

**HELLO, HOW MAY I HELP
YOU?**

**HOW THE HUMAN RIGHTS AUTHORITY
CAN HELP YOUR FAMILY THROUGH LIFE'S
TRANSITIONS**

❖ The school determined that a student receiving special education services must graduate and leave the school at the age of 19 regardless of discussions and determinations made by the IEP team.

❖ A parent makes a request for an IEP team meeting which is not responded to until 15 days after the request with no documented reason for the meeting refusal.

❖ A student receiving special education services received over 10 days of cumulative suspension days during the school year but no IEP team meeting was held to discuss the student's behavioral intervention plan.

**THESE ARE ALL EXAMPLES
OF
RIGHTS VIOLATIONS**

PRESENTATION OVERVIEW

This presentation will:

- **Describe the Mission of the Human Rights Authority**
- **Explain how the Authority can assist your family through life's transitions**
- **Advocacy exercise**

GUARDIANSHIP AND ADVOCACY COMMISSION

The Illinois Guardianship and Advocacy Commission (GAC) was created in 1979 with the passage of the Guardianship and Advocacy Act “To Protect the Rights of Persons with Disabilities”

- The GAC is a State Agency governed by a Board of 11 Commissioners appointed by the Governor
- There are 9 Primary Offices located across the State
- The GAC consists of 3 Programs:
 - The Office of State Guardian
 - The Legal Advocacy Service
 - The Human Rights Authority

GUARDIANSHIP & ADVOCACY COMMISSION

STATE OF ILLINOIS

Bruce Rauner

Governor

Dr. Mary L. Milano, Director

Human Rights Authority

Legal Advocacy Service

Office of State Guardian



HUMAN RIGHTS AUTHORITY (HRA)

HUMAN RIGHTS AUTHORITY MISSION AND OVERVIEW

“To safeguard the rights of persons with disabilities under the Guardianship and Advocacy Act”

HRA Overview:

- Consists of 9 Regional panels
- Covers the entire state
- Promotes systemic improvements to disability rights protections

REGIONAL PANELS

- Consist of a board of volunteers who are the decision makers for the complaints, including acceptance, findings, and resolution. The board also participates in the site visit investigation.

INVESTIGATIONS

MAKING A COMPLAINT

- A complaint of an alleged violation can come to the Authority from any source:
 - Persons with disabilities
 - Family Members
 - Service providers
 - Facility staff
 - Guardians
 - Concerned citizens
 - HRA initiated
 - Anonymously
- A complaint can be made via letter, telephone, on-line via the GAC website or a personal presentation before the Regional Authority at one of its public meetings
- The complainant's identity remains confidential
- The service recipient's identity is not disclosed in any public records and is only shared with the service provider if there is a release

THE HRA WILL NOT INVESTIGATE

- Frivolous complaints
- Complaints beyond the HRA's scope
- Abuse and neglect complaints
- Complaint Criteria –
 - Disability rights violation
 - Involve a person with a disability
 - Disability service provider

EXAMPLES OF SERVICE PROVIDERS INVESTIGATED

- Hospitals
- Psychiatric Units
- Special Education Programs
- Nursing Homes
- CILAs
- Vocational Programs
- An entity, in whole or part, that provides services to eligible persons.

The HRA would not investigate entities that are not service providers (e.g. retail businesses)

EXAMPLES OF ISSUES THE HRA WOULD NOT INVESTIGATE:

- The “right” to smoke in a facility
- Complaints about a given diagnosis
- Complaints about the type of medication prescribed
- Complaints that are not disability related

INVESTIGATIVE METHODS

- A site visit is conducted
 - This is an opportunity for the HRA to see the facility and to ask further questions as well as gather more evidence. The HRA can interview anyone who might have relevant case information
- Research is Conducted
 - Review of records, review of statutes that are alleged to have been violated
- Analysis of any evidence gathered

HRA REPORTS OF FINDINGS

- If a report is adopted it can be adopted with **UNSUBSTANTIATED** or **SUBSTANTIATED** findings
- A report will be sent to the service provider
- The service provider will have 30 days to respond back to the Authority

SUBSTANTIATED FINDINGS

- The provider is required by regulations to inform the Authority what action it intends to take regarding any recommendations that have been made
- Regulations also allow the provider to make objections to the findings and to include them in its response to the report

WHAT HAPPENS WHEN A RESPONSE IS RECEIVED FROM THE SERVICE PROVIDER?

