



FOR IMMEDIATE RELEASE

REPORT OF FINDINGS

ELISABETH LUDEMAN DEVELOPMENTAL CENTER- 17-040-9008

HUMAN RIGHTS AUTHORITY- South Suburban Region

[Case Summary— The Authority made corrective recommendations that were accepted by the service provider. The public record on this case is recorded below; the provider did not request that its response should be included as part of the public record.]

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA) has completed its investigation into an allegation regarding Elisabeth Ludeman Developmental Center (ELDC), a state-operated facility located in Park Forest. The complaint stated that a resident's right to visitation with persons of choice is inappropriately restricted to weekdays only. If substantiated, this allegation would violate the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/100 et seq.)

METHODOLOGY

To pursue the investigation, a site visit was conducted at which time the Facility Director and a social worker were interviewed. The complaint was discussed with the assigned guardian several times. Sections of the resident's record were reviewed with written consent of his guardian who also provided related correspondences. Relevant policies were also reviewed.

FINDINGS

Information from the record, interviews and program policy

After reviewing the resident's record, the HRA determined that he was admitted to the facility in 2013 and that the Office of State Guardian (OSG) was appointed as his legal guardian in that same year. A letter, dated July 11th, 2014, addressed to the resident's mother from the OSG documented that visits between the resident and his mother were limited to weekdays only. In the letter, the guardian wrote that there was a problem during the parent's visit on July 5th, 2014, and that the local police was called to the facility. According to the letter, the resident was interviewed about the incident and denied being punched in his stomach. There were no bruises observed or criminal charges filed or additional information about the specific incident.

The guardian's letter further documented that a special team meeting to address the resident's, his mother's, and housemates' concerns was held after the incident. The guardian caseworker was at the meeting. A plan was developed to supplement the resident's supervised visits with the parent as requested by the guardian. The resident's parent was informed that visitation would be allowed on weekdays only (Monday thru Friday) from 9:00 a.m. to 4:30 p.m. because more staff would be available to handle any incidents. According to the letter, the parent would be asked to leave the facility if she tried to visit on the weekends or holidays. She was told that children would not be allowed to visit because they were at risk on the campus grounds and some of the facility's residents have a history of abusive behaviors towards children. She was asked to not discuss the resident's trust fund with him because of increased anxiety whenever she mentions this issue. According to the letter, the resident's parent was

informed that failure to follow the visitation plan might result in more restrictive measures. The letter documented that the resident's home is a safe environment contrary to his mother's beliefs and that the incident was a step backward for all including his peers.

The resident's services plan dated May 26th, 2016 documented that the ELDC ensures communication and private visits with persons of his choice. The facility will provide space and reasonable privacy for visits. Visitation will be allowed at reasonable hours, without prior notice, consistent with the resident's rights and privacy of others. It stated that the resident is free from unnecessary restrictive techniques such as a restriction of rights without due process. Restrictive techniques are implemented with the person's or guardian's written consent and the facility's Human Rights Committee's approval. The HRA found no documentation that the visitation restriction implemented in 2014 had been approved by the agency's Human Rights Committee (HRC) or any restriction notices in the resident's record reviewed or mention of any restriction in his services plan above. However, an email dated June 23rd, 2016 from the facility's social worker addressed to the assigned Qualified Intellectual Disabilities Professional (QIDP) and the current OSG caseworker indicated that visits with his parent was still limited to weekdays only. In the email, the social worker wrote that the resident's mother had called him because she wanted to know if she could visit the individual during the July 4th weekend. She told the social worker that she was requesting visitation on the weekends because she now is working on the weekdays. And, she said that she was going to call the guardian about her request. According to the email, the social worker asked if a special meeting could be scheduled. On that same day, a corresponding email addressed to the social worker from the guardian documented that she had told the QIDP that the parent should be allowed to visit on the weekends. The social worker was reminded that adequate staffing should be provided during the visits and that visitation should not be restricted or limited to weekends only according to OSG's policy.

