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**FOR IMMEDIATE RELEASE**

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**HUMAN RIGHTS AUTHORITY - PEORIA REGION**  
**REPORT OF FINDINGS**

**Case #16-090-9013**  
**Canton Union School District 66**

**INTRODUCTION**

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations involving a child with disabilities who received services at Canton Union School District 66. The allegations were as follows:

1. Inadequate transfer procedure to school district.
2. Free and Appropriate Public Education (FAPE) denied to student in special education program.

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

The Canton Union School District 66 has approximately 2,700 students with 450 receiving special education services. They employ 28 special education teachers and 50 paraprofessionals.

There are 4 other education entities involved in this report. To maintain anonymity, they will be referred to as alternative school 1, alternative school 2, alternative school 3 and school district 1.

**Complaint Statement**

The complaint states a student in the special education program at Ingersoll School in the Canton School District was removed from the school in favor of homeschooling by the student's mother due to an incident that occurred. While being homeschooled, the student received a diagnosis of mental health issues. The student's parent tried to re-enroll the student in school, and after the school reviewed the original IEP (Individualized Education Program) and diagnosis, they stated they could not provide services for the child. The school gave 3 referrals to other schools but the student's mother stated she wanted a specific alternative school in Peoria, IL. Allegedly, Canton School District never put in a referral for transfer to the alternative school or another school. The school also never set up an IEP for the student (outside of the original IEP), nor did they offer Homebound services or any other services for the student.

Additionally, Canton School District would not release the student's school record to the transferring school when the student was placed there. The school would only release the incident report.

### **Interview with staff (2/25/2016)**

Staff began the interview by stating they have evidence proving that the allegations are untrue. They said that when the student re-enrolled, they have a copy of the letter that was sent to alternative school 1, along with the letter sent to the parents with the other referral schools. Staff explained that the student was diagnosed with emotional behavioral difficulties and the student's parent was not happy with the services the district was providing. Staff explained that the student's mother would provide the school with a new strategy for the student weekly and staff said the student's mother wanted him to be allowed to do "whatever" all day. Staff expressed they have tried hard to work with the parent but it became difficult.

Staff said that the student was never expelled but may have had suspensions. They were not sure without checking the record. The incident that occurred did not result in suspension because the student had a disability which was determined to attribute to the incident (although later in the interview the staff said they were not sure about the suspension). The student was physically restrained during the incident for safety and the student's mother was present when the incident occurred. The student's mother decided to homeschool the student and it was not based on the incident. They had a meeting to perform a full evaluation on the student for more information and the student's mother cancelled the case study and decided not to homeschool.

The student was being homeschooled but in March 2015 the school was contacted to re-enroll the student. The student's mother never returned all the enrollment information needed by the school. The school requested school records and the student's mother's attorney said that she did not have to provide them; the school requested proof of a dental exam and a 6<sup>th</sup> grade physical but the student's mother only provided the student's record of vaccinations. The student's mother demanded specific alternative placement and Canton offered Ingersoll School and two other alternative schools. In March, the staff emailed alternative school 1 and alternative school 2 explaining the situation. The student's mom asked about the alternative school 3 that she wanted the student to attend which had an autism program. Staff thought that the program was not appropriate because of the student's high level of functioning. The student's mother toured the alternative school 3 and was told by facility staff that he was not appropriate for the school program. Alternative school 1 did not have room in their program and they discussed the options but the student's mother decided to homeschool the student. The student's mother would not visit alternative school 2 and did not want the student to go to his homeschool. Staff did not think that the student's mother ever re-enrolled the student and also services provided by Canton School District were never refused by the district.

