



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 14-090-9005
Farmington School District

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations at Farmington School District, a K-12 school. The complaints alleged the following:

1. Violation of the Student Record's Act (105 ILCS 10): a student's records provided without the student's consent.
2. Denial of free appropriate public education services for a student with disabilities who had not turned 22 years of age.
3. Discontinuation of funding for a service that had been provided for a student with disabilities.
4. Denial of an accommodation (aide) to meet the needs of a student with disabilities.

If found substantiated, the allegations would violate the Illinois School Code (105 ILCS 5), Federal Special Education Regulations (34 CFR 300), the Illinois Administrative Code (23 Il. Admin. Code 226), and the Family Educational Rights and Privacy Act (FERPA) (34 CFR 99).

According to the Illinois District Report Card which is provided through the Illinois State Board of Education website, the district has 1,447 students enrolled and 11.9% of those are students who receive special education services and have Individualized Education Programs (IEP).

COMPLAINT STATEMENT

The complaints state that a student was turning 18 on 6.10.2012, and prior to that, the student's mother had all educational rights. The student's father contacted the school requesting student records and the records were provided to the student's father, without consent, after the student turned 18.

The second complaint stated that the student's mother did not feel as though the student was ready for high school graduation and wanted the student to continue her education until the age of 22 as provided in the special education regulations. The school responded by questioning why this should occur because the student had all the credits required to graduate. The student's mother stated that testing results for the student were "alarming," she wanted the student to receive further education because of this testing (ex. the student could not count money), and she requested that the school create a curriculum for student for the next school year. In an IEP meeting, the school stated that they could create a "social class" for the student but would not create an academic curriculum. Towards the beginning of the school year, the parent contacted the school inquiring about the class, and the school had not created class yet and said there needed to be an additional IEP in order for them to complete the class content.

The school also had previously financed a summer program for the student and stated that they would no longer fund the student's attendance at the program. The student was also allegedly told that if she did return for class during the school year, she would not be provided an aide which was an accommodation written into the student's IEP.

The student has not graduated from school.

Interviews with School Staff (9.13.2013)

Staff explained that they had allowed the student's mother some accommodations rather than fighting over the requests. The most recent request dealt with the mother's belief that the student was not ready for graduation. The school expected the student to graduate but the student's mother said that the student was not prepared to graduate. The staff did not understand the logic and could not think of a reason why the student should not graduate. They believed that it would be better for the student to attend a local community college. The student's mother also wanted the student to attend HISRA (Heart of Illinois Special Recreation Association) over the summer. The school did not want to pay for HISRA because it did not help the student accomplish goals on her IEP. The student's mother believed the program was good for her because she had activities during the day. HISRA was one of the accommodations that the school agreed to previously instead of fighting with the parent. The student's mother also requested an aide for the upcoming school year. When the request was made, the student's class had not been created and staff did not think the aide would fit into the plans for the class. The school had agreed to create a social skills class for the student. They said that they had to create the curriculum for the class because they had never had a class like this one. They needed to create the curriculum and then discuss the class with the student and her mother. The staff did not think that the student needed an aide for a social skills class because the student needed to stand on her own in the class. They said that an IEP meeting needed to be scheduled in the Fall to discuss the curriculum which the student's mother has since cancelled. Staff said that they do not normally have students enrolled until they are 22. Although they are not opposed to students staying until they are 22. Staff explained that the school or the parent will request for a student to stay enrolled until they are 22. Staff also denied the allegations that the student could not count money or that her testing results were alarming.

The school staff explained that the student has completed her IEP goals. The student has deficits in some areas but is strong in other areas. Her diagnosis is Asperger's Syndrome and she is very nervous and has deficits in her social skills. The school began by providing her a part-time aide and then later a full-time aide, which was above and beyond what was written in the IEP. The student was never evaluated out of the special education program. They consulted with the experts at the area special education cooperative who agreed that the student should graduate because she met all the requirements. The student's last reevaluation was November 2012.

The class that was created for the student deals with students discussing their social skills and is a group class with a social worker. There is no testing and the class consists of a small group of students. School staff said that the student was receiving vocational training at the school and there is no need for an aide with the training. They said that initially they were not sure what the student's tasks would be with the vocational training, so an aide was mentioned for possible assistance. The student was also receiving occupational therapy through the school. Staff explained that there was never a discussion that the student has a full curriculum of classes. They remember a conversation discussing the student's math curriculum and it was determined that the student was more successful in the math class than other students. They said that during the IEP meeting, the student's mother was asking for a social skills class to be created for the student. The staff believe that the testing discussed in the complaint may be ACT testing. Staff explained that the student was a member of the National Honor Society.