A note written by the facility's psychologist dated August 2nd, 2016 stated that changes were made to the resident's visitation plan on that previous month because of his mother's work schedule. However, the HRA found no documentation during the record review of the changes made as indicated by the psychologist's note above. And the guardian caseworker told the investigation team that she had received a call on August 4th, 2016 from the parent who requested visitation on the weekends. She reportedly told the parent that she did not have a problem with her request and that the facility is responsible for scheduling visits. Another note written by the facility's psychologist dated October 4th, 2016 stated that the parent told the resident that she was going to visit him in August. He wrote that the resident was upset leading up to his mother's planned visit and that she did not show.

An email dated October 7th, 2016 from the social worker addressed to the guardian, the QIDP and other facility's staff members stated that the resident's mother was informed that supervised visits on the weekends would be allowed on the campus grounds. She reportedly asked about home visits and was informed that the facility's clinical team would have to talk to the guardian about her request. According to the email, the social worker suggested that the parent should call to ensure that the resident would be on the campus grounds prior to her visits. It was documented that the parent had agreed to the staff person's suggestion. The resident's record included a "Psychological and Behavioral Assessment" Report, completed on November 4th, 2016, documenting that he enjoys calls and visits with his family and recommended that contact with family members should be continued.

When the complaint was discussed with the facility's staff, the HRA was informed that the social worker interviewed has been assigned to the resident's case since he was placed at the facility in 2013. The investigation team was told that the resident's mother was bringing her younger children with her to the visits in 2014. The local police was called to the facility on July 5th 2014 because of an incident that occurred while she was visiting the resident. The social worker said that the facility's clinical team had a meeting with the previously assigned OSG caseworker after the incident and that the guardian caseworker had requested that visitation should be restricted to weekdays only between 9:00 a.m. to 4:30 p.m. He said that the parent was not working when visitation was limited to weekdays. He was not able to provide any more information about the incident and the HRA was informed that the incident report in question had been purged. The Authority notes that the guardian caseworker said that incident involved the resident's parent and a staff person who had worked in the home.

At the site visit, the social worker further reported that home visits were being considered a few years ago and that the previous guardian caseworker was supposed to do a home visit. However, the guardian caseworker reportedly got another job. The HRA was informed that the resident's mother maintains contact with the individual and that she is now allowed supervised visits on the weekends. The resident reportedly had a visit with his mother and sister on Wednesday, January 4th, 2017 and the weekend of February 4th, 2017. Additionally, the social worker reported that the parent was not invited to his annual treatment staffing, although the facility's practice is to send notices about them.

ELDC's visitation policy states that family members and friends are encouraged to visit and to participate in social activities at the facility. Any member of the resident's immediate family will be allowed to visit the individual if he or she does not object. Visiting hours are from 9:00 a.m. to 8:00 p.m. and all visits should be documented on the facility's form. Also, the staff are directed to document any problems observed or reported by visitors in the resident's chart and to notify the supervisor or lead worker. The policy states that the facility's staff will make all efforts to ensure that the visit is enjoyable and that the resident's rights and dignity are protected in accordance to the Illinois Confidentiality Act. A guardian or parent is not responsible for providing a list of approved or unauthorized visitors. The ELDC's Interdisciplinary Team may recommend that a resident's visitation should be restricted or limited but the plan must be approved by the facility's Human Rights Committee (HRC). The committee will make recommendations about the visitation restriction to the Facility Director. According to the policy, reasonable times and places for visitation may be determined by the Facility Director pursuant to the Mental Health and Developmental Disabilities Code. It states that the facility reserves the right to deny disruptive or dangerous individuals' visitation.

