

Washington's Out-of-State Youth Plead: Let Us Come Home Report and Recommendations

October 2018





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Introduction

Washington's foster care system has been sending many young people in need of residential care and treatment to the Clarinda Academy, an institution in Iowa. This is a report by Disability Rights Washington (DRW) to expose the conditions and treatment experienced by Washington foster youth at this institution.

About Disability Rights Washington

DRW is a private non-profit advocacy organization with a mission "to advance the dignity, equality, and self-determination of people with disabilities" and "to pursue justice on matters related to human and legal rights." DRW has been specially designated to serve as the federally mandated Protection and Advocacy (P&A) system for Washington citizens with disabilities and mental health conditions.¹ Following the harrowing 1972 expose of conditions at Willowbrook State School in New York, Congress enacted a series of legislation known as the "P&A Acts," which require states to designate P&A systems to serve as "watchdogs" to ensure the human rights of people with developmental, physical, and mental health disabilities.²

Congress provided federal funding and mandated that each P&A have authority to provide information and referrals, outreach and monitoring, as well as advocacy and education for policy makers regarding the rights of its constituents.³ Under these statutes, P&A's also have broad access authority to conduct investigations of abuse and neglect upon receiving complaints or probable cause to believe abuse or neglect has or may be occurring.⁴

DRW is releasing this report in furtherance of its mission and federal mandate to "protect and advocate" for Washingtonians with mental health disabilities.

Washington's Out-of-state Foster Care Placements

DRW's investigation of Clarinda Academy began several months after DRW discovered that the Children's Administration of the Washington State Department of Social and Health Services (DSHS) was placing many young people in out-of-state institutions. Specifically, DRW received a call from a community member who was concerned that a



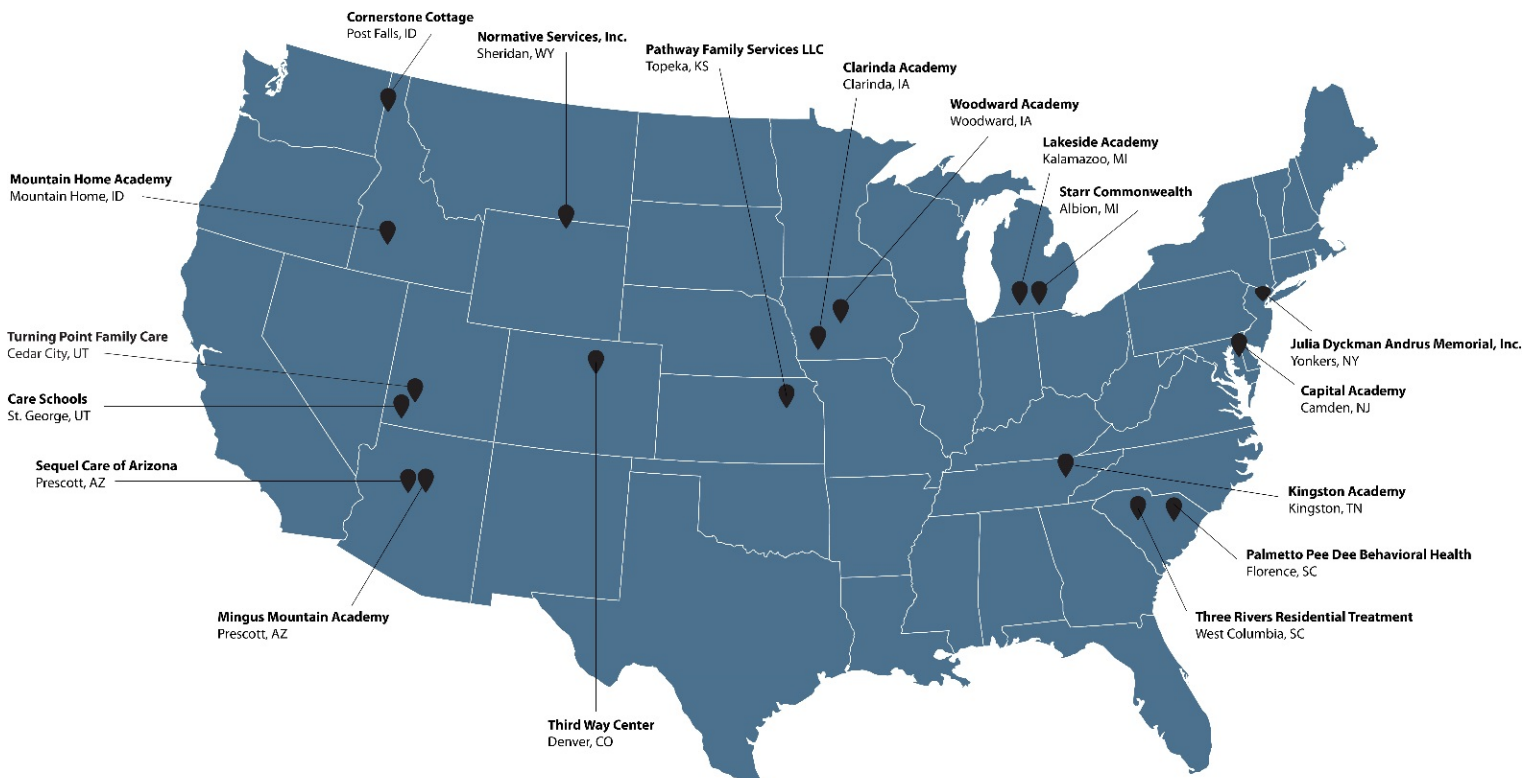
sixteen-year-old in Washington’s foster care system was going to be sent out-of-state for behavioral treatment instead of receiving intensive mental health services in Washington.

