



FOR IMMEDIATE RELEASE

**Egyptian Regional Human Rights Authority
Report of Findings
17-110-9006
Oblong Elementary School**

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning an alleged rights violation involving Oblong Elementary School located in Oblong. The specific allegations are as follows:

- 1. The individualized education plan (IEP) and/or behavior intervention plan (BIP) was not properly followed.**
- 2. A teacher was not properly trained to work with students with disabilities.**
- 3. The school failed to communicate with parent/guardian.**

If substantiated, the allegations would be violations of the Individuals with Disabilities Education Act (IDEA) (20 USCA 1400), the Code of Federal Regulations (34 CFR 300 et al.) and the Illinois Administrative Code (23 IL ADC et al.)

According to the complaint, the IEP and BIP were not properly followed by the teacher's aide when a child with disabilities had a maladaptive behavior and was not allowed to have after lunch recess and his shoes were removed to prevent him from eloping. Another allegation was that the school failed to contact the child's parents to notify them of the incident and they learned about it later that day when the police officer who was called to the school contacted them.

Investigation Information

To investigate the allegation, the HRA Investigation Team, consisting of one member and the HRA Coordinator conducted a site visit. During the visit the HRA spoke with the Special Education Coordinator, Administrator and Director of the Special Education Cooperative and the Superintendent. The student's Individualized Education Program (IEP) was reviewed after the Authority received written authorization from the student's guardian and a tour of the school and special education classroom was completed.

I. Interviews:

A. Mother: The child's mother was contacted about the incident. She informed the HRA that her 11 year old son has autism and therefore has an IEP in place at school. The IEP documents that he can be aggressive and she stated that he does not like to be touched. He attends the autism/behavior class in the school district. On the day of this incident, September 19th, she had started a new job and therefore was not at home that morning to get her son ready

for school or pick him up after as she had in the past, therefore his schedule was interrupted and he was having a bad day at school. He had a “meltdown” that morning and tried to run away. As a result, he was not allowed to have his after lunch recess which upset him further. The teacher’s aide told him he needed to remove his shoes, which was intended to keep him from running. When the child did not cooperate, she bent down to remove them herself. Since the child does not like being touched, he grabbed her in a headlock and allegedly punched her. After the incident, the school called a police officer that the child knows and respects. The officer came to the school and calmed down her son. The aide insisted on filing criminal charges against her son. The school did not contact her at any point throughout the day and she found out about the incident later that evening when the police officer told her about the charges being filed. The State’s Attorney dismissed the charges and the mother informed the HRA that she was going to review a video of the incident at the school. The HRA attempted to have a follow up interview with the mother to question her about the video and school notification of the use of the quiet room as well as police involvement but were unable to make contact as the family had moved and no forwarding information was provided. However the school representatives later informed the HRA that the parents had reviewed the video recording of the incident.

B. School Administration and Special Education Cooperative Staff: The HRA met with two employees from the special education cooperative as well as the special education coordinator for the school district and the Superintendent. There are 11 districts in the cooperative which covers several counties. Oblong Elementary School provides space for one of the classrooms. At the time of our interview there were 8 students in the classroom for emotional disabilities, autism and other health impairments. The cooperative has a total of 3 classrooms in the Oblong school, one is for early childhood, one is for elementary and the other is for junior high students that have emotional disabilities, autism and other health impairments. The school also has 4 special education classrooms which are divided by grades Pre-K through 8th Grade. The state requires the classroom to have 1 teacher and 1 paraprofessional, but this student’s classroom has 3 teachers, one is certified and the other two are paraprofessionals. The maximum number of students for that number of staff is 13 and at that time there were 8 students in the classroom. All of their teachers and aides are trained in Therapeutic Crisis Intervention (TCI) for restraint use if needed.