ELDC's "Rights of People Receiving Services" policy states that the facility is responsible for protecting and affirming the rights of its residents pursuant to the Mental Health and Developmental Disabilities Code. The policy states that certain rights outlined in the Mental Health Code may be limited based on clinical recommendations. In some cases, this may be done through clinical and administrative procedures, and the responsibility to restrict rights rests with the facility. Rights may not be limited solely on the guardian's request. Rights shall not be limited without due process. Rights that may be limited include communication by telephone, to send or receive mail in privacy, to receive visitors, and to have personal property. A restriction of a person's rights must be discussed in an Interdisciplinary Team's meeting and documented in the individual's services plan in accordance to the Mental Health Code. When rights are limited, this must be specifically explained to the resident, guardian or family or advocate if appropriate.

This is usually done during an interdisciplinary team (IDT) staffing at intake, annually or special team meeting. The affected person or individuals acting on the person's behalf are given an opportunity to object to the proposed restriction of rights.

CONCLUSION

According to Section 5/2-102 (a) of the Mental Health and Developmental Disabilities Code,

A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The plan shall be formulated and periodically reviewed with the participation of the resident to the extent feasible and the resident's guardian, if appropriate.

Section 5/2-103 (c) of the Code states that,

Unimpeded, private and uncensored communication by mail, telephone and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation, provided that notice of such restriction shall be given to all recipients upon admission.

Section 5/2-201 of the Code states, whenever any rights of a recipient of services are restricted, the recipient and guardian shall be promptly given notice of the restriction.

The Authority substantiates the complaint stating that a resident's right to visitation with persons of choice is inappropriately restricted to weekdays only. A letter dated July 11, 2014 indicated that the previous guardian caseworker had requested that visits between the individual and his mother should be restricted to weekdays only because of an incident on July 5th, 2014. According to the letter, the local police were called to the facility during the parent's visit on the incident day. The HRA is unclear about exactly what happened during her visit and the facility staff were not able to provide more information or an incident report, which they said was dated and purged. The HRA was provided with correspondences indicating that the resident's visits with his mother were still being restricted to weekdays two years after the incident. According to an email dated June 23rd, 2016, the resident's mother had called the facility's social worker concerning visitation on the weekends. Another email dated October 7th, 2016 written by the social worker indicated that the parent's request for weekend visits was approved.

The facility is reminded that the Code allows communication to be reasonably restricted only in order to protect the resident or others from harm, harassment or intimidation concerning that communication, provided that notice is given upon admission. The facility violates the Code's Sections 5/2-102 (a) and 5/2-103 (c) because a two-year visitation restriction is anything but humane and reasonable without evidence of present harm, harassment or intimidation. Also, the facility violates Section 5/2-201 of the Code because the resident's right to visitation with his mother was limited to weekdays only and there were no rights restriction notices found in his record. The HRA is pleased that the visitation issue reportedly has been resolved and that visitation is no longer restricted to weekdays only.

RECOMMENDATIONS

1. Follow the Mental Health and Developmental Disabilities Act Sections 5/2-102 (a) and 5/2-103 (c) and ensure that communication restrictions are humane, reasonable and necessary. A

two-year restriction because of an incident so old it was purged, without review for relief, is not consistent with the Code's Sections.

2. ELDC shall follow its visitation policy and involve the facility's Human Rights Committee whenever any rights are restricted. There was no indication that the visitation restriction was approved by the facility's committee.

3. Complete restriction of rights notices whenever guaranteed rights within the Code are restricted under Section 5/2-201 of the Code. There was no restriction notice or rightful chance for the affected parties to have any person or agency of choice notified.

4. Ensure any restrictions or recommendations are addressed by the treatment team and documented in the services plan.

SUGGESTIONS

1. Invite the resident's mother and family members to treatment staffings if the individual does not object.

2. The Authority noticed that the ELDC's "Rights of People Receiving Services" policy states that the responsibility to restrict rights rests with the facility and rights may not be limited solely on the guardian's request. The facility should consider revising its policy to state that communication may be reasonably restricted to prevent harm, harassment or intimidation which is consistent with Section 5/2-103 (c) of the Code.