

A Disability Rights Oregon Investigation Confirms the Abuse of Non-Verbal Special Education Students in an Oregon Classroom

I. Nature and Scope of the Investigation

This investigation was conducted by Disability Rights Oregon (DRO), the federally funded and designated Protection and Advocacy Agency for the State of Oregon. As Oregon's designated Protection and Advocacy agency, DRO is charged with protecting the legal rights of individuals with disabilities in our state. Under that general umbrella of responsibilities, DRO is specifically empowered to investigate complaints of abuse and neglect against individuals with disabilities in Oregon to determine if there is probable cause to believe that there has been abuse or neglect.

Our investigation and report were prompted by a 10/11/12 inquiry from Mary Kane, an attorney at Youth Rights Justice (YRJ.) YRJ is a private non-profit law firm that protects the legal rights of juveniles in the Portland Tri-County area. Ms. Kane contacted DRO to report that during the course of her representation of a juvenile client, she had been alerted to allegations of emotional and physical abuse in what DRO later learned was a Structured Skills Classroom (SSC) operated by the Centennial School District (CSD) in Room 301 of the Butler Creek Elementary School. Butler Creek is located at 2789 SW Butler Road, Gresham, Oregon 97080. Kane believed that the allegations merited an investigation by DRO and provided contact information for their source, Terri Hoffman. Hoffman is a former Educational Assistant (EA) in the classroom who often had primary responsibility for supporting Kane's juvenile client at Butler Creek.

After speaking with Hoffman and reviewing her written allegations, DRO learned the following facts although the initials of students and identities of some witnesses referenced in the report have been changed or stripped of some details to protect privacy and/or reduce the potential for employer retaliation.

Room 301 was (and may again be) supervised by Kate Nead, a licensed special education teacher who is employed by CSD. The class provides special education and related services to students with severe cognitive impairments that render most of them non-verbal and unable to report abuse. When working, Nead typically supervises 5 Educational Assistants (EA's) who support the students by carrying out her orders to

implement each student's Individual Educational Plan (IEP). In addition, Nead is responsible for assuring that the EA's understand and comply with the requirements of district protocols, classroom protocols, student medical protocols, and individualized student behavior plans. In the SSC, although the EA's are responsible for assisting other students when necessary or during emergencies, each often has primary responsibility for supporting an individual assigned student at any given time during the day.

The reported abuse is alleged to have occurred primarily during the 2011-12 school year and to a lesser degree during the two prior school years. There is also evidence that the abuse has continued during the current (2012-13) school year.

The alleged perpetrator of the majority of the reported abuse is Rachelle Munro, an EA who has worked in Nead's classroom since 2007 or earlier with the exception of a short period at the beginning of the 2012-13 school year. That gap in Munro's assignment and work in Room 301 occurred when she was placed on administrative leave by CSD during its own investigation of abuse in the classroom.

CSD has confirmed that it did conduct the above-noted investigation of Hoffman's allegations, but has been unwilling to discuss that investigation or provide DRO with a copy of the investigation report. CSD has also confirmed that two unnamed employees were placed on administrative leave during that investigation and that both of those individuals are still CSD employees although only one was working as of 11/16/12.

Interviews of other individuals in a position to know the current status of Room 301 and Nead indicate that she has been on medical leave since the first week of the 2012-13 school year. Her classroom is now supervised by Michelle Cannon, another CSD teacher who was recruited to substitute for Nead despite the fact that she (Cannon) was described by other staff as having little or no special education experience. Information obtained from the Oregon Teacher Standards and Practices Commission confirms that Cannon holds an Oregon Initial I Teaching License with an endorsement to teach in pre-K through 8 self-contained classrooms. She does not, however, have a special education endorsement.¹

¹ Under OAR 584-100-100 et seq, the Oregon Administrative Rules that define responsibilities under the Federal No Child Left Behind Act's requirement that instruction be provided to Oregon special education students by highly qualified teachers, OAR 584-100-0066 defines a highly qualified special education teacher as an individual who, in addition to meeting other requirements, "Holds a Basic, Standard, Initial,

II. Allegations of Terri Hoffman

Terri Hoffman was employed as an EA by CSD in Nead's classroom from September of 2007 to April of 2012. During the 2011-12 school year, one of Hoffman's primary responsibilities was the welfare and support of AB, an 8-year old non-verbal child with Autism. Hoffman has been unemployed since quitting her CSD job shortly before the end of the 2011-12 school year. Hoffman explained her decision to quit by saying that she became unable to tolerate what she believed to be recurring and uncorrected abuse of a number of SSC students by Munro. Hoffman was not fired and reports that she was not otherwise encouraged to leave her job at CSD.