As DRW sought to advocate for in-state services, DRW learned that Washington had placed scores of other young people in out-of-state facilities due to lack of in-state resources. No in-state placement could be identified for this young person, who was ultimately placed in a facility in Utah. When DRW later spoke with that individual about the fact that there were other youth in out-of-state facilities, he wrote a letter pleading with Washington State to bring him and others who “live in the system” back home.

People I live in the system. you do not I know
ther are other kids that are out of state
like me. I speak for them and me. let us come
Home to Washington. thank you for your time.

Confidential Exhibit 1

In the meantime, DRW further learned that Washington’s Children’s Administration had placed several young people in Utah as well as other states far as Michigan, Arizona, Tennessee, and South Carolina and Iowa.





From a public list of Washington's contracts that had been updated in November 2017, Washington had over seventy "child-specific" contracts for out-of-state residential care. Seventy-five percent of these contracts were with facilities owned and operated by Sequel, a private for-profit corporation that, in early 2018, was reportedly planning to begin offering services in Washington.⁵ Twenty of these contracts were with two institutions in Iowa, Clarinda Academy and Woodward Academy, both of which are owned and operated by Sequel.⁶

Monitoring and Investigation

To learn more about Sequel and the facilities where numerous Washington youth have received treatment, DRW partnered with its sister P&A, Disability Rights Iowa (DRI), to conduct onsite monitoring in the two Iowa facilities. Over the course of two days in February 2018, DRW and DRI conducted separate private interviews with all the young people from Washington, which by that time had dropped to about a dozen. Practically every young person who spoke to DRW discussed or alluded to experiencing multiple traumatic events of sexual or physical assault and/or abandonment by trusted adults in their lives, and almost all had been through multiple placements prior to coming to Iowa.⁷ Individuals at both academies described highly restrictive and segregated environments, and as expected, all expressed homesickness for Washington. However, the youth at Clarinda Academy independently reported consistent allegations of verbal and physical abuse, and earnestly complained that they desired to live somewhere else.

Based upon these complaints, DRW initiated a systemic investigation. Although a number of young people feared getting in trouble for reporting complaints, a few agreed to participate in DRW's investigation and provided releases for DRW to access their records and consent for DRW to speak with their advocates in Washington.⁸ With three investigation participants, DRW proceeded to assess the allegations of abuse and neglect that DRW had heard while conducting its monitoring at Clarinda Academy.



Photo of Clarinda Academy Sign reading “Clarinda Academy Home of the Eagles”

This report details non-identifying evidence regarding Washington State’s failure to oversee the care and treatment at Clarinda Academy and the improper practices that Sequel has allowed.⁹ The case examples from Clarinda Academy illustrate how Washington’s use of out-of-state facilities is creating an unacceptably heightened risk of abuse and neglect and further harm to youth who have already suffered from multiple, prolonged, or chronic traumatic events. This report aims to shine a light on the inappropriate conditions and inadequate treatment at Clarinda Academy, and to advocate for elimination of out-of-state foster care placements.



Executive Summary

Clarinda Academy subjects young people needing mental health treatment to highly restrictive and segregated residential and educational services.

DRW's monitoring, reports by students, and the institution's own policies demonstrate that Clarinda Academy is the least integrated and most restrictive setting for a young person to be placed. The institution provides segregated residential care and education that allows few interactions with anyone unaffiliated with the facility, and applies a range of consequences to enforce its panoply of strict "norms" that severely limit individual liberty, expression, and relationships.

Placement at Clarinda Academy is involuntary.

