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**FOR IMMEDIATE RELEASE**

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**METRO EAST HUMAN RIGHTS AUTHORITY  
REPORT OF FINDINGS  
HRA CASE # 17-070-9012  
EAST ALTON WOOD RIVER SCHOOL DISTRICT**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of **East Alton-Wood River High School District 14** (District), located in Wood River, Illinois.

The allegation being investigated is:

***The School District violated student's right to privacy when a teacher and the district publicly disclosed that certain students receive special education services.***

If found substantiated, the allegation represents a violation of the Individuals with Disabilities Education Act (IDEA), the Family Education Rights and Privacy Act (FERPA), and school district policies.

**METHODOLOGY**

To pursue the investigation, the HRA Coordinator had multiple telephone conversations with the District 14 Superintendent (Superintendent). An HRA team also conducted a site visit and interviewed the Superintendent and Principal of East Alton Wood River High School. The Superintendent refused to answer many of the questions presented to him and advised the HRA to look up the answers and policies on the Districts website. The HRA Coordinator also interviewed the Region III Special Education Cooperative (Coop.) Director (Director) via phone. She also refused to answer many of the questions and requested that the questions be sent in writing so that she could "appropriately answer them." As requested, interview questions that the Director refused to answer via phone were sent via mail and answers were received. Both the Superintendent and Director refused to answer questions pertaining to the district and coop and stated that they did not feel that the HRA needed to know certain information regarding the district and Coop. Both were very uncooperative and the Superintendent was even very aggressive and attempted to shut down the site visit meeting multiple times. When this occurred, the Principal spoke up and attempted to answer some of the questions while also trying not to agitate the Superintendent any further.

**FINDINGS**

The complaint alleges that on April 4, 2017 the 6<sup>th</sup> Annual Tri-District Fine Arts Festival was held at East Alton-Wood River High School. During the festival, a teacher announced, "Don't mind them, they are just a little slow," as a group of students took their places on the risers to perform. An attendee, who brought this to the attention of the HRA, noted that it was evident that the students had developmental disabilities and was appalled that the Choir Director would make such a discriminating statement. As the HRA was reviewing the program to deduct who made

this statement, the HRA discovered that this group of students was labeled as Region III C.L.I.P, their names were in a larger font than the other students and their first name and last initial were used rather than first and last name as the other names were listed. The program listed all other students by school, and while this group of students attend the same school, they were listed as Region III C.L.I.P. which refers to the Cross-Categorical Low Incident Program, a program ran by the Coop. that serves students with a range of disabilities, according to the Director.

Soon after the case opening letter was sent out to the District, the HRA Coordinator received a call from the Superintendent who stated he was offended that someone would send such an allegation regarding his school. The HRA Coordinator explained the complaint and the HRA process to the Superintendent and he insisted that the investigation and site visit were not necessary that the district does so much for "those kids" and that the HRA would be "ruining a good thing" by coming in and messing everything up. He stated that if the way the program listed the students' names was the issue then it will be corrected and that it is not necessary for the HRA to come down to do a site visit. The HRA Coordinator again explained the HRA process and that we have an obligation to follow up on the complaint.

5/25/17 PHONE CALLS IN/OUT: The Superintendent called regarding the complaint. He said he wanted to discuss the issues someone had with his school. I explained the details of the complaint and he stated he was not at the program as they had a board meeting that evening but his Principal was there and he has not heard that this was said, no one has complained and his school does everything they can for "those kids". I explained to him that the names were also listed as being in the CLIP program and he said, "so what" and said the only reason that I knew what that was is because I had knowledge of it. I explained that when I saw the names larger and labeled, I looked up the title they were labeled under and it took me to the website for the Region III Special Education Cooperative. He stated that the parents have no problem with it and actually enjoy that he allows those kids to participate. He stated that the HRA was going to come in and ruin it for everyone because they do Special Olympics for those kids and they will no longer be able to do anything for them anymore. I assured him that we don't want to stop any programs, we would like the school district to be more sensitive to students with special needs and to ensure their privacy and confidentiality. After multiple times of stating such things then he stated, "fine, we will take it out of the program and not do it again" and suggested that we were done discussing the issue. I explained our process and that we would come down and speak with him at the school for what we call a site visit. He suggested that we didn't need to come down, that it was settled. After again explaining that the HRA is obligated to follow through with the process, he agreed and said, "when are you coming?" He gave dates that he was available and I told him that I would check with the HRA members and get back with him with a date and time. A date was later set.