- The Authority may determine that the rights violation has been resolved
 - The Authority votes to close the case
 - Notice of the final report and case closure will be sent to the complainant and provider and the report will become public
- The Authority may decide that the response does not indicate that the alleged violation has ceased and can go into a negotiation phase with the provider
- Not an enforcement agency

**HOW CAN THE AUTHORITY
ASSIST YOUR FAMILY
THROUGH LIFE'S
TRANSITIONS**

DCFS LICENSED DAY CARE CENTERS

- “The center shall not use eligibility criteria that screen out children with disabilities, and shall make reasonable modifications in policies, practices and procedures to accommodate children with disabilities” (89 II Admin Code 407.250 (a))
- “In all instances, when a facility decided that it is in the best interest of the child to terminate enrollment, the child’s and parents’ needs shall be considered by planning with the parents to meet the child’s needs when he or she leave the facility, including referrals to other agencies or facilities.” (89 II Admin Code 407.250 (k)).

COMMUNITY INTEGRATED LIVING ARRANGEMENTS (CILA)

- All residents or guardians must be able to present grievances and appeal adverse decisions (59 II Admin Code 115.250)
- Termination of services can be recommended only if the 1) CILA cannot meet the medical needs of the individual 2) The individual's behavior places themselves or others in serious danger 3) if there is an agreed upon transfer to another facility or 4) the resident no longer benefits from CILA services (59 Ill. Adm. Code 115.215)
- Direct care employees must “demonstrate competence” in training areas including concepts of treatment, behavior management, abuse, neglect and unusual incident prevention, handling and reporting and individual rights (59 II Admin Code 115.320)

COMMUNITY INTEGRATED LIVING ARRANGEMENTS (CILA)

- Should maintain a written record of ALL financial arrangements and transactions involving residents and all access of that record to the individual/guardian
- Should provide a written itemized statement of all financial transactions involving the resident's funds or a copy of the resident's check or savings account for the period quarterly
- Should deposit any funds in excess of \$100 into an interest-bearing account
- Should keep funds received from the resident in an account separate from the service providers funds for safekeeping (210 ILCS 135/9.1)

PSYCHIATRIC SERVICES

- **“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 recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient” (405 ILCS 5/2-102)**
- **“Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation” (405 ILCS 5/2-102)**

PSYCHIATRIC SERVICES

- “An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy.” (405 ILCS 5/2-107)
- Whenever rights are restricted, notice for the restriction must be given to the recipient and the recipients guardian if they have one (405 ILCS 5/2-201)

USE THE LAW!!!

**MENTAL HEALTH AND DEVELOPMENTAL
DISABILITIES CODE (405 ILCS 5/1-100)**

**COMMUNITY INTEGRATED LIVING
ARRANGEMENTS (59 IL ADMIN CODE 115 & SEE
ALSO 210 ILCS 135 FOR FINANCIAL PROTECTIONS)**

**COMMUNITY MENTAL HEALTH PROVIDERS (59 IL
ADMINISTRATIVE CODE 132)**

**SPECIAL EDUCATION PROGRAMS (23 IL ADMIN
CODE 226 – STATE & 34 CFR 300 – FEDERAL)**

AMERICANS WITH DISABILITIES ACT (28 CFR 35)