Young people placed at Clarinda Academy were not free to leave if they are dissatisfied with Clarinda Academy's treatment. They did not give consent for ongoing treatment at Clarinda, which was "court-ordered" in their dependency proceedings without any findings relating to the criteria for ordering involuntary treatment. Despite being highly dissatisfied with their programs, none were allowed to discharge at will.

Washington does not provide sufficient oversight to ensure Clarinda Academy's use of physical restraints is safe and appropriate.

Washington's social workers have received information regarding allegations of inappropriate physical restraint practices at Clarinda Academy, but did not act to ensure the safety of the young people



they have placed there. Records from Clarinda Academy raise grave concerns that the institution does not adequately safeguard against abusive physical restraints that routinely contravene Washington regulations.

Clarinda Academy does not offer the treatment needed to address complex trauma.

As an expert in providing residential treatment to youth with histories of experiencing complex trauma, Dr. Gauri Goel has determined that Clarinda Academy is failing to adequately assess or attend to the treatment needs of the young people placed there by Washington. In her report, she details how each youth has been harmed by their treatment at Clarinda Academy and recommends they be served in an in-state program that will individually assess and address their unique complex trauma needs.



Scope and Methodology

The purposes of DRW's investigation has been to assess 1) whether the State of Washington has been adequately ensuring the rights of the young people it has placed at Clarinda Academy and 2) whether the young people have experienced abuse or neglect.

Federal P&A regulations define "abuse" to include "the use of excessive force when placing an individual with mental illness in bodily restraints" as well as "use of bodily or chemical restraints which is not in compliance with Federal and State laws" and "any other practice which is likely to cause immediate physical or psychological harm or result in long-term harm if such practices continue."¹⁰ These regulations define "neglect" to include failures "establish or carry out an appropriate individual program or treatment plan (including a discharge plan)."¹¹ As such, DRW's investigation sought to evaluate Clarinda Academy's practices, and to determine whether Clarinda Academy is providing appropriate treatment. This investigation also considered Washington's practices to protect the rights of young people at Clarinda Academy and to safeguard against further abuse and neglect.

Pursuant to releases of information that each of the young people signed, DRW accessed individual treatment and behavior plans, restraint records, and Washington's Children's Administration records. DRW had multiple follow-up phone conversations with the investigation participants, and also spoke with each of their public defenders. In addition, DRW requested and reviewed copies of Clarinda Academy's training materials, staff personnel records, and policies.

To assess the adequacy of treatment, DRW retained Guari Goel, Psy.D., to provide consultation based on her experience and expertise in administering residential treatment programs for young people who have histories of suffering complex trauma.¹² Dr. Goel reviewed the treatment and child welfare records DRW had obtained and conducted additional in-person interviews with the investigation participants who were still at Clarinda Academy, a phone interview with the Clarinda Academy Clinical Director and Administrators, and a phone interview with an investigation participant who recently transferred to another out-of-state placement. This investigation relied upon the conclusions that she documented in a written report to DRW.



Background

Clarinda Academy is a large institution in Iowa where states from all over the country, including Washington State, have placed over 200 young people between the ages of 12 and 18.¹³ These students reside in one of seven dorms on campus and attend year-round classes at the onsite school.¹⁴



Photos of building, coat and shoe room, and whiteboard listing census for male dorms

Established in 1992, Clarinda Academy is the flagship facility of Sequel, a for-profit private corporation that has since acquired or opened twenty other “staff secure residential” facilities, eight “secure residential facilities” and four Psychiatric Residential Treatment Facilities (PRTF)’s across the country.¹⁵

According to the Sequel administrators who met with DRW during its monitoring visits to Clarinda and Woodward, Sequel based its program model on the Glen Mills Academy in Pennsylvania, which was a facility established in 1826 for troubled youth.¹⁶ Sequel administrators expressed their belief that the Glen Mills approach is



effective in addressing delinquent behaviors and that it is their goal to use similar methods in all the facilities that they own and operate.