On September 19th, the head teacher was at a staffing and was called to the classroom because the student left the classroom due to agitation. She talked to him and was able to get him to return to the room although he was still non-compliant and agitated. Inside the classroom is a quiet room used for students to calm themselves. This student was placed in the quiet room with his desk and the door was left open. The aides were present with him to help him with coping skills and to refocus him on his lesson. Their standard practice is for the student to remove his/her shoes if the student is a danger to himself or others. This student became more physical, tossed his desk and became physical with the paraprofessional. When the paraprofessional bent down he put his hands on her neck with force so she removed herself and closed the door to the quiet room. The paraprofessional stayed outside of the quiet room, engaged the lock on the door and monitored the camera in the room which is mounted outside of the door. After the student calmed down 10-15 minutes later, the door was opened and then another 10-15 minutes passed and then he was allowed to rejoin the class. It is important to note that the special education cooperative’s administrator informed the HRA that there was not a

written policy regarding shoe removal as a proactive measure in the case of elopement from the classroom, it was an understood procedure that all classrooms would follow this. However, it was added to the parent student handbook for the 2017-2018 school year.

The HRA questioned as to why the police were called. It was explained that the student was on probation for a community incident and was ordered to complete community service in the school cafeteria and the police were to be called if he was ever unable to serve his community service. This student could not serve that day due to having a lunch detention. The police were contacted to notify that he was unable to serve and the police officer chose to come to the school to speak with the student and advised the school of their rights due to the aggression towards staff. The Assistant State's Attorney explained that staff can file a report and it is up to the State's Attorney whether or not to prosecute. A letter was sent to the parents explaining what could happen which upset the student's mother. The video of the incident was able to be viewed by the parents since no other students were in the video. After viewing the video the parents seemed relieved and said that the student had told them a different story and agreed with the way the situation was handled by the school. The mother requested that in the future the desk not be placed in the quiet room with her son. The State's Attorney decided not to prosecute and the months after the incident through February were much better with the student. In February the student moved out of this school district but was still in the same special education cooperative system and the mother and teachers communicate very well.

When questioned about communication with the parents the day of the incident, the HRA was informed that the head teacher sent the student's mother a text message that day and sent the completed paperwork from the quiet room/restrictive measures to her within 24 hours. No restriction of rights is required for shoe removal as that is a proactive measure to help deter elopement and has been very effective. This precaution also prevents self-harm with removing shoe laces etc... If the student leaves the quiet room, the shoes go back on.

Next the school personnel were questioned about the experience and training of the teacher and paraprofessionals in the classroom. The head teacher has 15 years of experience in special education and was a paraprofessional prior to then. The first paraprofessional in the class has 5-6 years of experience with the cooperative and the other paraprofessional in the class had 4 years of experience with the cooperative and was in the autism room for 1-2 years prior to that. They prepare materials and small groups, use the data processing system for behavior documentation and accompany the students to classrooms, the cafeteria and busses. They also monitor recesses. In the classroom, there are daily point sheets (tally sheets) that are in put into the data collection program and weekly reports are sent to the parents and will be sent more frequently if requested. A level system is used for behavior modification/tracking. When a student meets behavioral goals, they have a reward system in place for weekly rewards and monthly rewards. Some examples given were a token economy for a store, extra computer time, extra privileges, lunch with a preferred peer or staff person and fast food Fridays. The school also has a psychologist that meets with classes weekly, a speech language pathologist who meets with classes weekly and occupational therapist that meets with classes monthly. Most students have a certain number of minutes allotted as per their IEP. This student had a Functional Behavior Assessment completed in September, 2016 which included 10 days of tracking. His target behaviors to be addressed were verbal aggression, talking out and off task behavior. He is

in general education classrooms for gym class, lunch and recess. He is allotted 16.40/week in speech and 60 minutes weekly with the school psychologist. He becomes angry when things are too difficult for him which leads to off task and avoidance behavior and also has anger management counseling. A Functional Behavior Assessment and parent involvement is required in developing BIPs for students.

