



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #15-090-9017
Peoria Public School District 150

INTRODUCTION

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

1. Inadequate transportation services for a student with a disability.

If found substantiated, the allegations would violate Illinois state school special education regulations (23 Il Admin Code 226) and Federal regulations regarding special education (34 CFR 300).

The school district's total enrollment is approximately 14,000 students with approximately 2,500 receiving special education services. The district serves children with disabilities from early childhood through the age of twenty-two.

To investigate the allegations, HRA team members interviewed District 150 staff members and reviewed documentation that is pertinent to the investigation.

COMPLAINT STATEMENT

The complaint alleges a student attending Von Steuben Middle School in the life skills classroom needed dropped off at a location different than where the student is picked up due to his foster parent's work schedule. The student cannot be left alone for a long period of time and needs bus transportation to and from school. The alternative drop off request was denied. The school stated that legally they do not have to transport the student to the alternative location and various reasons for the denial included no provided bus route, the student riding the bus for too much time, and finances. Allegedly, the school registration states that students can be dropped off at an alternative address and other students are dropped at alternative locations.

INTERVIEW WITH STAFF (4.23.15)

Staff began the interview by stating they received the transportation request and reviewed the procedures regarding the request. The student's home school is Mark Bills Middle School and the student's IEP team decided his placement would be in the life skills program at Von Stueben Middle school. Staff stated that they provide different programs throughout the district and they do not believe that placement is an issue with this student. The student is being transported from his home to Von Stueben Middle School. It was requested that the student be dropped off at a relative's house. The student has a foster parent and the student's child care agency made the request. The staff said they are obligated to transport from a home address to an alternative address if the alternative is a service provider. In this case, it is a family member providing services, so they have no obligations. Staff also explained that the location is outside of the student's attendance boundary; therefore they are not obligated to transport.

Staff also explained that transporting the student to a location that far away, would cause other students to be late. Staff reviewed both special education and regular division routes and both would make other students late. The alternative drop-off is quite a distance from the regular route. Staff explained that the school bell system is a two tier system. The first tier is from 7am until 2:30pm and the second tier is from 8:30am until 3:30pm. If the first tier is altered, then the second tier students would be late. Staff said that all scheduling is completed on a computer program and it is the most efficient system.

Staff said in these instances they try to find an existing route that is usable first. They also explored other options; for example they suggested dropping the student off at a daycare close to the address, or even another facility, but the child care agency did not want that to happen. The child care agency stated that previously the student struggled behaviorally at the daycare. Staff said a lot of time was spent searching for a resolution. There was another route where the student could be dropped off at another school and then transported to daycare, but the transportation time would be an hour and a half or longer, and the student is not supposed to be without supervision for extended periods of time.

They determined that the only resolution would be to create a route for the student, which they could not do. They needed a completely different vehicle in order to facilitate the request and the school was unable to accommodate the arrangement. The staff explained that they are currently understaffed with bus drivers, so they have to contract with another company for drivers, which would cost the \$36,000 dollars annually. Staff said that there are currently 20 bus drivers. If they contracted out, the driver has to meet the bus driver regulations, so transportation like a taxi driver would not work.

Staff said that they were unsure as to whether an option for an alternative drop off location is on the school registration form. They believed that the request came outside of registration. They said that parents can make the request but that does not mean the request will be granted. Generally, a parent will contact them about a request and they will communicate back if it can be accommodated. Staff said they are performing between 300-500 alternative drop-offs in the school district. The computer system will auto route unless the request is outside of the attendance area. It is more common that the request is denied because they are outside of the school attendance area.