Under this model, behavioral expectations are not established through rules. Instead, Sequel uses “four core norms”¹⁷ which include:

- Respect All Others
- Intervene All Negative Behaviors
- Reinforce All Positive Behaviors
- Support All Intervention

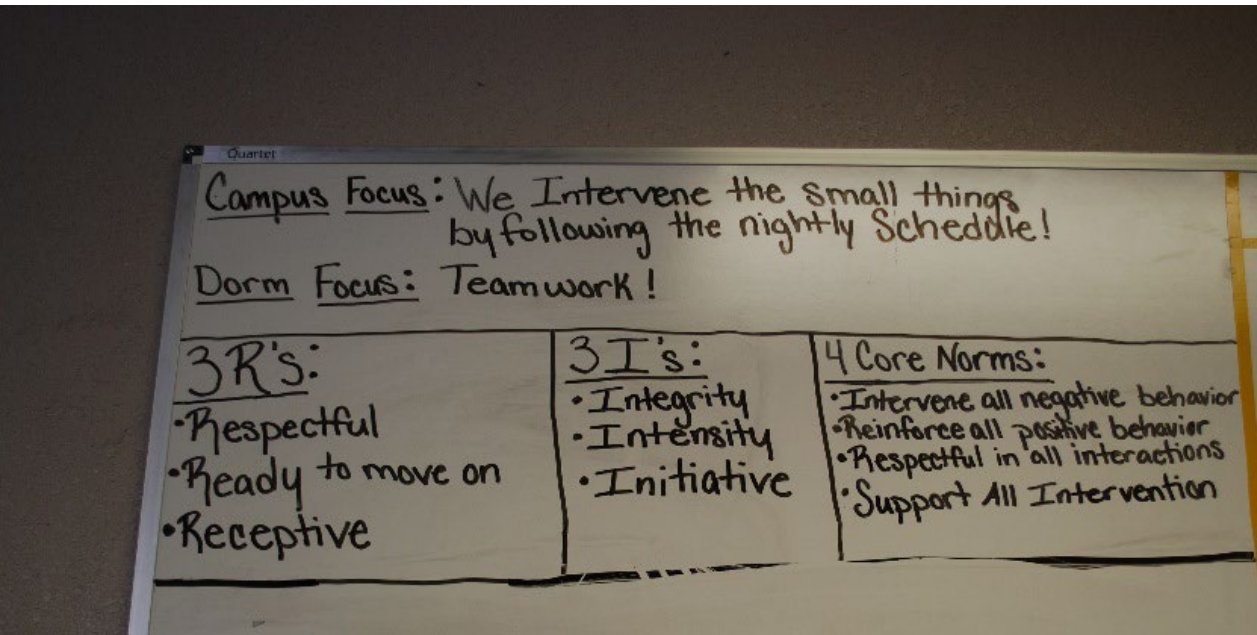


Photo of white board listing 4 Core Norms, 3 I's, and 3 R's

As explained in its brochure, “Norms are defined as expected group behaviors, or what most people in a group do. [Clarinda Academy] has hundreds, if not thousands of norms that staff and students learn. Norms are not written down, but instead, behavioral expectations are passed on from person to person and then maintained through group peer pressure.”¹⁸ Students and administrators gave some examples of norms, which they reinforce with statements of “around here, we...”



For instance, “around here, we tuck in our shirts” or “around here, we walk in a single-file line.”



Photo of students walking in single file line

Another norm discussed by a male student was “around here, we do not talk to female students.” The female students reported the same norm: “around here, we do not talk to male students.” In fact, teens of both genders reported that they are forbidden to communicate with students of the opposite gender. During its visit, DRW observed that there were no co-ed lines or groups anywhere on campus.

Norms are enforced using what Sequel calls the “7 Levels of Intervention.”¹⁹ These seven levels escalate sequentially based on whether the offending individual demonstrates compliance with any norm or expectation. Clarinda Academy strongly encourages everyone on campus, including other students, to “intervene” even the “little” behaviors that violate one of the “hundreds if not thousands of norms” by initiating the seven levels of intervention.