C. Tour of School: Once interviews were completed, the HRA went on a tour of the school and the special education classroom. The school was very neat and clean and also had a room that is available for community use for meetings and other gatherings. The classroom was arranged very neatly and had planets and stars hanging from the ceiling. There were individual desks in the classroom which were spaced appropriately. The quiet room was located inside the classroom and was approximately 10' x 10' or 10' x 12'. It had a door that could only be shut if a teacher was standing outside of the door with her hand on the button engaging the lock. When the teacher removed her hand from the button, the door unlocked and opened. There was a small monitor screen on the wall next to the door so that while a teacher was holding the lock button she could continually monitor the child inside.

II. Chart Review:

A Individualized Education Plan (IEP): The 8/23/16 IEP described the student as a bright young man who is very verbal in what he wants. He can be polite and likes to interact with the staff and peers. He is a good reader and is working on his math skills. His disability is listed as Emotional Disability. The parents noted concern about his anger and aggression at school and also reported medication complications. His present level of functional performance was described as “gaining good skills in his appropriate functioning in the classroom setting but still struggles when he gets frustrated with pouting, eloping and his verbal aggression.” His vocational, motor and speech and language communication are all listed as age appropriate. It was noted that he engages in physical aggression with peers and staff. A goal statement was listed as “will initiate positive physical interactions with peers and staff, refraining from hitting and kicking others and continue to maintain his goal of less than 2 incidents in a 10 day tracking period.” Another goal statement is that the student will stay in his assigned area across all school environment, with no more than 1 verbal prompt. The short term objective is that he will display no more than 5 incidents of out of seat/area during a 10 day tracking period during the first quarter. The objective gradually decreases the incidents of out of seat/area behavior over the remainder of the school year. This is tracked by charting incidents. Another functional performance assessment states that the student has difficulty regulating his emotions especially in less structured settings and has been observed becoming physically and verbally aggressive. A goal statement relating to this assessment is that he will recognize when he needs to calm down and describe 3 different ways to calm down in the academic setting...will identify emotions in himself that result in needing to utilize a coping skill ...describe 3 coping skills that he can utilize in the academic environment” This IEP stated that he was to be in special education classes due to his behavior and safety concern. The supports for school personnel section specified what trainings and support for school personnel are needed for the student to advance appropriately toward attaining the annual goals, participate in the general curriculum and be educated and participate with other students in educational activities and listed the following: Psychological services for crisis situations, CARES hotline for homicide or suicidal threats, OT

group sensory needs in the classroom and video surveillance. The IEP noted that the team would reconvene September 13th to do a functional behavior analysis and behavior plan.

B. A 9/19/16 Conference Summary listed his disability as Emotional Disability. The functional Behavioral Assessment listed strengths as “can have positive interactions with staff and peers when he chooses to do so. He can also be helpful to staff and peers when he is willing.” Target behaviors were tracked and the summary was listed on this form stating how many times he used verbal aggression, was not academically engaged and was talking out. Antecedents were listed as “being asked to initiate a task and complete it. He yells at staff, makes threats to staff and peers and refused to work. His consequences for this behavior consist of losing points on his point sheet, lunch delay, late stay and extra privileges offered throughout the day.”

C. The behavior intervention plan (BIP) stated that his off task and talking out behaviors is a performance deficit rather than a skill deficit. The hypothesis is that he receives attention from staff and peers and is attempting to avoid the given task. Previous interventions tried are listed as verbal/non-verbal warning, planned ignoring, proximity control, and preferential seating in the classroom. Replacement behaviors to be taught are to raise his hand and wait for permission to speak; use appropriate skills to deal with frustration towards staff and peers and ask for time out for a period of time to cool down. His environment is manipulated for him to sit in front of the class so distractions by others are minimal. He is also allowed to request the quiet room to calm down. He is to participate in anger management curriculum, discuss strategies that can be used to calm down and he is reminded of alternative behaviors. Positive supports and rewards are also utilized through the level system. As he progresses through the levels he will gain privileges, verbal praise and additional earned privileges as behavior warrants. The restrictive disciplinary measures are listed as exclusion from mainstream activities, food delay, quiet room, search of student and student’s locker, suspension, late stay and video surveillance. The crisis plan is listed as using the quiet room when safety becomes an issue. Late stay if needed, TCI and CARES hotline. The provisions for coordinating with caregivers section states that weekly points sheets (data collection) are used, phone calls to parents if needed, and parent conference if needed. The student’s father was present for this BIP meeting and they discussed that he was running around the building that day while his head teacher was at a staffing. The father mentioned that his mother was now having to leave for work at 5:30 a.m. and was unsure whether the student is getting his medication every day. They discussed giving him the morning medication at school if needed and they were going to discuss the matter further with his mother.