Staff explained that the student had an aide but there was a time in high school where the student did not have an aide. The student had one special education class and was considered cross categorical. The student had sensory breaks, extra time on tests and quizzes, was allowed to take tests home, and could read tests out loud. The student had anxiety for tests and quizzes. There was no aide listed on the student's accommodations on the IEP and the aide was not mentioned at the meeting; the staff did not think that the aide was a point of contention with the student's mother because the student's parent agreed that the aide could be taken away at the meeting. The previous IEP called for an aide but the current IEP states no aide is needed.

Staff explained that HISRA is a recreational program that serves individuals with disabilities. The program is mostly for individuals who do not have access to certain activities like fishing because of their disability and is not part of the school curriculum. The program's objective is to open doors that would otherwise be shut to the students. The school paid for HISRA between the student's junior and senior year. The staff did not believe that they should have paid for the program even when they did but they decided not to argue about the service. The only time they paid for the service was the summer of 2012. The HISRA was an accommodation outside of the student's IEP and the IEP states that there is no connection between the special education program and the HISRA. The staff were unsure if the HISRA was written into the previous year's IEP. Also nothing was offered as an alternative to HISRA when they declined to pay for the program. The staff explained that the IEP is based on what was found the year before and the program did not meet the student's IEP goals so they decided that they would not fund the program.

The staff explained that the student's father requested the student's records the day before her birthday. They said that they could not get the document to him until the next day, when the student turned 18, so they made the decision to provide the record anyway. The student's father had legal access to the student's records but the student's mother was the one who legally made decisions regarding her education. The facility has the divorce decree on file.

Staff explained that all parents have the right to see children's records until they have a legal record stating otherwise or until the student is 18 years old. They provide parents access after 18 unless the student states they do not want them to have access. In this case, the student was not asked permission to allow the student's father to see her record. The staff made the decision because of the time of the request. They usually ask the student prior to releasing the information if it is a contentious relationship and they try to stay sensitive to the relationship. They also knew that the request was coming because the student's father had discussed making the request well before this situation. They received the request on the 9th and they processed the request and sent it after the 10th. The student's father was upset because the student did not graduate as per staff.

FINDINGS (Including record review, mandates, and conclusion)

The HRA reviewed records pertinent to the complaint with the student's consent. The most recent IEP meeting date at the time of the investigation was 5.17.2013. The case was accepted by the HRA on 8.17.2013.

Complaint #1 - Violation of the Student Record's Act (105 ILCS 10): a student's records provided without the student's consent.

According to an email that was written by the student's father, he requested copies of the student's record on 6.9.2013 and dated the emailed request letter 6.10.2013. According to the student's IEP, the student's birthday is 6.10.1995, which made the student 18 years old when the record was sent to the student's father. The HRA reviewed consents provided by the facility and saw consents for other agencies and the student's mother but saw no consent for the student's father. In an email correspondence between the student's mother and the school, the student's mother writes "[student] wanted me to make sure you do not send or inform her father of the IEP meeting or date of the meeting since she is now 18 yrs of age. She will be attending the IEP meeting and He had agreed not to see her."

The HRA reviewed a policy titled "Student Records" which reads "School student records are confidential and information from them shall not be released other than as provided by law ..."

The Student Record's Act reads "(a) A parent or any person specifically designated as a representative by a parent shall have the right to inspect and copy all school student permanent and temporary records of that parent's child" (105 ILCS 10/5). The Act also reads "(g) 'Parent' means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student. All rights and privileges accorded to a parent under this Act shall become exclusively those of the student upon his 18th birthday,

graduation from secondary school, marriage or entry into military service, whichever occurs first. Such rights and privileges may also be exercised by the student at any time with respect to the student's permanent school record" (105 ILCS 10/2).

The Federal requirements read "(b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18. c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with § 300.520, the rights regarding educational records in §§ 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents" (34 CFR 300.625). FERPA reads "When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student" (34 CFR 99.5). The Act also reads "(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in § 99.31" (34 CFR 99.30).

The Federal requirements also state "Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part" (34 CFR 300.622).