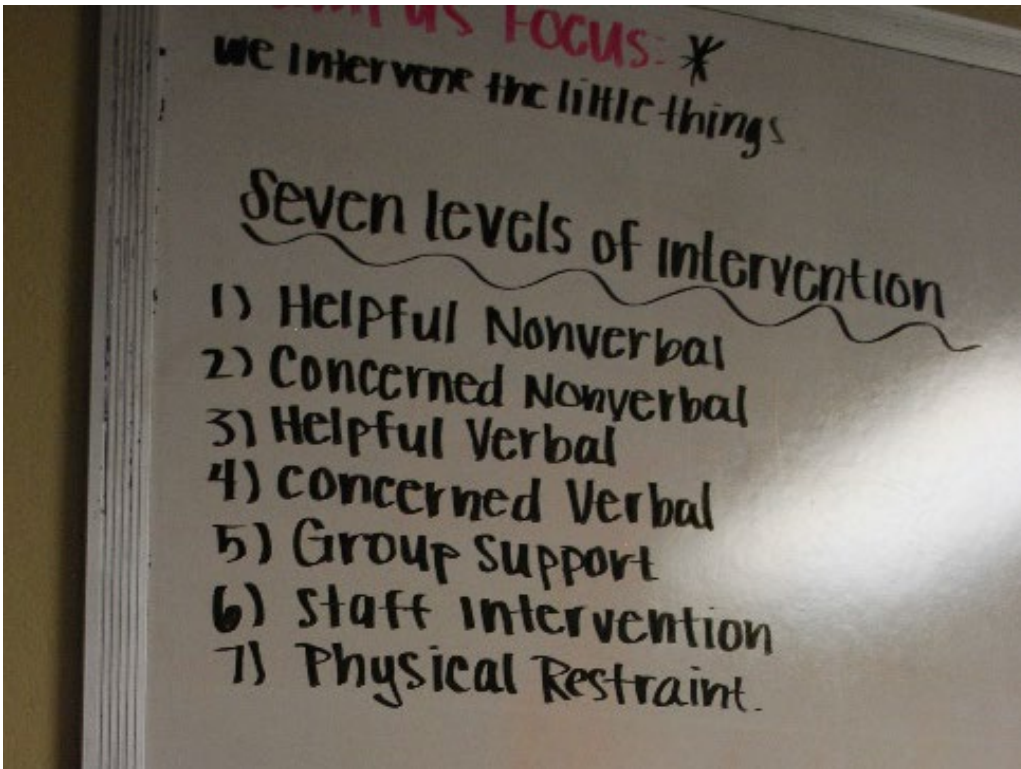


Photo of white board listing “seven levels of intervention” and statement, “we intervene the little things.”

The seven levels of intervention begins with Level 1, which is called a “Friendly/helpful nonverbal” intervention. This includes a gesture of disapproval, most often a head shake to indicate “no.” If the student does not change his or her behavior, the levels escalate to a “concerned non-verbal” (a second and more firm gesture of disapproval) to a “friendly/helpful verbal” to a “concerned verbal” where the intervening individual verbally explains what norm is being violated by stating, “around here, we...” Students referred to this fourth level as “being put in a verbal.”

If a student does not change behavior after “being put in a verbal” they reported that they are “placed in a group support,” otherwise known as Level 5. A “group support” requires everyone in the area, including all students, to stand up behind the individual who initiated the intervention while the intervening individual repeats the statement “around here, we...”

If students do not comply at Level 5, the sixth level is a “staff intervention.” As explained in the brochure, “staff will become directly involved to find a resolution” and “this marks the last opportunity for the student to take initiative.”²⁰ Clarinda administrators stated that staff intervention should be delivered calmly in an effort to encourage compliance. According to students that DRW individually and



separately interviewed, a “staff intervention” often includes being yelled at, cursed at, spit upon, and threatened.

The seventh and final level is “physical restraint.” According to Clarinda Academy administrators, physical restraints are used if there is an immediate risk of harm. The students, on the other hand, asserted that staff “will drop you if you move” during a “staff intervention.” They explained this means that staff “put their hands on you and force you to the ground.” They separately and independently demonstrated how staff pull their elbows behind their backs and then force them to the ground by putting pressure on the backs of their knees. Every student reported that restraints they experienced were physically painful and frequently resulted in back, shoulder, and neck pain for several days or weeks. When asked if they receive medical attention, they stated that no one complains because they are told “you shouldn’t have gotten put in a restraint.”

Facts and Analysis

Clarinda Academy is completely segregated and exceptionally restrictive.

Under the Americans with Disabilities Act (ADA) federal regulations, states are obligated to administer services “in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”²¹ Unnecessarily segregating individuals in isolated institutional settings rather than offering services in the community constitutes unlawful discrimination prohibited by the ADA and Section 504 of the Rehabilitation Act.²²

Likewise, the “Least Restrictive Environment” requirement of federal Individuals with Disabilities Education Act (IDEA) mandates that even students placed in public or private institutions must be “educated with children who are not disabled” unless “the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”²³ Individuals with emotional and behavioral disorders such as the conditions documented for the Clarinda Academy investigation participants are covered by the ADA, Section 504, and IDEA.²⁴



To investigate the setting at Clarinda Academy, DRW reviewed the policies and records that Clarinda Academy provided. Specifically, to assess Clarinda Academy's discipline practices and acknowledgment of resident rights, DRW requested "Written policies or procedures for resident rights, discipline and use of physical restraint" (referenced in Iowa regulations at 441 IAC 114.13-114.18 and 441 IAC 114.20). In response, Clarinda Academy provided the policies attached hereto as Exhibit C. DRW also requested "individual treatment and behavior support plans" for individuals who gave consent for DRW to access their records as well as records in Children's Administration's custody "relating to the individuals' care and treatment." All of these documents confirmed that Clarinda Academy is among the most isolating and restrictive settings imaginable.