Hoffman alleges that Munro abused at least 4 students in the SSC: AB, CD, EF, and GH and reported the following in support of those allegations:

1. Hoffman witnessed Munro "yank these children (AB, CD, EF, and GH) by the arm so hard that I thought their arms would be pulled out of the socket on numerous occasions."
2. Hoffman witnessed Munro "grab these children (AB, CD, EF) from behind using her hand to grab behind their neck."
3. Hoffman witnessed that "On one occasion, AB had a bloody scratch on her neck" and reported that "I found Rachele's fingernail on the floor."
4. Hoffman witnessed that "Rachele hit GH on the forehead hard enough to knock her head backwards as she told the child to 'shut up!'"
5. Hoffman reported that "every day, every child Rachele had in the restroom with the door shut, the child screamed the entire time in the bathroom."
6. Hoffman reported that "I witnessed Rachele putting AB in danger of another student by not being with AB as the student came in class and AB would be attacked or vise (sic) versa."

In addition, Hoffman also reports that many or all of the above (1-6) incidences of abuse were brought to Nead's attention and that Nead failed to investigate and address them effectively. Hoffman also reports that Nead suggested that Hoffman engage in what

she (Hoffman) believed to be abusive behavior on one occasion. In support of the allegations against Nead, Hoffman reported the following:

1. Hoffman reports that “when I first started working in 301, Kate Nead told me to pinch IJ so that she would scream and we could send her home.”
2. Hoffman reports that “I went to Kate Nead for several years sharing what I had witnessed,” but that, “on a couple of occasions, Kate Nead told me she would have to witness the offense in order for her to do something about it.”
3. Hoffman reports that “we did have general meetings and at least one where Rachelle was confronted about her manhandling of the children” but that “nothing was ever followed up by Kate to my knowledge as the incidents kept happening.”
4. Hoffman reports that “as things progressed, my feeling was nothing was being done and maybe even encouraged by Kate Nead.”

III. Corroborative Interviews

After reviewing Hoffman’s written allegations and interviewing her about them, DRO contacted a number of other potential witnesses who might have been in a position to refute or corroborate Hoffman’s allegations. The results of those interviews follow.

1. Alicea DeMars

Alicea DeMars began as an EA in Kate Nead’s classroom last fall and continued to work there as of the time when she was interviewed by phone on 10/25/12. During the previous school year, she and Hoffman spoke on more than one occasion about Hoffman’s observations and suspicions of abusive treatment of students in Nead’s classroom by Munro. DeMars also reports that she has directly seen or heard events that support some of Hoffman’s allegations.

DeMars worked in Room 301 during the entire 2011-12 school year and continues to work there. She considers Hoffman a trustworthy person and a skilled and dedicated colleague who did her job well. DeMars is not aware of any reason that Hoffman might have exaggerated or fabricated allegations against Nead or Munro. Hoffman spoke to DeMars many times about her concerns of abuse and the failure of Nead to effectively

address those concerns. DeMars repeatedly told Hoffman that she (Hoffman) needed to go “up the ladder” with those concerns and believes that Hoffman eventually did report them to the Sam Bryer. At the time, Bryer was the principal at Butler Creek Elementary School. Bryer is currently the CSD Superintendent.

Regarding Hoffman’s specific allegations and related concerns, DeMars reports the following:

1. During the 2011-12 school year, she never saw Munro “yank” the arms of students as Hoffman described. However, Munro reports that she did witness Munro grabbing a student (who had not been in the classroom during the 2011-12 school year) behind the neck inappropriately on 10/25/12, the day I spoke to her. She also told me that she had reported the incident and was scheduled to speak about it with James Owens, the new building principal, on the following day. When she spoke with me, DeMars planned to tell Owens what she saw and express her concern that Munro had been accused of this sort of thing before.
2. DeMars did witness AB entering the room with a bloody scratch on her neck on one occasion, but did not witness how the injury occurred. She remembers that shortly afterward, another EA who she believes (but is not sure) was Hoffman, brought a torn-off artificial fingernail into the room and stated that she had found it in the hallway. DeMars does remember that Munro then said that the fingernail was hers.
3. DeMars did not witness the incident in which Munro allegedly “smacked” GH and told her to “shut up.”
4. DeMars did not hear Nead tell Hoffman or anyone else to pinch students in order to make them cry and allow staff to send them (the students) home.
5. DeMars reports that she did witness Munro go into the bathroom with single students and close the door on a daily basis. DeMars reports that on almost every such occasion, she could hear the students screaming and that this noise, especially when the student was AB, was accompanied by the sounds of what sounded to DeMars like feet or a

