying in schools, the General Assembly finds that school districts and non-public, non-sectarian elementary and secondary schools should educate students, parents, and school district or non-public, non-sectarian elementary or secondary school personnel about what behaviors constitute prohibited bullying" (105 ILCS 5/27-23.7a). In addition, "bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more

of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is prohibited in all school districts and non-public, non-sectarian elementary and secondary schools. No student shall be subjected to bullying: (1) during any school-sponsored education program or activity; (2) while in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities; or (3) through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment" (105 ILCS 5/27-23.7a). Furthermore, the Illinois Administrative Code states that "no school system may exclude or segregate any pupil, or discriminate against any pupil on the basis of color, race, nationality, religion, sex, sexual orientation, ancestry, age, marital status, or physical or mental disability" (23 IL ADC 1.240).

Regarding school policy on bullying, "each school district and non-public, non-sectarian elementary or secondary school shall create and maintain a policy on bullying, which must be filed with the State Board of Education. Each school district and non-public, non-sectarian elementary or secondary school must communicate its policy on bullying to its students and their parents or guardians on an annual basis. The policy must be updated every 2 years and filed with the State Board of Education after being updated. The State Board of Education shall monitor the implementation of policies created under this subsection (d)" (105 ILCS 5/27-23.7d). In addition, "the school board, in consultation with the parent-teacher advisory committee and other community-based organizations, must include provisions in the student discipline policy to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including without limitation bullying, as defined in the policy. These provisions must include procedures for notifying parents or legal guardians and early intervention procedures based upon available community-based and district resources" (105 ILCS 5/10-20.14).

Illinois School Code requires that "a school district shall provide instruction on disability history, people with disabilities, and the disability rights movement. Instruction may be included in those courses that the school district chooses" (105 ILCS 5/27-23.8). The Code goes on to describe the resources available to an individual school district to facilitate compliance with this statute.

Finally, the Illinois Administrative Code commands, "local school boards shall institute policies and practices that promote the safety and well-being of school bus passengers" (23 IL ADC 1.510).

Findings

In reference to the sole complaint, that Midland School District did not provide adequate protection of special education students against harassment, the HRA reviewed relevant policies of the school district in question and the State of Illinois mandates. The Midland School District's bullying policy is consistent with Illinois State Code, and nearly identical policies exist in the handbooks of the elementary, middle, and high schools. In addition, evidence exists that the school district made an appropriate effort to educate its students and staff members in the anti-bullying policies. Finally, the policies and regulations put forward by the school district are

consistent with Illinois Administrative Code (23 IL ADC 1.510) regarding the safety and well-being of school bus passengers.

Due to the existence of sound anti-bullying policies, the HRA finds the complaint that the Midland School District does not provide adequate protection of special education students against harassment **unsubstantiated**, but makes the following **suggestions**:

- Disability awareness programming should be incorporated into the district's curriculum in compliance with the Illinois School Code (105 ILCS 5/27-23.8). The HRA suggests that combining this education with anti-bullying programming will be a convenient and appropriate way to further protect students with disabilities from harassment.
- Consider disability awareness education for all district staff.