Segregation

Clarinda Academy students are almost entirely segregated from the rest of society. In the weeks prior to monitoring Clarinda Academy, DRW also conducted monitoring at several group homes in Washington State for young people in the foster care system. While the level of integration in the community varied among these "Behavioral Rehabilitation Service" (BRS) placements for youth with behavioral disorders, none compared to the segregation apparent at Clarinda Academy.

To begin, none of the students at Clarinda Academy attend public schools. Instead, they attend school year round on-campus. DRW found no individualized determinations for why any of the investigation participants could not be educated at the local high school with supplementary services. Instead, the education plans simply state that the student will attend a segregated school due to placement at a program with its own behavioral school.

Will this individual attend the school he or she would attend if nondisabled?

Yes No

If no, explain:

██████████ was court ordered to Clarinda Academy, a year round residential program with a behavioral school.

Confidential
Exhibit 3



The students do not routinely go shopping, out to eat, to movies, or to any community events. Team sports offers one of the only off-campus opportunities for students with athletic skills. Those students on sports teams are taken to compete in off-campus sporting events, but remain segregated from other athletes and spectators who are not associated with Clarinda Academy.

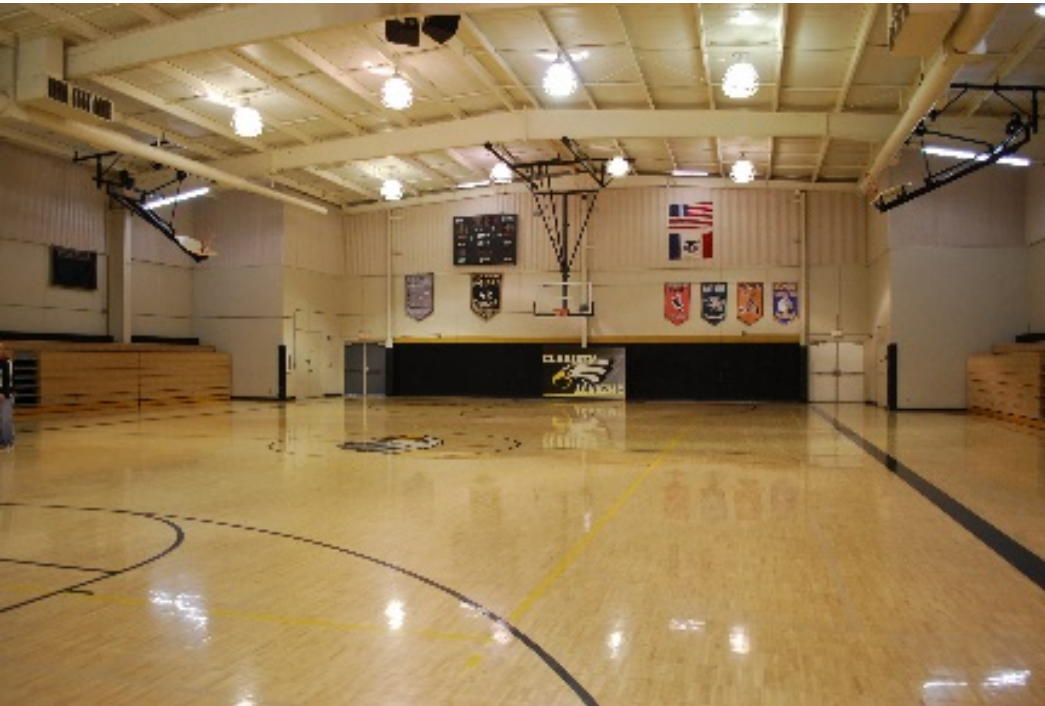


Photo of gymnasium

Students also have limited access to communicate with parties outside of Clarinda Academy. None of the students are permitted to have cell phones. According to Clarinda Academy policies, students who wish to call friends or families long-distance must have their own phone cards or make collect calls. Under policy, all students have time limits for calls with friends and families based on their status:

“Non-status students will be allowed ten (10) minutes of phone call time per week. Eagle Pledges will receive fifteen (15) minutes of phone call time. Those students attaining Eagle status will receive twenty (20) minutes of phone call time.”²⁵



Clarinda Academy's policies state that students may receive calls from verified callers.²⁶ DRW attempted to contact students directly on the dorms several times, but was only successful in one instance. Clarinda Academy staff confirmed that requests for calls must be scheduled through each student's case manager. Furthermore, each time DRW spoke with a student, the student had to specifically request that the case manager leave the room.