Staff said that everything was explained to the child care agency on a conference call. The issue was brought to the IEP team coordinator but there was no meeting. Also no meeting was requested. The IEP contains transportation but not the alternative drop off. The IEP team decides on a program and once that is decided, the transportation is scheduled. The assumption is that the child is transported back home, so the staff considered this request outside of the IEP team. Because the school was providing transportation, and that was documented on the IEP, they believed to have it covered as far as an IEP team responsibility. If there was an appeal regarding the decision, it would go through the superintendent of the school district but there is no formal appeal process. They stated that the process is an administrative decision. The regional office of education was also contacted with this situation. Staff said that in general, a request for an alternative drop-off would be made at the school the student is attending, and then the administration would communicate to the parent through the school secretary. The requestor would make the request with the secretary, the secretary would communicate the request to administration, the request would be accepted or denied, and then the school secretary would contact the requestor and inform them of the decision. No form was completed for this request. The student has a monitor while being transported and the student should be transported to the closest, safest stop, which means that the student is physically picked up and dropped off in front of the home.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 - Inadequate transportation services for a student with a disability.

The HRA reviewed records and policies pertinent to the complaints in this investigation.

The HRA was provided a document titled Emergency Contact/Registration (EC Form #2 3-05-10). A section of that form requests an “Address where your child is to be picked up/dropped off for school If different from home address.” In a follow-up phone conversation, the District 150 staff stated that the form is outdated and no longer used. The HRA reviewed another form titled the PK-12 Enrollment Form for the 2013-2014 school year. In that form, a section requests information on transportation and there is an option to insert a pick-up address and a drop-off address.

The HRA reviewed the student’s most recent IEP dated 9/17/2014. The IEP lists the student’s resident school as Lincoln Middle School, but the serving school is Von Steuben Middle School. In the placement considerations section of the IEP, it reads “[Student’s] intellectual deficits in academics and functional performance requires a specialized life skills program which is found at Von Steuben Middle School.” In another checkbox section, it is checked “Yes” that “Special transportation is required to and from schools and/or between schools.” In the section that explains and/or details the transportation plan, it reads “closest, safest stop monitor.” The HRA reviewed other IEPs for the student, and in one dated 9/20/2013, it was stated that the student required special transportation but there was nothing written in the transportation plan.

The HRA reviewed some email correspondence between staff at the school district regarding transportation. An email from transportation staff to special education staff on

12/19/2013 reads that the transportation staff is able to arrange transportation to and from the student's home address but no bus is anywhere near the alternative drop off address. The email states that the student's foster care agency called and is becoming impatient because they are transporting the student to and from school. The email reads "From what I understand, we are not obligated to provide transportation to a babysitter or daycare that doesn't provide IEP required services for a student. When I spoke to the student's foster mom, she indicated that he is at the babysitter because she is still at work when school gets out. I would love to be able to provide transportation to the babysitter's address but, like I mentioned before, don't have a bus anywhere near the address. Not only would [student] be on the bus for a significant amount of time but I would have to significantly change one or more bus routes to accommodate this change that would affect several other students." Another part of the email thread, from another transportation staff member states they have discussed the issue with special education staff and "From what we can find we only have to provide transport to the home address. We have no buses in the area of the pick-up and drop off address." Another section of the email states that special education staff spoke with the foster agency staff and they are "trying to make things as stable as possible" and that the child may be kicked out of an after-school program. Another part of the email thread states that the foster agency is concerned because the child's current foster placement may have to change if this cannot get resolved and the special education staff state "I think we have done all we can but just wanted to make sure."

The HRA was also provided a form titled Transportation Procedure and the subtitle is Transportation To/From a Day Care Facility. This form is also located on the school district website. The procedure reads "Transportation is provided to/from day care facility if: 1.) Facility is within the student's school attendance boundary. 2.) The student's home address is outside the 1.5 mile non-transport boundary from the school." The policy also mentions pay transportation being available but one of the stipulations is that the address is within the school attendance boundary. The explanation for pay transportation on the website states that pay bus is \$130 dollars a year and it also states existing routes will be used and new routes will not be created. The HRA saw no other means that this information is being provided to requestors outside of this document being on the website and, when asked if there is additional information provided to the parents, the staff clarified that this is the only information.