ADVOCACY EXERCISE

1. ACCORDING TO THE COMPLAINT, A STUDENT HAD OBTAINED A SERVICE DOG TO ASSIST WITH HIS DISABILITY NEEDS DURING THE SCHOOL DAY AND THE PRINCIPAL WOULD NOT ALLOW THE DOG AT THE SCHOOL. THE COMPLAINT ALLEGES THAT THE SCHOOL FELT THAT IF THE PARENT WANTED THE SERVICE DOG WITH THE STUDENT, THEN THE STUDENT WOULD HAVE TO BE PLACED IN A DIFFERENT SCHOOL THAT WOULD ACCOMMODATE THE DOG. THE COMPLAINT STATES THAT THE SCHOOL COORDINATED THE TRANSFER OF THE STUDENT WITHOUT THE PARENT REQUESTING THE TRANSFER.

THE ILLINOIS SCHOOL CODE

“SERVICE ANIMALS SUCH AS GUIDE DOGS, SIGNAL DOGS OR ANY OTHER ANIMAL INDIVIDUALLY TRAINED TO PERFORM TASKS FOR THE BENEFIT OF A STUDENT WITH A DISABILITY SHALL BE PERMITTED TO ACCOMPANY THAT STUDENT AT ALL SCHOOL FUNCTIONS, WHETHER IN OR OUTSIDE THE CLASSROOM.” (105 ILCS 5/14-6.02)

FEDERAL REGULATIONS

“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;”

(34 C.F.R. § 300.116)

2. THE COMPLAINT STATES THAT AN INDIVIDUAL USING A WHEELCHAIR ATTEMPTED TO BOARD A BUS AND WAS NOT ALLOWED ON. THE COMPLAINANT STATED THAT THE INDIVIDUAL WAS TOLD BY THE BUS DRIVER THAT THE BUS LIFT DID NOT WORK. THE COMPLAINT STATES THAT THE LIFT DID WORK BUT THE BUS DRIVER JUST DID NOT WANT TO MANUALLY OPEN THE LIFT SO THAT THE RIDER COULD GET ONTO THE BUS. THE BUS RIDER WITH THE WHEELCHAIR REPORTEDLY HAS TO GO TO THE BUS BARN TO BE ABLE TO RIDE AN ACCESSIBLE BUS. THE COMPLAINT STATES THAT THIS HAPPENS 2 TO 3 TIMES A WEEK AND HAS HAPPENED OVER THE LAST 4 YEARS.

ADA REGULATIONS

“(A) A PUBLIC ACCOMMODATION SHALL MAINTAIN IN OPERABLE WORKING CONDITION THOSE FEATURES OF FACILITIES AND EQUIPMENT THAT ARE REQUIRED TO BE READILY ACCESSIBLE TO AND USABLE BY PERSONS WITH DISABILITIES BY THE ACT OR THIS PART.” (28 C.F.R. § 36.211)

ADA REGULATIONS

“(A) GENERAL. ALL VEHICLES COVERED BY THIS SUBPART SHALL PROVIDE A LEVEL-CHANGE MECHANISM OR BOARDING DEVICE (E.G., LIFT OR RAMP) COMPLYING WITH PARAGRAPH (B) OR (C) OF THIS SECTION AND SUFFICIENT CLEARANCES TO PERMIT A WHEELCHAIR OR OTHER MOBILITY AID USER TO REACH A SECUREMENT LOCATION. ...” (36 CFR S 1192.23)

RESOURCES

- Toll-Free Intake: 866-274-8023
- Toll-Free TTY: 866-333-3362
- Website: <http://gac.state.il.us>
- Regional Office Numbers:
 - Chicago and South Suburban HRAs....708-338-7500
 - North Suburban HRA..... 847-294-4264
 - Northwest HRA (Rockford)..... 815-987-7227
 - Peoria HRA..... 309-671-3030
 - Springfield HRA..... 217-785-1540
 - East Central HRA (Champaign).....217-278-5577
 - Metro East HRA (Alton)..... 618-474-5503
 - Egyptian HRA (Anna).....618-833-4897