Photos of phone on dorm and mailbox

For calls to friends and family, the students share one phone per dormitory. With limited free time in the evenings, several students reported that they often did not get their full time for phone calls. They explained there would be no time left before "lights out" after the students with higher status completed their calls. Because the phones are located in common area of the dormitory hall, individuals stated that having meaningful phone conversations with friends and family is often difficult if not impossible due to noise and lack of privacy. The one occasion that DRW was able to speak to a student on the dorm, the shouting and chaos in the background prohibited us from being able to effectively communicate, and we had to terminate the call.

For practical geographic reasons, students from Washington have few if any visits with family or possible placement resources. The visitation policy limits visits to Saturday and Sunday afternoons,²⁷ but the travel time and cost between Washington and Iowa is an additional barrier to having frequent contact. One youth expressed excitement about an upcoming visit from a parent, whom the individual had not seen for several months, as well as anxiety that Clarinda Academy would find a reason to deny the visit. On the other hand, another student who was not in contact with any family had no visits from close friends who



were reportedly not eligible for travel funding. As that student explained, the connection with non-family supports that the student had hoped to serve as a potential adoption placement had been fading over time, and this lost connection had increased this individual's sense of hopelessness.

Restrictions

Co-located on the grounds of a state prison, Clarinda Academy runs like a correctional institution.



Photos of prison in background

Despite the fact that Washington sends youth to Clarinda Academy for residential care, not because they have been sentenced for a crime, Clarinda Academy policies assume that its students are “court ordered into placement for violating the rights of others and/or by violating the law.”²⁸ Like a correctional facility, Clarinda Academy does not allow students to leave the institution at will. According to Clarinda Academy’s policy on Behavior Change Methodologies Physical Restraint/Crisis Intervention, “truancy” is a basis for use of physical intervention.²⁹ All the investigation participants’ the treatment plans contained the following language to explain that “truant” students will be escorted back to the facility:

“[D]ue to environmental conditions such as various terrains (ravines, gullies, rivers, numerous roads, surrounding private properties and crop lands), extreme weather (Iowa’s rapidly changing weather, extreme heat, extreme cold, tornados, thunderstorms, hail, torrential rains, flash flooding, humidity, high winds, drought) and wild life (Mountain lions, bobcats, coyotes, dogs, raccoon, skunk, badger, deer various species of venomous snakes and spiders) as well as various seasonal hunting times (deer season, turkey season, various bird



seasons where students could be mistaken by hunters) it is the policy of Clarinda Academy in order to keep the students safe, to pursue any student who attempts to go truant and escort them back safely to campus.”³⁰

Clarinda Academy’s policies state that students who violate any expectations “will be intervened according to the Seven Levels of Intervention.”³¹ The policies further allow for an “individual accountability” to take place for consistent behaviors such as not doing chores, time management problems, and “acting out.”³²

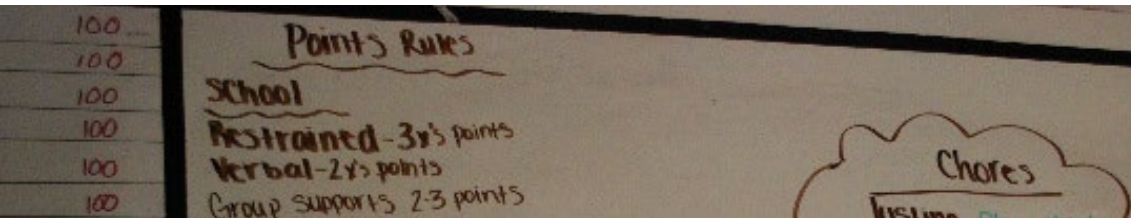
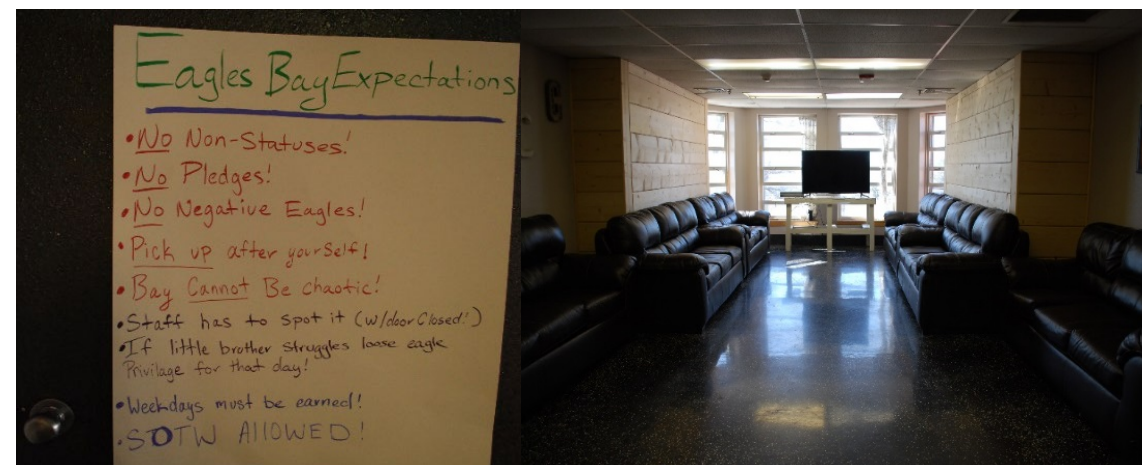