head banging into walls. Typically, DeMars heard these episodes during the time she ate lunch in Neads's office which was located right next to the bathroom. DeMars clarified that although she believed that she was hearing AB and other students banging their heads or other body parts against walls in the bathroom, that she (DeMars) had no reason to suspect that Munro was banging the children into walls. DeMars also reports that a number of the SSC students, including AB, engaged in such self-harming behavior when angry or frustrated.

6. DeMars reported the above-noted concerns about Munro's supervision of students in the bathroom to Sam Bryer. DeMars reports that Bryer told her that he would "take care of it." She believes that Bryer spoke to Munro about the situation, but reports that the incidents continued to occur on a near daily basis.
7. DeMars reports that the entire staff was aware of the potential danger of allowing AB and another student to be within arm's reach of one another because those 2 students had a well-known history of attempting to injure one another. However, DeMars reports that Munro would frequently neglect her assigned duty to stay within arm's length of the second student and that this caused altercations between AB and Munro's assigned student on more than one occasion. On those occasions, DeMars and other EA's needed to quickly intervene by placing their own bodies between AB and the other student. DeMars believes that Munro failed to do an important part of her job on these occasions, but does not believe that Munro purposefully ignored her duty to keep these students separated.
8. DeMars did not hear Nead tell Hoffman or anyone else that she (Nead) was powerless to do anything unless she directly witnessed Munro abusing students.
9. DeMars recalls meetings in which the subject of EA's "grabbing" students was discussed, but does not recall when the meetings occurred or that Munro was the focus of any of them.

10. DeMars reports that she has and will now continue to report witnessed or suspected abuse, but that she was less sure of what was acceptable last year when she was new to the job. Since then, she has been made aware of what she terms protocols that forbid some of the witnessed or suspected conduct of Munro. DeMars reports that one of those protocols does not allow adults to be alone in the bathroom or elsewhere behind a closed door with individual students. She was not aware of that protocol last year and does not know if it was in place and ignored or has been newly adopted this year.
11. DeMars reports that she now knows that the student who she is currently assigned to has what she calls a safety plan, but does not know if it is a behavior support plan² or whether it was in effect last year when she worked with the same student. DeMars reports that she was first shown this plan by Michelle Cannon on 10/24/12, the day before we spoke.
12. On 10/25/12, DeMars reported to Laurel Gilmore Oliver, a CSD autism consultant, that she (DeMars) had witnessed Munro grab a student inappropriately behind the neck. DeMars also reports that she and Cannon have been working to teach the otherwise (i.e. except for DeMars and Munro) all new staff of EA's in Room 301 not to grab students in that fashion or use excessive force to gain compliance or control.
13. DeMars reports that when she has confronted or reminded Munro about inappropriate methods of control, Munro laughs and giggles in what DeMars considers to be an odd way under the circumstances.
14. DeMars was not willing to share an opinion about whether Munro or Nead were competent to work with children.
15. DeMars believes that Michelle Cannon is working diligently to ensure that none of the students in her classroom are abused by Munro or anyone else.

² A Behavior Support Plan is a tool that is commonly employed and in some circumstances, legally required to reduce predictable difficult behaviors of students with disabilities.

2. Leesa Trimble

Leesa Trimble was interviewed by telephone on 10/30/12. Trimble worked as an EA in Kate Nead's classroom during two periods, the first of which covered the 2003/04 and 2004/05 school years. She then left to pursue a teaching degree before returning to Room 301 as an EA in September of 2008. Trimble then resumed her work in 301 and remained there until the end of the 2009/10 school year. She reports that Munro worked in Room 301 during each of the 2-year periods when Trimble was there and during the 3 intervening years as well. Trimble is now employed as a teacher by the Albina Head Start Program in Portland, Oregon.