5/30/17 PHONE CALLS IN/OUT: received voice mail message from the Superintendent stating, " Was awaiting a call back regarding some set up time for an interview and I see that there's already going to be a meeting on Thursday June 8 in Belleville. Ahhh, so what happened to the interview that was going to be scheduled with us here on site? I think those were your words. So, let me know what's going on." This phone call was in

reference to the meeting notice that was sent out for the regularly scheduled June HRA meeting.

Notes from 6/5/17 SITE VISIT: The Superintendent and High School Principal were in attendance along with the HRA members, Coordinator and HRA Director. During the meeting, The Superintendent was pounding his fingers loudly on the table and sighing very loudly. He attempted to stop the meeting multiple times and asked what right we had to ask such questions. Several members attempted to explain the process of gathering background information for our report and he refused to answer any question other than what was involved the music program. He stated that the complaint was about names printed in a program and that is what he considered to be the reason for the HRA visit. He made several comments such as " they are a self-contained TMH class", "those kids in that Class", "those kids can't sing," "those kind of songs" and "they can't sing 4-part harmony." We asked what a typical day looks like for a child in the CLIP program and he refused to answer. He gave us the name of the Special Education Director and said that she would have an answer to that and when we suggested speaking to her he stated that she was a "9-month employee" and that "I'm not sure I would allow that." He also stated that " they pay rent" "we host them" "we allow them to participate in our programs" "those kids" low functioning" regarding the Region III Coop Students. He stated that he was under no obligation to answer our questions and the HRA Director assured him that he is in fact obligated to answer as the school district is a public body and the public has a right to know what goes on. He called them TMH, "if that's what they still call it!"

TMH was a new term to the HRA Coordinator and upon researching the term, it means Trainable Mentally Handicapped. This is an outdated special education term. Until October 2010, IDEA used the term "mental retardation." In October 2010, Rosa's Law was signed into law by President Obama. Rosa's Law changed the term to be used in future to "intellectual disability." The definition of the term itself did not change, only the use of "intellectual disability" instead of "mental retardation."

On 5/21/18, The HRA Coordinator received a call back from the Region III Coop Director after a voicemail was left for her to call the HRA Coordinator with information pertaining to the Coop. and the School District. The Director stated that she spoke with the Superintendent and he said that he fixed the issue of the program and that he said the statement was a misunderstanding. She went on to say that she didn't necessarily accept this response but he stated that he would fix it in the future. When asked her how many students from the Coop. were at that high school she said that she isn't sure that we need to know that information. The HRA Coordinator explained the HRA Process and that a report is compiled that includes factual, statistical information regarding services and she still refused to answer. She answered a few basic questions and stated that the Coop. pays rent to the District for use of classrooms in the High School and that the teachers in those classrooms are employed by the Coop. She stated that the Coop. is responsible for student placements, however, the home district is ultimately responsible for their education. When asked how many students were there from other districts, she also said that I didn't need to know that. I again tried to explain why the HRA would want that information and she said that there could be students from other districts at this school. She went on to say

that “they (the District) included them (the Coop. students) in things and they don’t have to, they are just housed there; they are included in in other things and classes and involved with regular ed peers.” The HRA coordinator asked if any Coop. Students are included in regular classes and she stated that they have been in the past, but when asked if they are currently she stated that we didn’t need to know that information, then stated there could be. She then requested that I send her the questions in writing so she could appropriately answer them.

On 5/26/18, a letter was sent to the Director of the Coop. that outlined the list of questions that she refused to answer via telephone:

Please provide an overview of Region III Special Education Cooperative and the services it provides.

Response: Region III is a special education cooperative organized and operating pursuant to Section 10-22.31 of the Illinois School Code (105 ILCS 5/10-22.31). Region III’s membership is comprised of six public school districts (listed below) serving Macoupin, Madison and Jersey counties. Region III is governed by an Executive Board (consisting of one Board of Education Member from each Member District).

