



DISABILITY RIGHTS WASHINGTON

Formerly known as Washington Protection & Advocacy System

315 - 5th Avenue South, Suite 850
Seattle, WA 98104
T: 206-324-1521 800-562-2702
TTY: 206-957-0728 800-905-0209
F: 206-957-0729
www.DisabilityRightsWA.org

November 20, 2020

Cheryl Strange, Secretary
Washington State Department of Social and Health Services
Via email: cheryl.strange@dshs.wa.gov

Evelyn Perez, Assistant Secretary
Developmental Disabilities Administration
Washington State Department of Social and Health Services
Via email: Evelyn.perez@dshs.wa.gov

Re: Rainier School PAT C

Secretary Strange and Assistant Secretary Perez -

I am writing out of concern for the residents of Rainier School PAT C. This facility has been on the brink of having its license terminated by regulators multiple times in the past three years and residents have suffered actual or immediate risk of harm. Recently, regulators had to take the extreme step of placing two overlapping findings of Immediate Jeopardy (hereinafter "IJ") on PAT C – the first was put in place on February 5, 2020, when a resident disappeared from the facility and presumably died and the second was placed on October 27, 2020, after a different resident was able to leave the facility on multiple occasions due to a continuing failure of adequate support and supervision. Although both IJs were removed as of November 17, 2020, they confirmed that the residents of PAT C were at immediate risk of serious injury, harm, impairment, or death and had been living with this level of risk for the past 10 months. *See* 42 CFR § 442.2.

These repeated findings of IJ and the extended timeline required for removal of the IJs raise many concerns about the ability of Rainier School PAT C to provide a safe treatment setting for clients and to timely identify and mitigate risks of harm. DRW's investigation showed that over the past 10 months several removal plans were submitted by Rainier School and rejected by regulatory authorities due to inadequacy. It is unacceptable for PAT C residents to be at immediate risk of harm for this length of time. Further, the State of Washington should not continue to place clients in the care of a facility that cannot timely identify and remove the cause of immediate harm to residents and that has a pattern of noncompliance with regulatory standards that threaten its licensure and put clients at risk of illness, injury, and death.

We know that another removal plan was submitted by Rainier School on November 9, 2020 and that the IJs were removed. We do hope the implementation of this removal plan will prove sufficient to prevent more harm related to elopements; however, even though the IJs have been removed, DRW remains concerned about the health and safety of all PAT C residents. We have

reviewed the removal plan and other regulatory documents and have listed our questions below. **DRW is requesting response to our questions by COB on Monday, November 30, 2020.**

- 1) The removal plan addressed the problem with the client to staff ratio by adding staff to fill position vacancies. Instead of focusing investments on Rainier School, the removal plan could have focused on reducing the census of PAT C by discharging a large number of clients to community placements. We know that many PAT C clients want to live in the community as indicated by the fact that they are admitted to PAT C on short term stay or are receiving services from the Family Mentor Project and/or Roads to Community Living. Investing in community placements instead of staffing for PAT C improves the client to staff ratio, facilitates clients in reaching their goals of and right to community living, and reduces investment in a facility that has a pattern of regulatory noncompliance.

As of today, Rainier School PAT C continues to be out of compliance with health and safety regulations and a significant number of PAT C residents have indicated they want to exercise their choice and right to receive services in a community placement. Reducing the census of PAT C by discharging residents to community placements should be a priority for the facility. **Please provide us with information and confirmation that reducing the client census of Rainier School PAT C is now being considered. Please provide details about the plan to reduce the census in the immediate future.**

- 2) The removal plan focused on assessing each PAT C client for risk of elopement. However, there are many other needs or incidents that could require staff to focus attention on one client leading to a lack of attention or supervision for other clients. PAT C clients remain at risk because staffing changes are only being implemented in response to a client's history or risk of elopement instead of for all assessed needs. **Please provide us with information, including a proposed timeline, about how PAT C clients will be assessed and staffing changes implemented for all client needs.**
- 3) The removal plan reconfigures the staff assigned to the Behavioral Response Teams (hereinafter "BRTs") and creates a backup plan for when BRTs are unavailable. This plan continues to assume reliance on BRTs to react to crises instead of focusing on remedies that will reduce the acuity and frequency of client behavior support needs. Even if effective in preventing elopements, this ongoing reliance on outside teams or staff will simply expose clients to other risks of increased use of restraints and trauma. Moreover, the new configuration of the BRTs relies on staff who are not Direct Care Staff on PAT C and who are likely not familiar with or to PAT C clients, which will only exacerbate the risk of escalation. **Please provide DRW with the steps or systems Rainier School is putting in place to supplement BRT teams as a way to respond to crises and ensure that BRT team members are familiar with the PAT C clients and vice versa to reduce the risk of escalation and harm.**

Rainier School has not demonstrated an ability to maintain compliance with health and safety standards that DDA is responsible for ensuring for its clients. DDA's decision package included the closure of Rainier School and, for all the reasons described above, DRW supports this proposal. Although DRW appreciates the state's intention to close Rainier School, we believe it can and must be done on an expedited timeline. Maintaining this facility, and others like it, risks the health and safety of residents and presents significant liability concerns for the state. DRW has recently been in communication with you about a similar concern regarding a resident at Fircrest School and we have been working this past year to prevent unnecessary investment in massive and costly construction on the Fircrest School campus. These issues are all related to the need to close dangerous and outdated institutions and shift significant investments to community residential supports. A coordinated and systemic response from DDA is required to make these necessary changes to the DDA service system.

DRW will prioritize efforts to advocate for the closure of PAT C as soon as possible and for the quick transfer of PAT C residents to safe and integrated care settings of their choice. This effort is part of our broader priority to ensure that all individuals, regardless of their assessed level of care, can live quality lives in settings they choose instead of being forced to reside in institutional settings to access adequate supports and services.

Please let me know if there are questions about any of the above.

Thank you for your time and attention -

Sincerely,



Beth Leonard
Disability Rights Washington

CC:

Kathryn Krieger, Attorney General's Office
Amber Leaders, Office of the Governor
Candace Goehring, Residential Care Services
Loida Baniqued, Residential Care Services
Ivanova Smith, Self-Advocates in Leadership
Shawn Latham, Allies in Advocacy
People First of Washington
Betty Schwieterman, Developmental Disabilities Ombuds
Stacy Dym, Arc of Washington
Jeremy Norden-Paul, Developmental Disabilities Council
David Carlson, Disability Rights Washington