Trimble is still in contact with Hoffman and believes that she (Hoffman) was a highly competent and dedicated EA during their overlapping time in Room 301. Trimble generally trusts Hoffman's judgment and professionalism and has no reason to doubt Hoffman's truthfulness. She does not believe that Hoffman would fabricate or exaggerate allegations against Munro or Nead, but saw little of what Hoffman has reported. Trimble partially explains this discrepancy by explaining that Trimble's experience and pursuit of a teaching license caused the other EA's in Room 301 to consider Trimble as someone whose expertise commanded a high measure of respect and deference. She believes that this perception by Munro caused Munro to be particularly careful and attentive to her job when Trimble was in the room. She also believes that Munro knew that she (Trimble) would have immediately reported incidents such as those reported by Hoffman if they had occurred while Trimble was present. Trimble notes that being an EA in Room 301 was a difficult job that required a "special sort of person" and believes that Munro's ability to do her job well may have eroded over time. Trimble elaborated by saying that she perceived a gradually reduced level of patience that could cause Munro to be more physical than necessary at times.

Trimble's response to Hoffman's specific allegations against Munro follow:

1. Trimble never witnessed the sort of violent "yanking" of student arms that Hoffman reported, but she did see instances in which Munro was unnecessarily physical with students. This was especially true when EF or other students seemed ready to "bolt," a situation that required quick action.

2. Trimble does remember that Munro's overly physical interventions were enough of a concern that she, Hoffman, and another EA (either Darlene Myers or Diane Holmes) arranged to meet with Nead outside of the school building to convey those concerns out of the presence of Munro. She does not recall when this occurred, but does recall that Nead seemed attentive and concerned.
3. Trimble did observe Munro grabbing students behind the neck as reported by Hoffman.
4. Trimble did not observe any part of the incident in which a student entered the classroom with a bloody scratch. Similarly, she did not see that Munro had lost a fingernail, artificial or not, as reported by Hoffman.
5. Trimble never saw an incident in which Munro hit a student and told the student to shut up.
6. Trimble was told by Hoffman of Hoffman's later complaints about Munro to Nead, but these occurred after Trimble had left CSD.
7. Trimble was never told by Nead to pinch or otherwise escalate a student so that the student could be sent home.
8. Trimble did recall instances in which she could hear a student screaming and/or self harming while in the bathroom with Munro behind a closed door. Trimble does not recall, however, that this sort of thing was a regular occurrence. She notes that bathroom routines were a source of great agitation for most Room 301 students.
9. Trimble did not observe that Munro would fail to attend to situations in which 2 students with known histories of mutual agitation and aggression were inadvertently allowed to come into contact with one another. However, Trimble believed that this sort of thing might have been a problem for Munro when Trimble was not present because Munro was sometimes too much of "a multi tasker."

Although Trimble continues to respect Nead as a skilled teacher and the person who had encouraged and supported her (Trimble) to pursue a teaching career, she offered that Nead had experienced family problems and suffered from "burnout" during the past

few years. Trimble believes that these factors could have negatively affected Nead's attention to matters that Nead had previously handled more effectively.

Trimble was distressed when asked hypothetically if she would be able to comfortably place her own child in a classroom with Munro, but ultimately answered that she would not be able to do so.

3. Collateral Parent Interviews

On 11/13/12 and 11/14/112, I conducted additional interviews with two individuals who were the caregivers, parents, or foster parents of 3 students in Nead's classroom. The information provided by those individuals is summarized collectively to protect their privacy and the privacy of students.

To enhance readability and protect privacy, I have referred to these individuals as parents regardless of whether they were caregivers, parents, or foster parents of students in Room 301. Similarly, I have referred to parents and students as females regardless of their true genders. Finally, when necessary to differentiate between children, I have used initials that do not correspond to the actual names of those children.

Neither parent witnessed many interactions of any kind between Munro and students in Room 301 and one never witnessed Munro with any of the 3 individual children who were specifically identified by these individuals. However, one of the two parents witnessed rough treatment of a number of students, but not of her own child. In those instances, she saw Nead roughly lift a number of children by their upper arms, typically when those children were lying on the floor and screaming. This parent was not certain about the identity of the students because she was focused on the welfare and treatment of another child at the time. That child was higher functioning than most of the student's in Nead's classroom and therefore would be an unlikely victim of abuse since she (the child) would be able to report it. When witnessing these incidents, the parent remembers thinking to herself that Nead was rougher than necessary or reasonable and that she would not have wanted her own child treated that way. She also confirms that Hoffman eventually spoke to her about Hoffman's concerns that Munro and Nead were abusing children. One of those allegations that stuck in her mind was that Munro took AB and a number of other students who were not potty trained into the bathroom alone and changed them in ways that caused them to scream and come back "with claw marks." She

found this particularly concerning and unjustifiable because she was specifically and personally aware that AB, although not potty trained, was perfectly comfortable when changed while lying down on a regularly cleaned floor mat or table. She pointed out that there was no protest or problem associated with changing AB even when the adult was a stranger or not very familiar to AB. She notes that a state caseworker witnessed the ease with which AB's parent changed her on a few occasions. The same parent also raised a concern about whether it would have ever been appropriate or reasonable to change Room 301 students in a bathroom where there was no mat, table, or other setup that would allow children to be changed on a sanitary surface while lying down (rather than while standing barefoot on an unsanitary floor as their clothes and diapers were removed.) Finally, she noted that her own child and others in Room 301 were accustomed to being changed while lying down when at home and that this was a common practice known to parents and caregivers of low-functioning children with autism who were not potty trained.