Region III provides special education services to students with disabilities, with a focus on low incidence disabilities. Region III serves students with a range of disabilities, including autism, intellectual disabilities, multiple disabilities, behavior disorders, hearing impairments, and vision impairments. Region III provides special education instruction and related services in accordance with Federal and State law, including IDEA (20 U.S.C. 1401) and Article 14 of the Illinois School Code (105ILCS 5/14-1.01). Approximately 61 students currently attend Region III’s programs....

How many Region III students are placed at East Alton/Wood River High School and what districts are they from?

Response: Region III’s Cross-Categorical Low Incident Program (“CLIP”) is housed at East Alton/Wood River Community High School. Currently attending the program are 4 students, all of whom are from East Alton/Wood River Community High School District #14.

What role does the Coop. play in the education of the students it serves?

Response: Region III operates and administers the Region III special education programs, and employs licensed personnel (including teachers) and support staff personnel (including paraprofessionals) to provide services through Region III’s programs,

What role does the Host School play in the education of the Coop. students?

Response: See their response for #1 for information regarding Region III's governance structure. Region III's programs are located in various facilities, including at schools within member districts. Pursuant to the cooperative's Joint Agreement, Member Districts are required to make space available within their schools for Region III programs. When Region III uses space within a Member District's school, Region III leases the space from the Member District. Within the Member District's school, the Member District provides opportunities for Region III program students to participate in activities with non-disabled peers to the extent appropriate.

You stated that Region III's Coop. teachers educate students, however, their home school district is ultimately responsible for their educational needs, please explain.

Response: Region III is a cooperative of public school districts. Pursuant to Federal and State law, each school district retains responsibility for the special education services provided to its resident students.

Additional information is located on our website at [www.region3sec.org](http://www.region3sec.org). Information regarding the standards and requirements relating to the provision of special education services to students also can be found in the governing statutes and regulations, including the IDEA (20 U.S.C. 1401) and its implementing regulations (34CFR 300.1) and Article 14 of the Illinois School Code (105 ILCS5/14-1.01) and its implementing regulations (23 Ill. Admin Code 226.10).

### **MANDATES/REGULATIONS**

Individuals with Disabilities Education Act (IDEA), PART B, 20 U.S.C. 1400 and related special education regulations (34 CFR Part 300) state:

#### **IDEA**

300.610 Confidentiality. The Secretary takes appropriate action, in accordance with section 444 of GEPA [General Education Provisions Act], to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs [State Education Agencies] and LEAs [Local Education Agencies] pursuant to Part B of the Act [IDEA], and consistent with 300.611 through 300.627.

Regulations on Consent (34 CFR 300.571):

- (a) Except as to disclosures addressed in §300.529(b) for which parental consent is not required by Part 99, parental consent must be obtained before personally identifiable information is -
  - (1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or
  - (2) Used for any purpose other than meeting a requirement of this part.
- (b) An educational agency or institution subject to 34 CFR part 99 may not release information from education records to participating agencies without parental consent unless authorized to do so under part 99.
- (c) The SEA shall provide policies and procedures that are used in the event that a parent refuses to provide consent under this section.

The Family Education Rights and Privacy Act (FERPA) (20 USC 1232g), Confidentiality Requirements, state:

#### FAMILY EDUCATIONAL AND PRIVACY RIGHTS

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

Confidentiality Requirements in IDEA regulations (34 CFR 300) require the following:

- **300.572 Safeguards.**
- (a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (b) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

- (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under 300.127 and 34 CFR part 99.
- (d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.
- (Authority: 20 U.S.C. 1412(a)(8), 1417(c))

The East Alton Wood River CHSD #14, Policy and Procedure 7.130, Student Rights and Responsibilities state:

All students are entitled to enjoy the rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting. Students should exercise these rights reasonably and avoid violating the rights of others. Students who violate the rights of others or violate District policies or rules will be subject to disciplinary measures. Students may, during the school day, during non-instructional time, voluntarily engage in individually or collectively initiated, non-disruptive prayer or religious-based meetings that, consistent with the Free Exercise and Establishment Clauses of the U.S. and Illinois Constitutions, are not sponsored, promoted, or endorsed in any manner by the school or any school employee. Non-instructional time means time set aside by a school before actual classroom instruction begins or after actual classroom instruction ends.