D. Text Messages: The HRA reviewed a printout of text messages between the classroom teacher and the student’s mother. The initial text message was from the mother asking what happened that day besides what the teacher had told her and the mother said that the police officer stopped her and told her about the charges being filed. The teacher’s response was hard to read, but she responded by saying something along the lines of “get a hold of you first but I guess they didn’t.” The teacher explained to the mother that she understood that it was part of his probation that the police have to be notified if he cannot serve community service and the police chose to come speak to him, which corroborates what she told the HRA. The teacher also offered to give the student his medications at school if needed since the mother had begun a new job and has to leave earlier in the morning. The mother stated that he did not have his

medications that day and the teacher said that she thought he had not had them because he acted completely different that day and said that she usually does not have trouble with him. The next day the mother texted the teacher to see how the day went and was told it was much better. The mother also discussed a concern she had that her son had stated the paraprofessional had shoved him in the quiet room and she had asked to view the video. The teacher agreed to check on permissions for her to view the video and also informed the mother that she was the one who placed him in the quiet room at his desk and told him to sit down until she got back (from her staffings.)

E. Use of Restrictive Intervention – ED: This form is used as a communication tool to inform parents of any restrictive measure that was taken at school. The HRA reviewed the one dated 9/19/16 for this student. It indicated that use of the quiet room was initiated at 9:05 a.m. and discontinued at 9:30 a.m. The incident detail section stated that the student wanted to go to the nurse because he did not feel well. He was told by the paraprofessionals “not right now because we felt he was trying to get out of doing his work. We felt his head and he had no fever. [Student] ran out of the classroom and around the halls in the school. He had run to the nurse. He was found and escorted back to the classroom and at this time he ran from staff. [Paraprofessional] had text [teacher] (I was in a meeting), I came downstairs and found him in the hallway. I escorted him back to the classroom and he was aggressive so he was placed in the quiet room...[Student] was kicking and hitting staff, so due to the safety of him and others, he was placed in the quiet room. While in the quiet room, [Student] was asked to take his shoes off, due to running from staff and he refused. Staff asked him several times to take them off, still no compliance. Staff bent down to take his shoes and he grabbed staff around the neck in a head lock. After [student] calmed down in the quiet room, he went back to normal activity. He was non-compliant different times but not aggressive.” The interventions used were marked as forced physical guidance (escort etc.) and time out (isolation/quiet room).

F. Paraprofessional 1 training: The HRA reviewed the training records for this employee. Her license was issued in 2014 and expires in 2020. She attended paraprofessional trainings for the current school year on August 1st through August 4th. The training included information on Autism, ED, Behavior plans and TCI (therapeutic crisis intervention); An institute day on August 17th and Resiliency training on January 4th on preparing for the student growth component. The HRA also reviewed an extensive list of past trainings she completed which included Disruptive and Noncompliant Behaviors in 2014 and 2016; Behavioral interventions in 2014 and 2016; Restraint and Seclusion in 2014, and 3 trainings in 2016.

G. Paraprofessional 2 training: The HRA reviewed the training records for this employee. Her license was issued in 2013 and expires in 2018. She attended paraprofessional trainings for the current school year on August 1st through August 4th. The training included information on Autism, ED, Behavior plans and TCI; An institute day on August 17th and Resiliency training on January 4th on preparing for the student growth component. The HRA also reviewed an extensive list of past trainings she completed which included Behavioral Interventions in 2012 and 2016; Disruptive and Noncompliant Behaviors in 2014 and 2016; Restraint and Seclusion 3 in 2014 and 2 in 2015.