One of the parents confirms that that she relayed Hoffman's concerns about how AB had been treated in Nead's classroom to AB's mother by stating that she (AB's mother) should speak to Hoffman about the way that Munro had "been mean to AB" and others in Nead's classroom. She also confirms that she heard similar things from 2 other EA's in the classroom, Dar Myers and Diane Holmes, and that Holmes had also told this parent that she (Holmes) had been "singled out" by Nead for complaining.

When this parent was asked about whether she had any reason to doubt Hoffman's truthfulness or suspected that Hoffman might exaggerate or otherwise inaccurately report abuse, she answered that she trusted Hoffman completely and that her already high opinion of Hoffman was solidly confirmed when she had many occasions to witness Hoffman caring for 2 students who attended Nead's classroom outside of school. On those occasions, she saw that Hoffman was consistently able to care for children with high needs and challenging behaviors in a manner that minimized escalation and discomfort.

One of the two interviewed parents reports that her child seemed happy and eager to attend school until the second half of the 2011-12 school year. During the first half of that school year, she received 3 or fewer calls about problems at school. This changed,

however, shortly after Christmas break when her child began to kick and scream whenever it was time to get on the bus to school. She believes that Nead was replaced by a substitute named Michelle shortly after her child began refusing to go to school and that this continued until she (the child) was “suspended” and not allowed to return to school in March or April. This occurred shortly after Nead’s return to the classroom. She also recalls that there were 2 restraint incidents that she learned about after seeing bruises or marks on her child. When she called Nead to inquire, she learned that her child had been restrained and that one of the restraints involved 2 adults. On both occasions, Nead was apologetic about not having sent written incident reports earlier. Although the parent eventually received written incident reports about these incidents, she believes that this only happened after she spoke to Nead and became aware of the restraints. She does not recall whether the written incident reports included information that described the duration of the restraints or what triggered them. She reports that she never saw any behavior of her child that would indicate that her child feared or disliked Munro, but that her child became visibly upset and unhappy whenever close to Nead after Nead returned to the classroom in the spring of 2012. She recalls that within 2 days of Nead’s return, Nead wanted to suspend her child and the District began harnessing her child into a seat on the bus, something that had not been necessary until then. Subsequently, the parent was asked by the District to keep her child home. She finally recalls that she was told by one of her child’s later care givers that Munro and Nead had “been mean to AB” and other students in the classroom, and that she (AB’s parent) should talk with Hoffman to learn more.

IV. CSD Administration Interviews and Contacts

1. James Owens

On 11/15/12, I spoke with James Owens, the current principal at Butler Creek Elementary School. After explaining the nature and scope of my investigation, I summarized the allegations of Terry Hoffman and told Mr. Owens that some or all of them had been confirmed by a number of individuals. I also told Mr. Owens that I believed that the District had conducted an investigation of some or all of the allegations.

I then asked Owens whether he could confirm that the District had conducted an investigation or produced a report, whether or not Munro and/or Nead were still

employees of CSD, whether or not either was currently working in Room 301, and whether he wished to offer additional information or his own perspective about the allegations.

Mr. Owens told me that although he did not wish to impede my efforts, that these and any other questions about the investigation or abuse of students at Butler Creek Elementary should be addressed to Sam Bryer.

2. Sam Bryer

On 11/15/12, I left a telephone message for Sam Bryer, the former principal at Butler Creek Elementary School and the current CSD Superintendent. In that message, I explained my position at DRO and that I was investigating allegations of abuse at Butler Creek. I requested that Bryer call me back to discuss the results of my investigation thus far and provide whatever additional information or perspective that the District wished to offer. A CSD employee who worked in Bryer's office called me on the same day to report that both Bryer and Assistant Superintendent Rich Schultz were unavailable for the remainder of the day, but that one of them would call me back as soon as possible and this would likely be Schultz because she believed that Schultz had investigated alleged abuse at Butler Creek Elementary School.