### **CONCLUSION**

The HRA finds that the allegation that states the School District violated students' right to privacy when a teacher and the district publicly disclosed that certain students receive special education services is **SUBSTANTIATED**. Region III Coop Students were singled out in the 6<sup>th</sup> Annual Tri-District Fine Arts Festival Program that was handed out to guests who should not have been privy to that information. The Band and Choral Director reportedly made but the HRA could not confirm, the comment, "Don't mind them, they are just a little slow," as a group of students took their places on the risers to perform.

The HRA also takes this opportunity to share the following comments and observations: After having multiple telephone conversations with the Superintendent, the HRA Coordinator

requested the presence of the HRA Director and all available Board Members at the site visit due to the hostile behavior of the Superintendent towards the HRA investigative process. A typical site visit is attended by the HRA Coordinator and 2 Board Members. The HRA Director, Coordinator and Board Members who attended the site visit were disturbed by the behavior of the Superintendent who was tapping his fingers loudly on the table, loudly sighed on multiple occasions and even stated that the interview was over before the Principal stepped in and attempted to diffuse the situation. The Superintendent refused to answer several questions and even questioned the authority of the HRA to be questioning him.

### **RECOMMENDATIONS**

The HRA recommends that **East Alton-Wood River High School District 14** ensure that students right to privacy is respected, without fail, and ensure that disabilities are not disclosed to unauthorized individuals.

1. All District employees and volunteers receive mandatory, ongoing confidentiality training should be provided annually, before the school year begins.
2. Initial training for current staff must include “sensitivity training” to eliminate any overt biases related to the inclusion and treatment of those with disabilities.
3. The Administrators, Teachers and staff should avoid words and descriptions that have become outdated, inappropriate and do not put the person first.

### **SUGGESTIONS**

The HRA also suggests the following:

1. All District employees and volunteers receive mandatory, ongoing People First Language training. The Arc says this about People First Language: ***Our words and the meanings we attach to them create attitudes, drive social policies and laws, influence our feelings and decisions, and affect people’s daily lives and more. How we use them makes a difference. People First Language puts the person before the disability, and describes what a person has, not who a person is. Using a diagnosis as a defining characteristic reflects prejudice, and also robs the person of the opportunity to define him/herself.***
2. Seek a consultant to work with the Administrators, Teachers and staff on issues/unique needs related to students with disabilities of all types.
3. **East Alton-Wood River High School District 14** cooperate with investigative agencies, such as the HRA, in order to improve the treatment and educational opportunities of the students it serves.



4. **East Alton-Wood River High School District 14** should, regardless of the student's home district, include all students in student body activities regardless of their level of ability. If there are students in the high school, they should be treated as part of the student body.

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## **RESPONSE**

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

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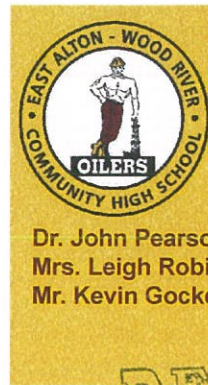
# East Alton - Wood River Community High School

777 N. WOOD RIVER AVENUE - WOOD RIVER, ILLINOIS 62095-1227

PHONE: (618) 254-3151 • FAX: (618) 254-9113

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Dr. John Pearson, Superintendent

Mrs. Leigh Robinson, Principal

Mr. Kevin Gockel, Assistant Principal/A.D.

July 25, 2018

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Metro-East Human Rights Authority  
4500 College Ave, Suite 100  
Alton, IL 62002-5051

RE: RESPONSE TO REPORT OF FINDINGS CASE #17-070-9012

Dear Metro-East Human Rights Authority:

I am in receipt of your "Report of Findings" sent on June 19, 2018. This letter is written in response to that report and we wish for this response to be included as part of any public record. EAWR District #14 is thoroughly committed to providing all of its students with a nurturing and respectful learning environment and including all students with disabilities into as many educational opportunities as possible, respecting them as persons.