Policies

The Parent Teacher Handbook states the following regarding the quiet room procedures when a student is either a threat to themselves or others:

1. *The aggressive student will be physically escorted when walking to the quiet room. The physical escort should consist of a staff member on either side of the student, holding the student's arms.*
2. *Before placing the student in the quiet room the staff will remove the student's belt, shoes, extra shirts, empty all pockets and check socks.*
3. *Make a visual check of the quiet room to make sure that there are no loose objects in the room and make sure that the light is functioning properly.*
4. *Care should be taken when shutting the door as many students attempt to push the door against staff members. A staff person will monitor the student at all times.*

When the door is shut, the staff member monitoring the student should remain at the door and monitor the student's behavior constantly via video monitor. The door should remain locked during this time. The use of restrictive interventions form should be completed and a copy attached to the daily point sheet to be sent home to the parent on the date of the restraint.

On occasion, a quiet room time may be initiated by a student in order to gain self-control as a time away. The plan must indicate which interventions will be utilized for that student. The behavior intervention plan should contain criteria for when a cool off period should be initiated by the staff or student. This period should not last over 10 minutes. The quiet room may never be used as an area to sleep. The door would stay open in this situation.

The quiet room may also be used as an alternative setting when the student is highly distracted or disruptive. The student will receive direct academic instruction by staff during this time. The door would stay open in this situation.

The HRA was informed that parent communication is covered under many areas such as point sheets, annual reviews and is also indicated on the IEP document. The parent handbook also says this about behavior sheets: *All students will be monitored by the use of a behavior sheet. This sheet will be sent home, via email when possible, on a weekly basis. These sheets must be returned with a parent/guardian signature on the next school attendance day.*

The school does have a grievance procedure which students, parents/guardians, employees or community members can utilize if they believe that the School Board, its employees or agents have violated his or her rights guaranteed by the State or Federal Constitution, Statutes or Board Policy. The policy directs the complainant to file a complaint with a particular complaint manager. The manager may request the complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent or guardian. The Complaint Manager investigates the complaint and within 30 school business days of the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. A request can be made for an extension of time if necessary. If there is a conflict with the Superintendent, the report shall be filed with the Board which will make a decision. The Superintendent is required to inform the Board of all complaints. Within 5 school business days after receiving the report, the Superintendent shall

mail his or her written decision to the Complainant by US mail, first class as well as to the Complaint Manager. The Complainant may appeal the decision to the Board within 10 school business days after receiving the Superintendent's decision. Within 30 school business days, the Board shall affirm, reverse or amend the Superintendent's decision or request additional information. Within 5 school business days of the Board's decision, the Superintendent shall inform the Complainant of the Board's action.

The General Personnel policy states that *"the staff development program shall provide at a minimum, at least once every 2 years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment and the use of psychotropic or psychostimulant medication for school-age children. The staff development program shall provide, at a minimum, once every 2 years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. In addition, the staff development program shall include...4. Training for school personnel who work with students in grades 7 through 12 to identify the warning signs of mental illness and suicidal behavior in adolescents and teens along with appropriate intervention and referral techniques...ongoing professional development for teachers, administrators, school resource officers and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline and developmentally appropriate disciplinary methods that promote positive and healthy school climates..."*

Statutes

The IDEA (20 USCA 1414) defines individualized education program (IEP) as *"a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section... to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child"*

The Code of Federal Regulations (34 CFR 300.101) requires that *"(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).*

(b) FAPE for children beginning at age 3.

(1) Each State must ensure that—

(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and

(ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b)...

(c) Children advancing from grade to grade.

(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade..."