Canton School District received a records request from school district 1 in August and the records were sent 5 days later, on August 15<sup>th</sup>. Staff said they provided the IEP, permanent record, grades, years completed, health records, and birth certificate, but they do not have documentation of specific records being sent. Their last communication with the mother was that she would contact Canton if she wants to enroll the student. Alternative school 1 would have contacted the school if there was an opening and then the Canton School District staff would contact the student's mother. When the student's mother first removed the student for homeschooling, the school sent a letter offering services per the mandates and they also have an

annual meeting where they could have discussed the student. Also, if she wanted to discuss anything with the school she could have contacted them. When the student was first being homeschooled, Canton provided Homebound services. Homebound is a service the school is obligated to provide for students who cannot attend school, for example if a student was diagnosed with cancer, then the school would send a teacher to the student's home. They would provide this service through a physician's note or an IEP. In this case, they did not want the student to fall behind and they did not think that he would be returning. When the student was re-enrolling, homebound services were not discussed.

Staff stated had the student been re-enrolled and was on the waiting list for alternative school 1, they would have looked into alternative school 2 and, if there was a waiting list there, they would have offered homebound services. This would have all been done through the IEP process but staff said the student's mother closed the door on this process before it was offered. Staff said that the student's IEP had expired and a new one was needed, but because the student was on a waiting list and they never received all the requirements for re-enrollment, they never got to the point of having an IEP meeting. Staff said that the student was withdrawn from Canton on November 6<sup>th</sup>, 2013 and the communication about the waiting list was June 8<sup>th</sup>, 2015. The June communication was a letter recapping a phone call. Two months later, the student was in another school district. If a student leaves the district they would enroll in the new school and then the previous school receives a request for records.

At an IEP meeting, a student's needs are determined and if they cannot support the needs at the district, the staff works with the parent on placement. Staff likes for parents to tour the other schools that may be appropriate and actually go on the tour with the parents and get parents' input. When it is decided by the team what is appropriate, an IEP is scheduled to make the placement change. Canton School District has multiple student placements out of district. In this instance, the student could have been sent by the parent to the alternative school as a private pay option. If the parent wanted Canton School District to pay for placement, they have to have an IEP meeting with the parent and it must be a decision by the team. The district would pay the tuition for the student's placement if the IEP team decided on the placement. The student's mother did not request an IEP or anything along those lines but they would have had one once they agreed on a placement. Staff said that they did have a recommendation from a physician for therapeutic placement.

Staff explained that when homeschooled students are re-enrolled, a grade placement is decided. Schools have a right to make a grade placement determination to ensure students are enrolled into the proper grade. When a student has an IEP, it is sometimes different because they have other sources of information. Staff said that they never said that the school could not provide services and they find a way to meet any child's needs. Staff also explained that if the student had suspensions, they would not have exceeded 10 days because that would be against the law. Staff said that when the student receives a certain amount of suspensions, they have a manifestation meeting, but they have never needed one for this student. They can discipline for up to 10 days and any more of that is considered a removal of FAPE. If a student receiving special education is recommended for expulsion, the school board sets aside the expulsion in favor of enrollment in a local alternative placement agency. The expulsion then would never be on the student's record. The same is done for students without disabilities.

Staff said there may have been a situation where they would suspend the student but the student's mother took him home instead and they did not call it a suspension, but they were not sure if that happened with this student. Staff also did not know if the police were ever called

because of the student but they did not think so. They do have a student resource officer on staff and he was called because of the child being restrained. Staff did believe that two staff members may have filed charges but charges were dropped.

## **FINDINGS**

With proper consent, the HRA reviewed resident records and facility policy that pertain to the allegations in this case. The HRA combined the two complaints due to their relation to one another.

### **Complaint #1 - Inadequate transfer procedure to school district & Complaint #2 – Free and Appropriate Public Education (FAPE) denied to student in special education program.**

The HRA reviewed the two most recent IEPs for the student dated 3/21/2013 and then 9/17/2013. There was a “Record of Restraint Form” for the student dated 9/13/2013. There was also a letter dated 11/6/2013 stating that the student will be withdrawing from attendance and enrolling into a non-public school. There is guardian consent for evaluation form dated 11/7/13 which indicates that the student was, at that time, receiving homebound services. These all occurred prior to the student’s mother trying to re-enroll the student