The FERPA also states "(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by [§ 99.30](#) if the disclosure meets one or more of the following conditions: ... (8) The disclosure is to parents, as defined in [§ 99.3](#), of a dependent student, as defined in [section 152 of the Internal Revenue Code of 1986](#)." (34 CFR 99.31).

Conclusion - Complaint #1

The school admittedly provided confidential information to the student's father without the student's consent after the eligible student reached 18 years of age and the evidence in the student's record supports this; therefore the HRA finds this complaint to be **substantiated** and makes the following **recommendation**:

- Absent compliance with 34 CFR 99.31, the HRA recommends the district assure that staff adheres to the FERPA (34 CFR 99.30) and the Student Records Act (105 ILCS 10) regarding student records. Provide the HRA with evidence regarding compliance.

Complaint #2 - Denial of free appropriate public education services for a student with disabilities who had not turned 22 years of age.

The HRA reviewed the student's current IEP dated 5.17.2013. The IEP states "She [student's mother] is concerned developmentally about [student] attending college and

graduating. She is unsure whether she wants [student] to graduate this year and would like to revisit this later in the year." The IEP also states "Mom reports that [student] has a lot of needs. Math, and Reading are concerns mom has academically. Mom shared the standardized assessment data [student] has taken at the school the last few years. Mom reports her academic assessments are academic warning and mom stated that [student] is not ready for [community college] coursework. Staff share that [student] performs academically better in the classroom than on standardized assessments. She is receiving passing grades and the content assessed is the same as other general education students ... The District representative asked mom what she was wanting academically for next year, as the data and updated information shared at the meeting indicates she has met her credit requirements to graduate and the district is unsure academically of additional classes she would need." An answer to the last statement was not documented in the IEP. The IEP also reads "The IEP team determined the following services for [student] to start the next school year. The IEP will need to be amended or reconvened to edit goals to reflect [student's] social skill goal and OT goal. [Student's] transition plan will be updated and shared with mom. Linkages to [community college] were provided to mom at the IEP meeting. Additional linkages [other agencies and community colleges] are listed in [student's] Transition plan. [The special education cooperative] will work over the summer with ISBE [staff] on an updated Transition Plan for [student's] IEP. [Student] will come to Farmington 2 days per week, once the district is provided with the time of [student's community college] class by mom, to work on social skills." The IEP also states that "Mom will provide some potential goal areas in the social skills domain to the district so they can be reviewed and considered for the IEP goal. Mom will be contacted by [the special education cooperative] during the summer."

In reviewing a previous IEP, dated 11.1.2012, there is a statement in the parental concerns section that the student's parent was unsure during this IEP meeting whether she wanted the student to graduate that year or not and stated that she would like to revisit it later in the year. In another IEP, dated 3.9.2012, it states "[Student] does not believe that she reads at an 8th grade level. [Student] says that she reads at a 3rd grade level, not 8th grade level. Mom shared that her reading is higher than her math. Mom shares that she is at least 2 grade levels below in her math compared to her reading. Mom shared that she is not working at the 8th grade level in math." The IEP also has the statement that "Mom just wants [student] to graduate."

A timeline provided by the student's mother, reads that at the student's IEP meeting, the mother had "... told the school that I was not going to have her graduate due to the alarming state exam scores that she needed before attending college." The timeline then read that staff "... suggested that they produce a social class for her. I finally agreed to this being a part of her continued schooling." The timeline stated that the details of the class were unknown to them and the IEP team was to discuss the course further at the next meeting after they were contacted by the special education cooperative. The timeline expressed that "They did say that the course would be two days a week and maybe we could enroll [student] at the community college but I would have to pay for her courses and transportation."

Another section of the current IEP reads "As a part of [student] transition plan, she will come to FCHS 2 days per week for a social skills/friendship group. A referral was made to [the special education cooperative's] STEP Pre-Vocational program May 2013 to start the process of employment skills next fall. Once the referral is processed with the Department of

Rehabilitation Services, their representative will contact parent and [student] to begin that process. [Student] and her mother will pursue [community college] to apply for a college credit course in the fall for continued academics."