3. CSD Assistant Superintendent Rich Schultz

On 11/16/12, Rich Schultz, the CSD Assistant Superintendent, called me in response to the message I had left for Bryer on the previous day. I clarified that I did not represent individual student clients and explained the nature and status of my investigation. I then asked Schultz whether he could confirm that the District had conducted an investigation and if so, whether the District would provide me a copy of any written report related to that investigation.

Schultz confirmed that in late August or September, he had spoken to Hoffman and investigated her allegations as a personnel matter, but clarified that this happened only after he first contacted the Department of Human Services (DHS) hotline and the Gresham Police Department (GPD) as a mandatory reporter of abuse. He also confirmed that the District had placed two accused employees (presumably Munro and Nead) on administrative leave while he made the above noted calls and subsequently investigated Hoffman's allegations. He also reported that one of the two investigated individuals was

again working in Room 301. The other, although still a CSD employee, was currently unable to work and would be assigned to another classroom if and when she was again able to work.

Schultz reported that he had consulted with the District's attorney, Nancy Hungerford, and that Hungerford had advised him that his written investigation report was a personnel matter that the District would therefore not provide or discuss. We agreed that I would address any contrary opinion or further demand regarding his investigation and report directly to Hungerford.

Schultz was willing to describe his telephone report to the DHS hotline as a frustrating experience in which an individual named Nancy Buzzard very reluctantly agreed to record his concerns at approximately 10:45 a.m. on 8/17/12. He further stated that DHS never contacted him for further information or to communicate the result of any DHS investigation that resulted from his call.

Regarding his report to GPD, Schultz told me that he spoke to Detective Tony Cobb at GPD, that Cobb investigated the matter, and that Cobb eventually recontacted Schultz to explain that GPD would not seek charges or take further action. Schultz was not provided with any written report and does not know if GPD created any reports to document Cobb's investigation.

V. Gresham Police Department Interviews

1. GPD Detective Tony Cobb

On 11/20/12, I spoke to GPD Detective Tony Cobb. After I explained my purpose and the nature of my investigation, Cobb confirmed that he remembered speaking to Schultz about a problem in a CSD classroom. He was no longer sure but thought that it involved allegations of physical abuse and that he had discussed the matter with his Sergeant, Claudio Grandjean. Grandjean had advised Cobb that the volume and seriousness of cases under investigation at the time would not allow GPD to investigate the alleged abuse in the classroom. I asked if it was accurate to summarize that decision as one of triage and Cobb thought that a fair assessment.

2. GPD Lieutenant Claudio Grandjean

On 11/20/12, I spoke to Lt. Grandjean about alleged abuse in Room 301. (He had apparently been promoted to Lieutenant since his conversation with Cobb.) Grandjean's

memory of his conversation with Cobb matched closely with Cobb's. He remembered telling Cobb that the volume of then open cases that typically involved sex abuse or serious injuries meant that GPD would not be able to undertake an investigation at Butler Creek Elementary. Like Cobb, Grandjean agreed with my summary of the decision not to investigate further as one that was necessitated by a triage assessment. Grandjean also told me that because the complaint had come through a direct call by a CSD administrator rather than a more typical scenario where a GPD officer would have been sent to the site of an incident and taken a report, that no written report or documentation of Schultz's complaint had been created.

VI. Conclusions

1. Terri Hoffman's Reliability as a Reporter of Abuse and Neglect

None of the people interviewed doubted the professionalism or motivations of Hoffman. She was universally described as a reliable staff member whose abilities and honesty were respected by all who knew her. There is no evidence that she was a disgruntled employee who had been fired or disciplined and no one interviewed offered any other reason to think that she might have fabricated allegations. Similarly, no one interviewed by DRO believed that Hoffman had reason or history to suggest that she might have exaggerated or misinterpreted what she had seen.

In addition, at least one of the people interviewed (DeMars) confirmed that Hoffman had spoken to her repeatedly and over time about her concerns with Munro's rough treatment of students. This supports the idea that Hoffman's allegations were not something easily attributed to why or when she finally left the District.

2. Serious Allegations Against Rachelle Munro Have Been Confirmed by Multiple Sources

Those interviewed were not universally able to confirm each of Hoffman's specific allegations although all who were in the classroom with Munro did confirm at least some of the allegations and one (Trimble) offered a plausible explanation for why Munro might have curbed her abusive behavior when in her (Trimble's) presence.