A letter to the Special Education Director, dated 3/19/2015, requests an IEP meeting and states that the student’s diagnosis has been provided to the school. An email between staff members on 3/27/2015 reads “In the packet I am sending you, there is a paper that I normally fax to the student’s former school to get grades and attendance information. When I showed mom this paper, I told her I understood there would not be a former school to fax to. I told her when she had time, she could provide us with that information. She informed me her attorney told her she did not have to provide that information to us. I also told her we would need to have a copy of [Student’s] 6<sup>th</sup> grade physical and dental forms. I explained this was not merely a school policy but state law for all 6<sup>th</sup> graders. She replied, ‘You have his shot record.’ I again tried to tell her I need an actual 6<sup>th</sup> grade physical but she wouldn’t listen.” The school provided a copy of a student information form that is not dated but completed, for the student and a completed emergency plan/medical form that is dated 3/19/2015.

The HRA read a copy of a handwritten note documenting a timeline of the actions. According to the note, on 3/27/2015, staff contacted the student’s mother and the note reads “ask for [illegible] paperwork so I can obtain it” regarding the rest of the enrollment documentation. The HRA saw no information on whether the paperwork was obtained. The note proceeds to state “Told [Student’s mother] I would contact [Alternative School 1] and [Alternative school 2] as they both appear to be viable options.” Then the note states the mother asked about another alternative placement and it was notated that staff would check on it. One of the schools was the specific placement that the student’s mother stated that she wanted. The HRA reviewed an email, dated 3/27/2015, between Canton School District staff and staff with both alternative schools that begins by stating “I have a student who has re-enrolled from a 15 month homeschool situation. During his time in homeschool his parent had a private evaluation done that

recommends ...” and the recommendations are stated. The email proceeds to state “Personally, I feel both [Alternative school 1] and [Alternative school 2] can meet the needs of this student but I would like to ask both schools to review the record and offer their opinion. The parent has specifically asked about the [Alternative school 3], which seems like a surprising choice to me. My preference is to go with the least restrictive placement that is appropriate. [Alternative School 1 staff] before you spend much time on this, I would like to know if [Alternative School 1] even has available space. This student is presently a 6<sup>th</sup> grader.”

An email on 4/20/2015 between staff indicates that they had not heard back from alternative school 1 but alternative school 2 had agreed to take the student and the student’s mother declined that option. Another email on 5/1/2015 between Canton School District staff and the agency that houses the alternative school 1 and the alternative school 3 programs, indicates that the agency wanted some additional information on the student and wanted to observe the student to make a determination. An email response between Canton staff and agency staff on 5/5/2015 indicate that the student’s mother spoke directly with agency staff about the situation and an observation was scheduled. An email exchange between the two agencies on 5/14/2015 state that the student was not a candidate for the alternative school 3 and the student’s mother agreed with this, but was open to alternative school 1. Another email exchange between the two agencies on 5/26/2015 indicates that alternative school 1 needed to close a junior high classroom and therefore there was no room for the student. The staff member did not know about this when the student’s mother toured the facility. The email indicated agency staff would contact the student’s mother. There is a handwritten note on the email that reads “Mom wishes to continue to homeschool until an opening is available.” A letter from the Canton staff to the student’s mother, dated 6/8/2015, reads “I am writing to document our telephone conversations from today. We have both been notified that [Student] was not appropriate for the [Alternative school 3] and was referred the [Agency] director to [Alternative School 1]. [Alternative school 1] has placed him on a waiting list as space is not currently available for [Student’s] age level. We discussed alternatives to the [Alternative school 1] placement being either Ingersoll Middle School, or [Alternative school 2]. You indicated that at this time you prefer to wait and see if [Student] is offered a placement at [Alternative School 1] this fall. We left [Student] enrollment status that you would call me in the fall to discuss options. If any of this information is not correct, please let me know so I can maintain accurate records. In the meantime, please do not hesitate to contact me should you have other questions.”