The HRA reviewed email correspondence between the school and the student's mother. An email dated 8.5.2013 from the student's mother to the school indicates that the student's mother registered the student for the class at the community college and she provides the dates and times as requested. The email proceeds to state that she has yet to be contacted by the school regarding the class. An email response from the school states they are waiting for staff to return from summer break to set up an IEP and they also needed to update the status of the vocational program. On 8.14.2013, the student's mother received an email from the school staff which states an IEP meeting needs to be scheduled as soon as possible. The email proceeds to state that staff start back the next day and students are back on Friday of that week. The student's mother emailed back stating that she had been waiting for someone to email her back during the summer but had not received any contact and they requested IEP meeting dates for after 8.20.2013 because of lack of availability. The staff responded by stating that "Most staff are off in the summer, so apologies for the lack of contact." On 8.23.2013, an email from the school stated that the student's start date for the IEP was 8.27.2013 and provided possible dates for an IEP meeting. The student's mother's response was that she did not know where it stated that the 27th was the student's start date and questioned whether the social class had been created. A response back from the school provided the location of the start date on the IEP and stated the student could join a "Life Skills Transition class" during the first hour of school. In the correspondence back, the student's mother responded that she thought the class was supposed to be a social class to which the school responded "we'll work out the details of the class, at her mtg I suppose." The rest of the email correspondence discusses when the student is to arrive at the school and job training. Another email correspondence from the student's mother to the school, dated 8.27.2013, reads "She [student] is very upset about the social class, what we really wanted was for her to have a regular class schedule but the district didn't know what to do with her. I am kinda upset about this." The email also questions what bus will pick the student up and what will the student do when she gets to the school. The response to this email reads "Please ask [student] to take the regular bus and come to [staff] room, next to the high school office." Another email the next day from a different staff member reads "I understand [student] is worried about coming tomorrow. I'd be happy to meet her as she comes in the building from the bus, and she could stay with me until the bell rings. Then I can take her to the class and introduce her to [staff]. I believe [student] will be the 10th student in there, so it's a small class, with the curriculum being social skills/life skills-based with an emphasis on transition to after high school ... She also has 180 minutes/semester for OT, or approx 10 min per wk, so that will be worked in at some point as well." Also during the email correspondence, the student's mother agreed to an IEP meeting on 9.17.2013

The HRA reviewed a policy titled "Education of Children with Disabilities" which reads "The School District shall provide a free appropriate public education in the least restrictive environment and necessary related services to all children with disabilities enrolled in the District, as required by the Individuals With Disabilities Education Act (IDEA) and implementing provisions of the School Code, Section 504 of the Rehabilitation Education Act of 1973, and the Americans With Disabilities Act. The term 'children with disabilities,' as used in

this policy, means children between ages 3 and 21 (inclusive) for whom it is determined, through definitions and procedures described in the Illinois State Board of Education's *Special Education* rules, that special education services are needed."

The Regulations of the Offices of the Department of Education state that "A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d)" (34 CFR 300.101). The State Regulations read "1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21, inclusive (i.e., through the day before the student's 22nd birthday) ... 4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE [free and appropriate public education] through age 21, inclusive ... A) If the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services. " (23 II Admin Code 226.50).

The Illinois State Regulations read "Each school district shall provide special education and related services to eligible children in accordance with their IEPs" (23 II Admin Code 226.200).

The Federal regulations define an IEP team as "... a group of individuals described in § 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability" (34 CFR 300.23). The Regulations also state "(a) Development of IEP—(1) General. In developing each child's IEP, the IEP Team must consider-- ... (ii) The concerns of the parents for enhancing the education of their child"(34 CFR 300.324).

Conclusion - Complaint #2

The HRA does not find that free appropriate public education services for the student were altogether denied because the student was provided a class, OT and job training and because the student's mother did agree to the curriculum proposed. With that being said, the IEP and other evidence indicates that the parent's concern regarding the student's academic shortcomings were not taken into account by the IEP team. There were notes in the IEP stating that the student's mother was concerned about the student still having academic needs, but those did not appear to be addressed and a social skills class was created. Additionally, the emails between the student's mother and school indicate that the student's mother had not heard from the special education co-op over the summer as stated in the IEP and had to contact the school on 8.5.2013. The school start date for the students was on 8.16.2013 and no IEP meeting had been set at that time. Also, the IEP meeting was set for a date after the student was to even start the class even though IEP arrangements had not yet been finalized. The HRA finds this complaint **unsubstantiated** but only because there is no proven denial of services although the actual provision of IEP services is in question. The HRA **strongly suggests** that the school reevaluate their actions taken in this situation and because there was no resolution documented in the IEP, the school should address the concerns of the student's mother regarding the student not

graduating from school per 34 CFR 300.324 and continued education until the student is 22 as per 34 CFR 300.101. The HRA also believes that the facility could have handled the timing and scheduling of meetings better, because the IEP meeting did appear to be scheduled late in the year. The HRA questions how this could assure that the student was receiving the requested social skills training if an IEP meeting discussing the class had not even been held yet the student was to be taking the class.

