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COMMISSION ON QUALITY OF CARE AND ADVOCACY
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December 29, 2010

Mr. Emmanuel Argiros
President
The Family Foundation School
431 Chapel Hill Road
Hancock, New York 13783

Dear Mr. Argiros:

The Commission on Quality Care and Advocacy for Persons with Disabilities (CQC), New York State Office of Mental Health (OMH), New York State Office of Alcoholism and Substance Abuse Services (OASAS); and New York State Education Department (SED) are in receipt of your correspondence dated October 8, 2010. This letter addresses your response to issues CQC and State partners identified in our September 8, 2010 correspondence.

We genuinely appreciate your forthright response and your willingness to address treatment concerns that CQC and our State partners identified at The Family Foundation School. We are also pleased to note your strong statement that physical or mental abuse is "anathema" to your calling, and your interest in providing programming that is research based.

General Comments

In responding to your statement that "no senior staff member considers previous treatment at the School as "harsh," our June 2010 interviews with administration staff cause CQC and its State partners to stand by our September 8, 2010 letter regarding this issue, for reasons stated therein. However, we commend your efforts to address and reform the internal culture at the School and acknowledge that it has may have been evolving for a longer period of time. We maintain our finding that some cultural aspects of your programming, notably formerly punitive behavioral practices, appear to have rapidly changed following the Joint Commission visit in 2008.

In addition to our own impressions, we were able to interview a number of former students with regard to their experiences at The Family Foundation School. While some interviews highlighted positive experiences at the School, others recounted a decidedly unhappy experience. Though we did not find current instances of abuse or neglect during our June 2010 visit, several interviews conducted with former students who attended the School over the course of the last ten years alleged that abusive practices did take place during this period. We found the former students to be credible; with several citing strikingly similar and troubling experiences at The Family Foundation School and one account emanating from an interview with a student who was

at the School as recently as 2008. Nevertheless, we accept your assertion that past practices that at least arguably constituted abuse or neglect are no longer employed or tolerated at the School.

We appreciate your interest on modeling The Family Foundation School on “best practice” models. However, we did not find clinical practices in your curriculum that we would consider best practices.

Other particular areas of our mutual concern are set out below:

Nature and Characterization of The School

Your letter refers to The Family Foundation School as a “boarding school,” as distinguished from a “therapeutic boarding school.” Nonetheless, your letter also refers to a subset of students who are prone to act out in ways that present behavioral and emotional challenges and, we infer, whose families sought to place them at the School at least partly in response to The Family Foundation’s outreach and/or website promoting its curriculum, social environment and program focus. A review of the information you forwarded to the New York State Office of Mental Health highlights the significant mental health and substance abuse issues posed by a number of your students. Out of a sample of 119 students that you reported on:

- More than 50% of students have been diagnosed with a mental health or substance abuse disorder;
- Nearly 25% of students have had a previous psychiatric admission;
- 65% of the sample report histories of diagnosed depressive disorders;
- Nearly 20% of students have had an in-patient substance abuse treatment admission;
- Approximately 20% of students have histories of using more than one substance; and
- Nearly 40% of students were currently being treated with psychotropic medications.

In light of the above information and your marketing efforts to provide care for youth with “academic underachievement, substance abuse, depression and mood disorders, eating disorders, promiscuity, ADHD, ODD (Oppositional Defiant Disorder), compulsive use of computers, cutting or other self-destructive behavior. The Family Foundation has a responsibility to provide or ensure ready access to treatment and/or care for the serious mental health and substance abuse challenges of the students in need who are enrolled in the School.

Environment

The Commission and our State partners appreciate your long-term plans to build additional dormitory space; however, the trailers have housed students for more than ten years. We would appreciate your forwarding any specific plans to permanently address the overcrowding issues and discontinuation of use of the trailers. Please include timelines for the expected renovations or new construction, the number of students currently housed in trailers and the anticipated date for discontinuing all use of the trailers for housing students.

Your request to have the building code inspector for Delaware County visit and inspect your campus seems appropriate and sensible to us. Please provide us with copies of his reports, including any written correspondence and/or report(s) and corrective action plans relevant to those inspections. We are particularly interested in what steps have been taken to bring the trailers into compliance with any applicable Building Code requirements.

The Commission and State partners are pleased that you have discontinued the practice of “landlocking” students and that you have made a commitment of employing additional trained staff during overnight hours.

The Commission and State partners continue to believe that students occupying the second (top) bunk beds should have a ladder that will allow safe passage to and from their bed, though we appreciate the School’s efforts to ensure that the bunk beds are secured to prevent serious injury of students in the lower level beds. We likewise commend your efforts to ensure that appropriate hygiene is maintained and to address the hanging electrical cord concerns that we discussed.

Staffing

We recognize your efforts at improving communication – and therefore safety – by implementing a radio system between student leaders and your security officer during overnight hours, and ensuring that students are not required to stay up during overnight hours with peers experiencing emotional crises. We were also pleased to hear that students are not coerced into remaining with their peers during these events. However, our interviews with students on your campus in June of this year led us to believe that students were still strongly encouraged and, in fact, felt that they were expected to do so. We thus remain concerned that at least remnants of the old practice in this regard are continuing and ask that you clarify your practices in this regard with your staff, students and us.

Restraint/Seclusion

The Commission and State partners applaud the Family Foundation School on your decision to voluntarily close your time out/quiet room that is off the gym and we make the assumption that this also includes all other areas that have been used for time-out within School. The room off the gym was an issue of great concern to both former students and our own investigators. Your new policy also serves to foreclose the utilization of students in any supervisory capacity over their peers, or the perception that the School is utilizing them in a staffing capacity. Please advise us if any other area is now being utilized for time out purposes, and whether any policy changes have been instituted in conjunction with any such decision.