When first contacted by the Metro-East Human Rights Authority, it was my understanding that a concern was presented to the Authority about the Tri-District Fine Arts Concert held on or about April 4, 2017. Specifically, the concern raised was that the Music Director identified, in the program, certain students being in the CLIP program and also made what someone took as an insensitive comment about the CLIP program students.

First and foremost, there was no intent by any school person to denigrate or otherwise treat students with disabilities in a manner that you described in your correspondence. When the initial correspondence was received, I personally addressed this issue with the Music Director. You have the District's assurance that staff within this District has been provided direction that students are not to be identified as participating in a special education program or as otherwise having a disability. If you become aware of another instance, it is important that you contact me immediately so that it can immediately be addressed with the employee.

In addition to the above stated issue, you also asserted that the Music Director allegedly made a comment "they're a little slow" – referring to certain students. The Music Director indicated that no such statement was made. Moreover, the Principal, who was in attendance, did not hear that comment. It is important to note that this Music Director is passionate about opportunities being provided to all students, regardless of disability. As noted in our face-to-face interview last summer, and not included in the report you provided to me for review and response, EAWR's faculty and student body have been devoted to assisting the students from the Region III CLIP classroom. This cannot only be seen in their inclusion in concerts, but also in our annual Oiler Olympics. Making such a statement would be out of character for a faculty that is passionate about serving all students. The Music Director at issue is one of the EAWR faculty members that takes very seriously the participation of students with disabilities programs offered by EAWR.



Since the original complaint stemmed from the concert in question, we sincerely believe that we have addressed the complaint and have taken the steps outlined above to correct those issues. We have conferred with the Music Director about his alleged comments and the printed program issue. He was remorseful and feels badly that things were perceived negatively. We have every assurance that all alleged issues have been corrected. Since your correspondence to me, we have had two Music events. A similar complaint has not been brought to my attention nor I have observed any improper treatment of students with disabilities.

With regards to the Recommendations portion of the report, District employees – including administrators – routinely take civil rights and other training that stresses confidentiality of student records and student privacy, as required by statute. EAWR District #14 has been diligent and conscientious in offering training along these lines to its staff. We feel that we already do comply with your recommendation. Accordingly, we will not be taking any further action as recommended by you.

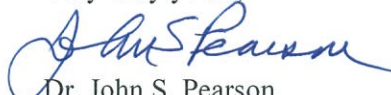
Regarding comments in the report made about me, personally, I believe that portion of the report mischaracterizes not only my personal leadership and communications style, but attempts to draw conclusions based upon a meeting that was requested by the HRA to discuss the allegations made about the April 2017 concert (see attached notice from HRA, dated May 16, 2017). I only took issue when the members of the HRA committee attempted to expand the scope of its investigation to any and all aspects of our special education program and services. This desire to investigate a program in which have consistently met ISBE requirements under IDEA and state law was arbitrary given the fact that the complaint was so narrow and involved one staff person on one evening.

Further, the passing of judgment on my sensitivity and use of special education terminology is also mischaracterized. The context of the discussion was a complaint related to one of our staff people and how he allegedly referred to students at the concert in question. Naturally, I may have made statements referring to “those kids,” since the students in that Region III CLIP self-contained program were the focus of the issue. It would have been insensitive of me to refer to them in any other way. Therefore, my remarks were simply made in that context and not in the pejorative manner as alleged in the report. Further, any characterizations and perceptions of my body language were due to the attempts of some of the HRA team members to expand the scope of its investigation into areas in which there were no complaints or allegations.

We are glad the HRA called the concert allegations to our attention and that we were able to take the corrective action necessary to correct the original allegations in the May 2017 complaint.

Therefore, we request that this response to the HRA’s findings in the aforementioned case be included in any public report, as stipulated by statute (see 20 ILCS 3955.26). Thank you.

Very truly yours,

  
Dr. John S. Pearson,  
Superintendent

cc: Merry Rhoades, Attorney for the District