Complaint #3 - Discontinuation of funding for a service that had been provided for a student with disabilities.

The student's 5.17.2013 IEP which reads "The district representative denied extended school year services for the Program mom requested if [student] was returning to school in the fall and not graduating in May 2013. The HISRA program does not work on IEP goals/objectives that will be the focus of [student's] transition planning. Mom is concerned about the district not paying for ESY services." On the student's 11.1.2012 IEP, it is stated that extended school year services are needed and it reads "Mom does request ESY services similar to the PVMS social skills program. HISRA Program Summer Camp aligned with IEP goals." The exact same statement is written into the student's 3.9.2012 IEP. A description of the Summer Daze program provided by HISRA reads "Summer Daze is a community based camp centering around the needs of adolescents with developmental disabilities ... Campers develop social/emotional and life skills as activities integrated into the community at large ... Additionally, social skills as they relate to attending and participating in community recreation activities, including but not limited to: initiating conversations and activities, asking for assistance, basic money managing, and transitions are addressed."

The student's current IEP reads "The IEP team discussed [student's] emotional, sensory and social skill development as needing improvement. The IEP team brainstormed services that could be provided to offer [student] continued practice on social skill development, particularly with initiating conversations with unfamiliar adults (as [student] does speak to her teachers and ask questions of them). As part of her Transition Plan, [student] needs to be socially more independent with unfamiliar adults when she needs assistance." In reviewing the goals and objectives/benchmarks section of the IEP, it reads "[Student's] eligibility is Asperger's Disorder under the Autism criteria. Her disability impacts social perceptions." In the objective/benchmark section, it reads that the student "will identify her physical and emotional responses to stress", "... define the intensity of an emotion," and "... meet with a friend to discuss/strategize issues that may be stressful to her."

The school district has no policy regarding extended school year services.

The Federal regulations state "(a) General. (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section. (2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not-- (i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type,

amount, or duration of those services. (b) Definition. As used in this section, the term extended school year services means special education and related services that--(1) Are provided to a child with a disability-- (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA" (34 CFR 300.106).

The state regulations also read "a) Each local school district, or the cooperative entity of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b) of this Section and shall submit these to the State Board of Education for approval, using a format supplied by the State Board. The State Board shall approve those that conform to the requirements of this Section and are consistent with applicable federal and State statutes and regulations. The State Board shall notify districts of any deficiencies that must be remedied before approval will be granted. b) Each set of policies and procedures shall address the district's compliance with at least the requirements for: ... 4) Individualized Education Programs ... 7) the provision of extended school year services" (23 II Admin Code 226.710).

Conclusion - Complaint #3

The regulations state that ESY services need to be an IEP team decision and, in this case, the IEP reads that the services were denied by the school district representative, not through the IEP team. Also, one of the factors in the denial was that the student's return to school the coming year and not graduating, which not an a determination whether this is a necessary for the provision of FAPE. The IEP does state that the service does not align with the goals of transition, but there is never a statement as to how the goal does not align, considering this service aligned on two previous IEPs and the student was returning to school for social skill development and the program appears to provide social skill development. Because of this, the HRA finds this complaint **substantiated** and offers the following **recommendation**:

- Assure that future decisions regarding ESY services are made by the IEP team in compliance with 34 CFR 300.106. Provide evidence that the facility is in compliance with the regulations.
- Educate staff on ESY policy and procedures per 23 II Admin Code 226.710.

Complaint #4 - Denial of an accommodation (aide) to meet the needs of a student with disabilities.

The student's most recent IEP (dated 5.17.2013) states that the student's mother is pleased with the student's aide. In the student's strength section of the IEP, it states that the student "studies well with her one-to-one aide on a daily basis in her study skills class." Two sections of the current IEP state that the individual student's aide was dismissed as on 5.24.2013. There is no statement as to why the assistant was dismissed. There is also a statement in the IEP that the student's mother is working with the student on asking the general education or special education teacher when she needs help or clarification on content or directions rather than the individual aide. The end of the notes state that the parent has no additional concerns. The HRA saw no additional discussion of the aide in the IEP.