The school provided the HRA with a list of 3 instances when the student was disciplined. The instances are from a screen shot of a student information program and states that on 9/10/2013 the student received an in-school suspension for fighting with another student, then on 9/11/2013, the student received an out-of-school suspension while serving the in-school suspension due to insubordination. On 9/13/2013 the student received out-of-school suspension for physical aggression involving staff. There was no indication as to how long the suspensions lasted.

Regarding the complaint that documents were not released to a transferring school, the HRA reviewed a document titled “File Access Log.” On 11/18/2013 a case study was mailed to the non-public school and on 8/11/2015 the message reads “[indecipherable] records to [Transferring School].” The HRA also reviewed a permit to release or obtain information from the a special education co-operative involved with the transferring school requesting the student’s records from Ingersoll Middle School dated 8/5/2015 and an additional request from School district 1 on the same date. On a copy of the request from School district 1 there was a

handwritten note indicating that the records were sent on 8/10/2015 to the staff person mentioned on the request. On another copy of the request there is a handwritten note dated 8/12/2015 stating that the information requested was mailed. The records that were requested included: AIMSWeb transfer ID (if applicable), attendance, birth certificate, discipline, grades in progress (if applicable), health data/immunizations, Illinois Student in Good Standing Form (if applicable), Special Education services, and transcripts. There is no indication on what items were sent to the school. The HRA reviewed a series of emails from Canton to the school the student was transferring to dated 8/10/2015, which contained records for the student. The records were Canton's initial student evaluation, a social developmental study from West Central Illinois Special Education Cooperative, two evaluations from outside agencies that were not schools, the letter from the student's mother removing the student from the school, Canton's consent to reevaluate the student, a letter regarding tutoring and two IEPs, one dated 9/17/2013 and the other dated 3/21/2013.

The HRA reviewed a procedural document that dealt with preschool screening/child find, special education programs, 504 services, and homebound services. In the Special Education Programs section, it reads "Canton Union School District #66 provides for its special education services by membership in the West Central Illinois Special Education Cooperative ... Canton Schools offer a free and appropriate education to all children. Any child, ages 3 – 21, whose parents or legal guardians reside in the school district and is eligible for special education if the child's impairment is determined to interfere with his or her education progress as determined by a multidisciplinary team." A school policy titled "Instruction" with a subtitle of "Education of Children with Disabilities" reads "The 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 Act of 1973, and the Americans With Disabilities Act." A policy with the title of "Students" and subtitle of "Nonpublic School Students, Including Parochial and Home-Schooled Students" has a section titled "Assignment When Enrolling Full-Time in a District School" which reads "Grade placement by, and academic credits earned at, a nonpublic school will be accepted if the school has a Certificate of Nonpublic School Recognition from the Illinois State Board of Education, or, if outside Illinois, if the school is accredited by the state agency governing education. A student who, after receiving instruction in a non-recognized or non-accredited school, enrolls in the District will: (1) be assigned to a grade level according to academic proficiency, and/or (2) have academic credits recognized by the District if the student demonstrates appropriate academic proficiency to the school administration. Any portion of the student's transcript relating to such instruction will not be considered for placement on the honor roll or computation in class rank. Recognition of grade placement and academic credits awarded by a nonpublic school is at the sole discretion of the District. All school and class assignments will be made according to Board policy 7:30, *Student Assignment*, as well as administrative procedures implementing this policy" The policy proceeds to illustrate the steps taken by the review team regarding placement, which consists of making recommendations to the Building Principal regarding level and student eligibility, recommendations regarding the acceptability of credits and grades for courses whose format or requirements would not meet the District standards. The policy also states that the recommendation by the review team can be appealed and that grade placement and credits awarded are at the discretion of the District.

The HRA reviewed a student policy titled "School Admission and Student Transfers To

and From Non-District Schools.” The admission procedure for the policy states that students must register at the time and place designated by the Superintendent, and if it is the first time enrolling, must present a birth certificate, proof of residence and proof of disease immunization or detection and the required physical examination as required by state law. A section regarding student transfer to and from non-district schools reads “A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee.” The policy then states that student must complete any suspension or expulsion before being admitted into the School District. In the section titled “Re-enrollment” it states that re-enrollment will be denied to any individual who is 19 or above and has dropped out of school and who could not earn sufficient credits during the normal school year to graduate before the age of 21. The individual could be enrolled into graduation incentive programs or alternative learning opportunities at the Superintendent or designee’s discretion and depending on availability. Anyone denied will be offered counseling and be directed to alternative educational programming. There is a disclaimer that this section does not apply to students eligible for special education.