The allegations that were confirmed by more than one person in position to have observed them are:

- Munro was overly rough with students to an extent that one of the persons interviewed (Trimble) indicated that she would not be able to comfortably allow her own child to be in a classroom with Munro.

- Munro grabbed students by the neck.

- Munro lost an artificial fingernail in an otherwise unobserved incident that resulted in a bloody scratch on a student's neck.

- Munro took individual students into a bathroom behind a closed door and that when this happened, student cries of distress and noises consistent with student self-harming behavior (e.g. banging heads into walls or kicking objects) were loud enough to be heard outside of the bathroom.

DRO believes that all of these multiply confirmed allegations are quite serious, but that the bathroom incidents are particularly concerning because they took place where there were no other adults present and involve students who cannot report what happened.

Even if the screams and other frightening noises from the bathroom were not the product of physical abuse, the practice of an adult caregiver taking a non-verbal student into a bathroom alone is indefensible. That is so regardless of whether or not there were protocols or rules in place to forbid the practice. An additional alarm is raised by the fact that at least one of the students who was regularly heard from the bathroom while alone with Munro has been described as a willing and docile participant during diaper changes conducted while she (the student) was lying down on a sterile surface. Finally, these behind-the-door bathroom incidents are of particular significance because they involve Munro, a person observed by multiple witnesses to have been physically rough with students over a long period of time.

3. Serious Allegations Against Kate Nead Have Been Confirmed by Multiple Sources

All but one³ of Hoffman allegations against Nead can be described as allegations of neglect that occurred when Nead failed to supervise Munro, and to a lesser extent, the rest of her staff. DRO interviews revealed that Munro's observed and suspected behavior

³ The allegation that Nead had advised Hoffman to pinch a student in order to have her cry and be sent home is more properly seen as abuse. This event was not witnessed by others in Room 301 and none of the interviewed staff reported similar advice from Nead.

was a matter of concern to multiple co-workers and that those concerns were reported to Nead over a long period of time. Multiple witnesses also confirmed that Munro's physical treatment of her students was the subject of at least one staff meeting, but none reported that Munro's treatment of students visibly improved or changed during her many years in Room 301.

DRO believes that these facts are quite damning in and of themselves -- Munro was consistently described by multiple witnesses as overly physical and quite possibly abusive over the course of years. They required strong intervention by Nead. Judging by the fact that no one interviewed noted any change in Munro's abusive behavior over time, that intervention never happened. Munro continues to work in Room 301 to this day.

Again, the bathroom incidents are of particular significance and concern. In the highly unlikely event that Nead was unaware of them despite her daily proximity to the bathroom and multiple complaints about Munro, DRO believes that she neglected her students by either:

1. failing to create protocols that would have forbidden staff to change the diapers of students absent the presence of second staff person; or
2. failing to monitor staff compliance with such protocols if they did exist.

The possibility that Munro physically mistreated children in the bathroom is also supported by the fact that at least one of the children who was heard to scream while noises consistent with self harm continued has been described as completely at peace with the process when properly conducted. More importantly, the potential for abuse, whether or not it occurred when Munro was changing diapers in the bathroom while alone with students, is obvious and intolerable when the affected students are so vulnerable and unable to report harm.

In addition, there is evidence that Nead failed to properly supervise her subordinate staff by failing to ensure that they were aware of behavior plans that they were supposed to implement.

4. Existing Investigation Procedures Were Inadequate and Ineffective

DRO's investigation has uncovered at least one unexpected and unwelcome result: the existing structures and investigatory mechanisms that should protect vulnerable children do not work well or reliably in our schools.

In simplest terms, the results of our own investigation make it difficult to conclude that DHS and the District conducted inadequate investigations. One possible but unacceptable explanation for their parallel failures is that they saw no need to do more because they knew that Hoffman's allegations had been reported to the police. They almost certainly did not understand that GPD's decision was actually the result of a blunt resource preserving triage calculus rather than an assessment of whether the allegations were likely to be true or not.

However, although we do not question whether the above-noted triage threshold was a reasonable one for police in this situation, DHS and the District have separate duties to conduct thorough investigations of the reported abuse. Regardless of police decisions and resources, DHS and the District are independently responsible for protecting vulnerable children from abuse and neglect regardless of whether sexual abuse or serious injury are known or suspected. It is hard to understand how they have met their responsibilities when Nead and Munro can continue to work with the severely disabled non-verbal children in Room 301.