In the accommodations for classroom and assessment, there is no mention of an individual aide. There are accommodations such as allowing sensory breaks and use of sensory strategy within her daily schedule, allowing unlimited bathroom breaks, providing non-verbal cues/prompts for when the student needs a sensory break to help foster self-regulation with anxiety, and allowing the student to have all tests read aloud. Also, one of the student's goals and objectives reads "Student will identify her level of alertness using Alert Program terminology with assist as needed," "Student will identify effective strategies/sensory exercises to use in the classroom and during therapy to affect attention to task and task performance with assist as needed," and "Student will perform her chose effective strategy/sensory exercise with assist as needed."

Other IEPs provided indicate that the student was to have an individual aide and the IEP dated 3.9.2012 reads "Individual Aide required for social skill redirection/reduce anxiety with sensory breaks for French, PE, study skills, US History, Algebra ½, Foods/Consumer Education, and Grammar." A sheet from the student's 10.22.2012 IEP (that is attached to the 11.1.2012 IEP), indicates that the student is to have an individual aide for "Social skill redirection," "Determine need for Sensory Breaks to reduce anxiety."

The school district has no policies regarding IEP services.

The Federal regulations state that an IEP is "(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include ... (4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child-- (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section" (34 CFR 300.320)

Conclusion - Complaint #4

The HRA found no evidence indicating that an aide would be taken away from a student if they returned for the next school year, and because of this, the HRA finds the complaint **unsubstantiated** but **strongly suggests** the following:

- Although the HRA found no direct language stating that the aide was revoked because the student was coming back to school for another year, there was also no written description as to why the aide would not be returning and this can lead to confusion regarding intention. The HRA suggests that when accommodations are taken away from students, staff add a written description as to why in the IEP.
- Develop and document an IEP policy per 23 Il Admin Code 226.710 (see complaint #3).

Additional notes

- 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. The HRA suggests the facility comply with this regulation.

RESPONSE

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

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 14-090-9005

SERVICE PROVIDER: Farmington School District

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

John Asplund
NAME

Superintendent, Farmington Central
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6-18-14
DATE

Farmington Central CUSD #265

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Dr. John Asplund, Superintendent

March 13, 2014

Human Rights Authority – Peoria Region
Attn: Ms. Debra Goodwin, Chairperson

Dear Ms. Goodwin and Board:

I am writing you today in response to your findings for Case # 14-090-9005 dated February 3, 2014. In an attempt to maintain clarity, I will respond to each of the four complaints in the order they were made known to us and by how they were illustrated in your findings. We will begin with Complaint #1.

Complaint #1 (Violation of the Student Records Act): We knew that we were in peril of violating this law when we complied with the father's request, as it was made so close to the daughter's 18th birthday. We were completely aware of the law when we sent the records, and we felt that we were supporting the student by sharing her records with her father. The only reason we felt the request was a contentious one was because the mother and father had gone through a contentious divorce. The student's father has never shown himself to be unsupportive or harmful to the student in any way and we felt and still feel as though the school and student have been caught in the middle of a domestic feud.

We train all of our staff on FERPA and the Student Records Act. We will continue to do so, and if a similar situation arises in the future, we will weigh the benefits to the student before acting (as we did in this instance).

Complaint #2 (Denial of free appropriate public education services): We appreciate your finding that the claim is unsubstantiated, and we agree that the student's IEP should have contained more explicit details of the tenor of the conversations regarding the student's academic plan of study for the following year. We have had discussions with our staff to inform them that this lack of detail has led to a non-uniform plan of study in the fall of 2013. We believe we have rectified this situation and that it will not occur in the future. We will continue to monitor all IEPs to make certain we do not allow this level of ambiguity to continue, as it could be detrimental to our students.

Complaint #3 (Discontinuation of funding for a service that had been provided for a student with disabilities): At ██████████ IEP on ██████████ 013, the team did discuss Extended School Year services for ██████████. The final determination was made by the district representative, after a discussion of the merits of HISRA (Heart of Illinois Special Recreation Program). Information from Jennifer Wahl, Program Coordinator of HISRA, indicated that the program, while a recreation and leisure activity, does not address an individual student goals and objectives. The purpose of any ESY program for eligible students is to provide them structure and activities to assist them in maintaining skills they attained during the school year. The intent is not to increase skill levels or to improve learning, only to maintain.

Farmington district personnel use a data rubric/chart that allows them to review gathered data on student's goals to assist them in making the determination of eligibility for ESY programming.