The Commission and State partners also are pleased that the Family Foundation School is moving to adopt the 6th Edition Cornell Training that endorses supine restraints over prone restraints, in the rare instances where restraints are necessary. Please advise us of the number of restraints utilized over the past 90 days; whether the restraint was in a prone or supine position in each instance; and whether any injuries to any person resulted from the restraint. We are also pleased that you have directed students and staff that there should be no circumstance where students involve themselves in restraint actions with respect to other students. This directive will help avert any perception that students are being utilized in a *de facto* staffing capacity.

Clinical Services

The Commission and State partners stand by our finding, confirmed through interviews with staff and students at the School and cited in our June correspondence, that non-qualified staff members have sometimes been utilized to make lethality assessments. We are pleased to learn that Dr. Vogel has addressed this issue, but his referenced explanation was not included with your letter. Kindly forward his explanation for our review and reference.

We continue to believe a pre-admission psychiatric screening is warranted and appropriate, given the mental health and substance abuse profiles of many of your students.

We support your interest in developing "evidence-based" approaches for your students at The Family Foundation School. However, the Commission and our State partners do not recognize your 12-step process as a substantively compatible alternative to evidence-based treatments such as Dialectical Behavior Therapy (DBT) or Cognitive Behavioral Therapy (CBT); two recognized and evidenced based treatments. Please forward any documentation of empirically-based research that supports your position that the School's modified 12-step program is an appropriate substitute for other evidence-based approaches, like DBT and CBT.

Psychiatric Services

The Commission and State partners recognize that Dr. Myril Manley has renewed his registration with the New York State Education Department and appears to be in compliance with professional practice requirements in New York.

Medication Practices

The Commission and State partners appreciate your efforts at reducing the School's medication errors and are encouraged by your stated expectation that the medication error rate will continue to decline. We agree that reducing these errors should be considered a priority concern, given the potentially life-threatening implications of an error involving powerful psychotropic medications. We also commend you for initiating the current discussions with Lourdes Hospital aimed at providing enhanced assistance to students at the School, when required.

Despite the above, we restate our position that your Licensed Practical Nurses (LPNs) should be supervised by a Registered Nurse (RN). A primary responsibility for the RN would be to review all medication administration, provide trending reports and analysis, and ensure that appropriate policies and procedures are in place. While we believe increased external oversight through your consultant pharmacy company that provides medication to The Family Foundation School is a positive measure, we do not accept this as a viable alternative to retention of an RN in a supervising capacity at the School. In this vein, we ask that you identify the credentials and educational qualifications of the Health Office Manager (HOM) outlined in your attachment on this matter and, if the HOM is not a RN, describe how appropriate supervision of the LPNs will be ensured. Finally, the attachment to your correspondence indicates that your contracted psychiatrist will examine students "misusing" medication. Please clarify what "misusing" medication includes, and provide us with documentation regarding the frequency of these occurrences.

Sanctions

The Commission and State partners note your statement that student sanctions "should not be humiliating or degrading and our staff does not so employ such sanctions." That notwithstanding, we stand by our finding that some of your sanctions are excessive and unsound. Examples include suspending a child from school for one month, assignment to the maintenance crew, or withholding mail and phone calls to immediate family. Further, many of these practices could, in our judgment, be considered violations of residents' rights if carried out in programs subject to the jurisdiction of one of the State agencies serving individuals with mental disabilities. Many students interviewed perceived that sanctions have been "softened" considerably during the last year. Our interviews with staff members revealed similar

observations. This issue invites close monitoring by senior School officials to secure your stated goal of having an abuse-free environment, and is of utmost importance given the large number of students with significant mental health and substance abuse needs living at the School.

Table Topics

The Commission and State partners have reviewed School policy on Table Topics and have no objections to the policy itself. However, interviews with current and past students of The Family Foundation School make clear to us that the intended positive spirit of the intervention is not always adhered to, and is in some instances compromised. There were numerous examples cited in which the intervention resulted in an experience that was for some students demeaning and/or demoralizing. We recommend that this process be closely monitored so as to protect the integrity of your model.

Incidents

In your description of Night Time Supervision you indicate that night staff is trained to handle a variety of incidents ranging from students eloping to emergency preparedness. State oversight experience teaches the importance of such training as an ongoing imperative and we encourage you to continue your emphasis in this area.

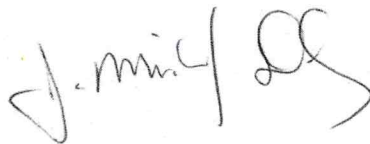
In closing, the Commission and its State partners in this oversight review have found both promise and reasons for concern in the operation of The Family Foundation School, which invite our continued interest in its operations. While the School appears to be a unique educational and residential institution within the State, its student population largely consists of children to whom the involved agencies have special and abiding commitments which are reflected in our respective mandates.

Under Article 6 of the Public Officers Law, final agency determinations are required to be available for public inspection. This letter will be deemed a final agency determination 30 days after the date of this letter, which affords you an opportunity to respond to our findings prior to any disclosure pursuant to the Public Officers Law. Material which is required to be kept confidential or which is protected from disclosure under the Public Officers Law or other laws will be redacted prior to any such disclosure. We would appreciate a response within 30 days of receipt of this letter. Please feel free to direct questions regarding the content of this letter to Michael Daly at 518-388-2874 or michael.daly@cqc.ny.gov.

Respectfully,



Jayne Van Bramer
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