To be sure, we cannot know the reasons that led the District to conclude that there was no reason to permanently remove Munro and Nead from their classroom duties. Similarly, because we have been unable to obtain a copy or learn anything about the nature of its investigation, we do not know who the District interviewed or what other steps it took to investigate Hoffman's complaint.

Similarly, our ability to offer specific criticisms of the DHS inquiry is also extremely limited. Although DHS ultimately agreed to provide a copy of its report to DRO, it has thus far invoked a state statute to bar our disclosure of any information in that report without a court order that would allow us to do so. Because of that agreement, none of DRO's conclusions or recommendations are dependent on the information contained in the DHS report.

Our ability to directly assess the nature and quality of the District and DHS investigations is thus obviously limited by the above-noted restriction and lack of access. However, we can compare the practical results of those inquiries to our own findings to conclude that neither DHS nor the District conducted an adequate investigation. Despite many impediments related to who DRO could access and the understandable reluctance

of District employees to discuss matters that could impact their continued employment, we were able to confirm many of Hoffman's allegations and found no reason to doubt those that we could not confirm. Nevertheless, Munro is again working with the vulnerable and voiceless children in Room 301 and Nead is still employed as a special education teacher by the District.

Clearly, DRO is not in a position to dictate whether or not the District can or should continue its employment of these individuals, but our mandate to protect the rights of individuals with disabilities does allow us to conclude that Munro and Nead should not be working with children who are cognitively impaired and unable to report when adults abuse them.

We are not without sympathy for the difficulties of the District and its employees who work with children whose behaviors are challenging. In fact, DRO special education attorneys are well positioned to understand the difficulty of this kind of work. We are equally aware of the difficulties attached to the discipline and discharge of school district employees. It is also possible and perhaps even likely that the District has refined its oversight and supervision of the staff in Room 301. Whether or not that improvement has taken place, however, we believe that neither it nor the above-noted difficulties associated with the work or discharge of an employee can be allowed to dictate that these individuals should continue to work in classrooms that serve extremely vulnerable children with disabilities. The parents of those children have a right to know that their children are safe at school.

VII. Recommendations

1. Recommendations to the District

a. The allegations confirmed in this report should result Nead and Munro being permanently barred from working directly with vulnerable students with disabilities.

b. The District should adopt policies that require the investigation of alleged classroom abuse to include interviews of all known and potential witnesses by a disinterested investigator whose written report is submitted to the school board for review and requests for additional investigation.

c. In all cases where District administrators act as mandatory police reporters, the District should be required to seek the progress and/or result of any subsequent police investigations and, in the event that police decline to pursue an investigation, the reason for such decisions.

d. In all cases where a District administrator reports allegations of abuse or neglect to DHS, the District should request that DHS provide the results of its investigation and continue to seek such results until they are provided to the District.

e. The District should seek a meeting with GPD and DHS to discuss better coordination of investigations of alleged abuse and neglect at school.

2. Recommendations to GPD

a. In situations where GPD declines to investigate allegations of abuse at schools because of resource issues, GPD should adopt procedures that require it to specifically explain to complainant/reporters that those decisions are not based on the likely accuracy and validity of the allegations.

b. In such cases, GPD should advise complainant/reporters that they should not allow its (GPD's) decisions to influence or determine the appropriateness or urgency of investigation by other relevant entities such as DHS and the District.

3. Recommendations to Oregon DHS

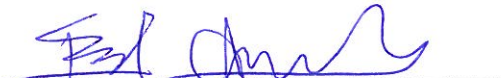
a. DHS should provide hotline staff and complaint investigators additional training specifically designed to ensure that all relevant staff understand the requirements of a thorough investigation of abuse or neglect in classrooms. Such training should include components designed to ensure that participants understand the additional difficulties and requirements of conducting such investigations when vulnerable and/or non-verbal children may have been victimized. In addition, the training should include specific consideration of flaws in the DHS process for investigating allegations of abuse in special education classrooms that were revealed in DRO's investigation.

b. The individual(s) who design and provide the above-noted training should review all future DHS investigations of neglect and abuse in classrooms. The purpose of those reviews would be to either approve their adequacy or require further steps.

c. In all cases involving reports of abuse or neglect in Oregon classrooms, DHS should adopt policies that require it to convey the result or disposition of its

investigations to the superintendent and school board of the district in which the abuse or neglect was alleged to have occurred.

Questions or inquiries about this report should be directed to Joel Greenberg or Bob Joondeph, DRO's Executive Director.


Joel Greenberg, DRO Staff Attorney

1/2/13
Date


Bob Joondeph, DRO Exec. Director

1-2-13
Date