The district chooses to comply with the recommendations made by the Guardianship and Advocacy Commission through the following activities:

1. ██████████ IEP team will produce evidence on the district data rubric/chart at her next IEP meeting, and discussion will follow relative to the data and her eligibility for ESY services. If she is eligible for ESY services, the team will make the determination of what those services will entail. If she is not eligible, the data will show her growth and skill attainment on her goals.
2. District staff will review ESY policy and procedures via a memo to the staff reminding them of the parameters of eligibility for ESY services.

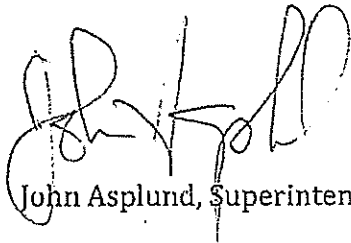
Complaint #4 (Denial of an accommodation to meet the needs of a student with disabilities): Similar to complaint #2, we are working with our staff to provide a greater level of detail in student IEP records to strengthen the communication between staff and students/parents. We are pleased that you found the complaint to be unsubstantiated, as we did, and we recognize that we had a part to play in the parent's frustration in this instance.

In summary, I would like to thank you for the opportunity to write a response to your findings. I know you do this work because you care about children and want what is best for them. We share your mission and we feel that most of these issues have arisen from a lack of communication. While we certainly admit some blame in this situation we believe the biggest area of improvement would need to come from the student's parents, who seem to care more about winning an argument than about what is best for their daughter. We are often placed in the difficult position of actively disagreeing with a parent over the proper course of action for a student. In most cases, it is borne out of concern for the student. I am not so certain this is the

genesis of this complaint. I am sorry that we had any part to play in it, and I pledge that we will do what we can to rectify any errors we may have made.

Thank you again for your detailed letter of findings and for the opportunity to respond to them via this letter. If there is anything else I can do to be of service on this or any other matter, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Asplund". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Asplund".

John Asplund, Superintendent

Farmington Central CUSD #265

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Dr. John Asplund, Superintendent

April 25, 2014

Human Rights Authority – Peoria Region
Attn: Ms. Debra Goodwin, Chairperson
401 Main Street, Suite 620
Peoria, IL 61602

Dear Ms. Goodwin and Board:

I am writing you today in response to your letter dated March 31, 2014. I know your time is valuable, so I will be brief in my response.

In regards to your concerns regarding FERPA training, I am enclosing a catalog of trainings that our staff receives each year through the Global Compliance Network. Within the catalog, you will see evidence of FERPA and Student Confidentiality.

In regards to the ESY training, I unfortunately do not have evidence of this yet, but SEAPCO (Special Education Association of Peoria County) will be conducting ESY training to our staff on May 7th. If you would like physical proof of this training, I can arrange to have some written summaries of this training sent to you, upon your request.

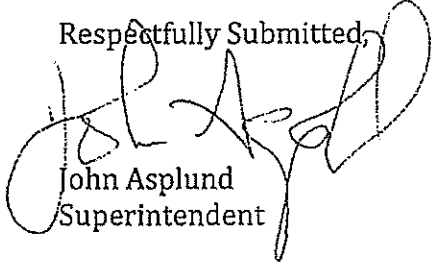
Finally, I wish to address the final concern regarding student confidentiality. As you can see from the enclosed materials, we conduct student confidentiality training. And you may recall that I have already explained why we chose to send the student records to the father in this particular case. To put it simply and bluntly, we knew we would be “wrong” either way we went. We are stuck in the middle of an unpleasant divorce, and we must consider the law, which we did; however, we must also consider each incident separately. In this case, we knew Mom would be upset if we sent the information to Dad. If we hadn’t sent the information to Dad, we knew he would be upset and we would likely be in the same predicament we are in right now, except we would be replying to concerns of denying a parent his legal rights to see his daughter’s records before she turned 18.

So, it is highly unlikely that we will ever find ourselves in this particular circumstance again. But, I feel it is absolutely necessary to be completely honest and not just tell you what you want to hear. We continue to stand by our actions of last

June. We feel we acted within the law. I can understand from your viewpoint that you feel we did not. [REDACTED] I ask you to consider all sides of this very unfortunate situation. Only the student is losing in this particular circumstance. We will continue to help her the best way we can.

Thank you for your time and for all you do for children and families.

Respectfully Submitted,



John Asplund
Superintendent