The HRA used a function on the District 150 website that determines student's home school based on their home addresses. The student's drop off address indicates the middle school is Lindberg Middle School. The student's pick-up address indicates the middle school is Lincoln Middle School. Both schools differ from the serving school, which is Von Stueben Middle School, and this indicates that the drop off location is outside of the attendance boundary.

Special Education mandates require that "Each school district shall ensure that related services (defined in 34 CFR 300.34) are provided if necessary to assist an eligible child in benefiting from his or her special education" (23 IL Admin Code 226.310). The Federal regulations state "(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children,

counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes” (34 CFR 300.34). The mandates also read “Each school district shall provide special education and related services to eligible children in accordance with their IEPs” (23 IL Admin Code 226.200).

The special education mandates also require “Additional services and activities shall be provided to students whose IEPs require them in accordance with 34 CFR 300.105 (Assistive Technology), 300.106 (Extended School Year Services) and 300.108 (Physical Education). In addition, the following shall apply: . . . Each child who is eligible for special education and related services pursuant to this Part shall be eligible for special transportation. Such transportation shall be provided as the child's disability or the program location may require” (23 IL Admin Code 226.750) and “a) Each school district, independently or in cooperation with other districts, shall provide a comprehensive program of special education for children with disabilities who are from three through 21 years of age and who are resident in the district. A ‘comprehensive program’ is one that includes: . . . 4) Qualified personnel who are employed in sufficient number to provide: . . . D) Related services; and E) Transportation services” (23 IL Admin Code 226.700).

The federal mandates also state: “(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency— (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) Content of notice. The notice required under paragraph (a) of this section must include— (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal” (34 CFR 300.503). Also “Free appropriate public education or FAPE means special education and related services that — (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (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).

Complaint #1 - Conclusion

Regulations dictate that transportation decisions should be made with the IEP team (23 IL Admin Code 226.200). This should not have been a decision made solely by the school personnel, but rather through the IEP process. In this case, the IEP barely indicates any

transportation discussion or transportation decisions. Because this issue was not reviewed through the IEP process, the HRA finds this complaint **substantiated** and **recommends** that the facility hold an IEP meeting on this issue to determine whether the alternative drop-off is needed to “assist an eligible child in benefiting from his or her special education” (23 Il Admin Code 226.310).

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

- Because the transportation procedure is difficult to access, the HRA suggests the facility provide a copy of this to parents/guardian or make the procedure more easily accessible (such as adding it to the student handbook).
- The HRA suggests creating a more elaborate transportation policy that illustrates the entire procedure. Additionally, there appears to be minimal documentation of transport requests because the process is very informal. Because of the importance to families, the HRA also suggests formalizing the process more by creating a document for alternative drop-offs that can be completed.
- Per federal guidelines, if free and appropriate public education (FAPE) is denied, then written notice must be sent regarding the denial (34 CFR 300.503). The HRA suggests the facility review these regulations and abide by the standards for future denials.
- Additionally, per federal guidelines, this transportation service is a part of FAPE and therefore denying this service on the basis of finances may be considered a denial of FAPE. The HRA strongly suggests the facility review its practice of denying services due to finances (which was cited as part of the transportation denial) and reconsider this action now and for future requests.
- State regulations (23 Il Admin Code 226.700) explain that the school district must provide a comprehensive special education program that includes qualified personal in sufficient enough number to provide services and transportation is included as a service. During the interview, it was indicated that the school lacks a sufficient amount of bus drivers and would have to contract out to provide the student transportation to the alternative drop-off. This is in violation with the regulations stated above and the HRA suggests the facility take action to secure enough staff to provide special education services.
- The IEP reads “Closest, safest stop monitor” which the HRA determined meant that the student requires the closest, safest stop and also a monitor on the bus. Another older IEP states that the student requires special transportation but nothing is written in the transportation plan regarding the special transportation. The HRA suggest assuring all IEP are written in a clear and understandable manner to alleviate possible confusion or misunderstanding.
- Reconsider special education placements that cross boundaries if transportation needs cannot be met.