Section 300.112 requires that *“The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability...”*

Section 300.324 requires the following *“In developing each child's IEP, the IEP Team must consider—*

- (i) The strengths of the child;*
- (ii) The concerns of the parents for enhancing the education of their child;*
- (iii) The results of the initial or most recent evaluation of the child; and*
- (iv) The academic, developmental, and functional needs of the child.*

(2) Consideration of special factors. The IEP Team must—

(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior... (3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—

(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with § 300.320(a)(4).”

The Administrative Code (23 IL ADC 226.220) states *“The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.*

a) When an IEP has been developed or revised, the district shall provide notice in accordance with 34 CFR 300.503(b) and (c) immediately to the parents, and implementation of the IEP shall occur no later than 10 school days after the provision of this notice or by the beginning of the following school year if the IEP is developed or revised with fewer than 10 school days remaining in the school year. If the new or revised IEP requires extended-year services, those services shall be provided in accordance with the provisions of the IEP...”

Section 226.530 of the Code requires parent participation and states *“notifying parents of the meeting early enough to ensure that they will have an opportunity to attend” means the district shall provide written notification no later than ten days prior to the proposed date of the meeting. In addition, the district shall take whatever action is necessary to facilitate the parent's understanding of and participation in the proceedings at a meeting, including arranging for and covering the expense of an interpreter for parents whose native language is other than English or for an interpreter licensed pursuant to the Interpreter for the Deaf Licensure Act of 2007 [225 ILCS 443] for parents who are deaf.”*

Section 226.750 says this about positive behavioral supports *“School districts shall establish local policies and procedures on the use of positive behavioral interventions to manage, intervene in, or change the behavior of students with disabilities.*

2) Each district's policies and procedures shall require that IEP teams consider strategies including positive behavioral interventions and supports to address behaviors that impede a child's functioning or that of other children in the academic setting or in non-

instructional contexts such as regular transportation and extracurricular activities. The district's policies and procedures shall include criteria for determining when a particular student's possible need for a behavioral intervention plan should be reviewed.

3) Behavioral interventions shall be used in consideration of the child's physical freedom, social interaction, and right to placement in the least restrictive environment and shall be administered in a manner that respects human dignity and personal privacy.”

Section 226.800 of the Code addresses staff training and states “*Each school district, or the special education cooperative of which it is a member, shall employ sufficient professional personnel and personnel not holding Illinois educator licensure to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district or districts served by the cooperative. The number and types of personnel employed shall be based on students' need rather than administrative convenience...b) Professional Instructional Personnel*

Each individual employed in a professional instructional capacity shall:

1) hold a valid professional educator license endorsed for special preschool-age 21 and meet the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.43; or

2) hold a valid professional educator license endorsed in another teaching area and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810); or

3) be employed pursuant to an authorization for assignment issued to the employing entity under Section 226.820; or 4) hold short-term emergency approval issued pursuant to 23 Ill. Adm. Code 25.48...j) Other Professional Personnel

Each individual employed in a professional capacity not specified in subsections (a) through (i) shall, as appropriate to his or her assignment, hold:

1) a valid professional educator license endorsed for school support personnel appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or

2) a valid professional license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or

3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist). Evidence of the individual's credential shall be kept on file by the school district or special education cooperative and presented to the State Board of Education upon request.”

Section 300.501 requires parental involvement in IEP meetings and states “*(1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to—*

(i) The identification, evaluation, and educational placement of the child; and

(ii) The provision of FAPE to the child.

(2) Each public agency must provide notice consistent with § 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.

(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.”