The federal regulations state “(a) General. 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 make the same statement (23 Il Admin Code 226.50).

The state special education code reads “a) Transfer Students. Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C)” (23 Il Admin Code 226.50(a)). The referenced section of the federal regulations read “(ii) Transmittal of records. To facilitate the transition for a child described in clause (i)--**(I)** the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and **(II)** the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school” (20 USC 1414(d)(2)(C)). The School Code also states “(a) The State Board of Education shall establish and implement rules requiring all of the public schools and all private or nonpublic elementary and secondary schools located in this State, whenever any such school has a student who is transferring to any other public elementary or secondary school located in this or in any other state, to forward within 10 days of notice of the student's transfer an unofficial record of that student's grades to the school to which such student is transferring. Each public school at the same time also shall forward to the school to which the student is transferring the remainder of the student's school student records as required by the Illinois School Student Records Act” (105 ILCS 2/3/13a).

Federal regulations regarding placement state: “In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that— (a) The placement decision— (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (2) Is made in conformity with the LRE provisions of this subpart, including §§ 300.114 through 300.118; (b) The child's placement— (1) Is determined at least annually;(2) Is based on the child's IEP; and (3) Is as close as possible to the child's home;

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled; (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum” (34 CFR 300.116).

The federal regulations also read “(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536)” (34 CFR 300.530)

### *Complaint #1 & 2 - Conclusion*

Upon reviewing the evidence, the HRA saw no indication that the school district denied FAPE to the student or stated they were unable to provide services to the child. The district offered three referrals and appeared to correspond with the referrals and the student’s mother regarding the referrals. The district did not offer additional services to the student’s mother or provide the student with an IEP meeting but correspondence between the school and the student’s mother indicated that the student was not enrolled in the school and that the parent was waiting for alternative services (although there was one email that stated the student had re-enrolled). Additionally, the HRA saw evidence that records were sent to the transferring school. Because of the records and policy reviewed, the HRA finds both complaints **unsubstantiated** but the HRA is extremely concerned that so much work was done on this issue without an IEP meeting. The federal regulations require that placement needs be determined by a group of persons knowledgeable about the child, including the parents, and be based on the IEP (34 CFR 300.116). The HRA acknowledges that the staff stated that the student’s mother halted the IEP process before it was offered and that there would have been an IEP meeting after placement was agreed upon but the entire process should have been determined through an IEP meeting with people who are knowledgeable about the child. Although the findings in this complaint have not been substantiated, the HRA finds that the mode of determining placement for this student is out of compliance with regulations and **strongly suggests** that for future placement determinations the school assure that the student’s placement is determined through the IEP process. The HRA also offers the following **suggestions**:

- The HRA understands that the facility staff felt that the student’s mother was not interested in enrollment but, as stated in the recommendations, the HRA believes that the whole process should have occurred through the IEP team, and to do that the student needed to be enrolled. The HRA believes that the facility should have pursued enrollment more actively and **suggests** in the future the facility review this practice and pursue enrollment aggressively.
- The HRA saw gaps in the documentation provided, such as a documented list of items that the school sent when transferring and documentation on the lengths of student suspensions. The HRA **suggests** the facility assure that they are keeping detailed



documentation on records such as this if they are not already documenting these items elsewhere.

- Transfer policies do not contain much procedural information, especially with regard to students eligible for special education. The HRA **suggest** expanding the policy, including providing school records to schools.
- In the interview, it was indicated that sometimes a parent takes the student home and the school forgoes the suspension process because of this action. The HRA **suggests** the district cease with this practice because it could constitute with the student missing more educational days and instruction than the 10 that are allotted for students in the special education program.