Conclusion

The first allegation was that the IEP and/or BIP were not properly followed. Throughout the investigation the HRA learned that the student does have both an IEP and a BIP. This complaint centered around the fact that he was made to take his shoes off for eloping and that the teacher did not follow his plan by trying to forcibly remove his shoes when he refused which resulted in the student choking the teacher. The IEP listed his disability as and Emotional Disability. The IEP did note that he had trouble with anger and aggression management at school. His present level of functional performance was described as “gaining good skills in his appropriate functioning in the classroom setting but still struggles when he gets frustrated with pouting, eloping and his verbal aggression.” His IEP outlined goals to reduce the maladaptive behaviors and that the teacher was to chart each incident of target behaviors in order to adjust treatment accordingly. A BIP was developed shortly after school began on September 13th. The BIP listed use of the quiet room when safety becomes an issue as well as TCI and the CARES hotline. It also included provisions for anger management curriculum and calming strategies. Positive behaviors are supported by motivators and rewards. However, the BIP did not list anything specific regarding removal of shoes for students with sensory issues. The revised school policy regarding use of the quiet room did instruct staff to remove the student’s belt, shoes, extra shirts, empty all pockets and check socks before placing the student in the quiet room. Since the BIP did not specifically mention whether or not to remove shoes and did mention that the quiet room could be used when safety is an issue, this allegation is **unsubstantiated**. The HRA offers the following suggestions:

1. Although the BIP and/or IEP did not mention that the student can have aggression when touched, the HRA suggests that for the safety of all concerned, in the future teachers should consider using 2 staff members when possible to escort and place a student in the quiet room.
2. If this particular student has issues with others touching him, the staff should consider including that in his IEP and/or BIP with a plan as to how to handle non-compliance with shoe removal which has now been added to the policy as a procedure to follow when utilizing the quiet room. Staff should also consider on a case by case basis if shoe removal is necessary if it might cause additional agitation.
3. While the student’s behavior plan offered positive reinforcements, it also included several negative reinforcers that appear to be punitive, including a delayed lunch. The HRA strongly suggests that behavior plans rely primarily on positive reinforcers consistent with state and federal regulations.

The second allegation was that the teacher/paraprofessional was not properly trained to work with students with disabilities. The HRA reviewed employee records of both paraprofessionals in the classroom. One has held a license since 2013 and the other since 2014. The head teacher had 15 years of experience in special education and one paraprofessional had 5-6 years of experience and the other had 4 years of experience in special education. There were several training records showing that both paraprofessionals had attended several trainings in

2012, 2014, 2015 and 2016 relating to special education issues such as restraint and seclusion, behavioral interventions and managing noncompliant and disrupting behaviors. The personnel policy stated that the training should be made available at least once every 2 years which was met by both of these employees. Therefore, the HRA finds this allegation to be **unsubstantiated**. The following suggestion is offered:

1. When reviewing the supports for school personnel section of the IEP and comparing that to the training that was completed by the classroom teachers/paraprofessionals, the HRA did not find a training to meet the requirement for OT group. Likewise, if the Autism training does not include sensory needs these should be included as future training areas offered to staff along with any other training that is consistent with IEP recommendations.

The final allegation was that the school failed to communicate with the parent/guardian regarding the incident. The mother had stated that she learned of the police being called to the school and that the paraprofessional had pressed charges from the police officer involved rather than the school. Upon investigation, the HRA learned that the police officer was called due to requirements of the student's probation to notify them if the student was ever unable to complete his community service time of cleaning the school cafeteria. The school contends that the teacher notified the mother via text message and by sending home the use of restrictive intervention form regarding the use of the quiet room within 24 hours. The form was reviewed by the HRA which indicated the date and time that the quiet room was utilized but it did not indicate if the form was sent to the mother or if so what date. The HRA also reviewed text messages between the mother and the classroom teacher showing that there was communication that day regarding the incident. The HRA finds this allegation to be **unsubstantiated** and offers the following suggestion:

1. The Parent Handbook states under the quiet room procedures that the Use of Restrictive Interventions form should be completed and a copy attached to the daily point sheet and sent home to the parent on the date of the restraint. Although the school provided the HRA with a copy of the printout of the Use of Restrictive Intervention form showing that one was completed for this incident, there was nothing on that form indicating that the parent was notified as per policy and what date she was notified. The HRA suggests that the school consider revising that form to include a date of parent/guardian notification.
2. Consider educating the police on the needs of students with disabilities, including the needs of students with behaviors, as well as the school's responsibility in addressing those needs through evaluations and educational/behavioral programs.