Photo of dorm whiteboard listing chores and “Points Rules”

The policies provide examples of “individual accountability” consequences, which include restrictions such as having a “shadow staff” and “shadow peers,” (which students explained means that someone is within an arm’s distance at all times of the day), being required to do calisthenics in place of playing sports, having to walk in tunnels rather than outside, “frequent counts,” removal of surplus clothing, rescheduling home passes, and individualized chore assignments (aka, “campus beautification”).³³ Under the policy, an “accountability” may also include a demotion in “status” from Eagle or Eagle Pledge,³⁴ which DRW learned during its monitoring may result in the loss of a host of privileges such as the privilege to use common areas, i.e. “Bay.”



Photos of sign listing “Eagle Bay Expectations” and of common area known as the “Bay”



The “normative” culture at Clarinda Academy allows for significant constraints on the individuals’ personal liberty while on campus. The policy on “Behavior Expectations/Campus Norms” states that “Hundreds of norms evolve in any group, including students.”³⁵ During DRW’s monitoring, the students from different dorms reported norms that varied from dorm to dorm, and included prohibitions such as no talking during meals, no passing notes, and losing personal leisure items such as fidget spinners. They reported that the dorm staff set the norms, which could change over time.

Clarinda Academy’s policy cites a list of over fifty examples of norms that are likely to develop, which range from being very broad (i.e. “[w]e remember our victims”) to highly specific (i.e. “[w]e do not lean on the walls” and “[w]e do not walk on the grass”).³⁶ Some of the policy examples for “daily living” place strict limitations on every student’s individual freedom, including “[w]e do not go anywhere without staff permission and direct supervision,” and “[w]e ask staff’s permission to go to the bathroom.”³⁷ These norms may also set expectations for personal style and space. The policy lists examples such as, “[w]e do not have ‘fad’ or gang hairstyles” as well as, “[w]e do not leave personal items lying around outside of our bed area” and “[w]e keep our bed area neat and clean.”³⁸ While conducting its monitoring, DRW observed all of the dorms to be spotlessly maintained with the students’ few personal belongings neatly organized in cubbies.



Photos of dorms

The “prison food,” as dubbed by several students during DRW’s monitoring interviews, may also be restricted by norms at Clarinda Academy. The examples in the policy include: “[w]e do not go into the kitchen;” “[w]e do not take food out of the cafeteria;” and “[w]e do not complain about the food to the cooks and we do not forget to compliment them occasionally.” One investigation participant reported



that refusing food is a norm violation that can result in being physically restrained.

Confidential
Exhibit 4 at
p. 28

b. How is the food and meals? Do they get enough to eat?

██████ reports that the food is from the prison and gross. █████ will eat it though. █████ reports █████ will be restrained if █████ refuses the food.

Finally, students have no expectation of privacy at Clarinda Academy. Under the section of its “Contraband Search” policy entitled “Random Search,” students and their personal belongings may be searched.³⁹ This section goes on to state, “[s]earches may also include a more thorough procedure in which staff will provide a private area for the student and in the presence of two gender specific staff, student will be asked to remove his/her clothing except for his/her shirt and shorts in order for staff to search his/her clothing.”

In sum, Washington has isolated youth at Clarinda Academy, where they are subjected to extreme restrictions based on the institution’s “norms,” not individualized determinations of their particular abilities to safely exercise basic freedoms such as going to the bathroom at will or talking to a peer of the opposite gender. As a result, they have no guarantees of their federal rights to receive residential and educational services in the most integrated and least restrictive setting appropriate to their needs.

Placements circumvent Due Process.

The right to be free from involuntary confinement without due process is a constitutionally guaranteed right under the Fourteenth Amendment.⁴⁰ Under Washington law, young people at and over the age of thirteen have the right to leave treatment to which they initially gave consent.⁴¹ Even if a young person’s parent initiates involuntary treatment, Washington law protects the right of young people age thirteen and older to have a clinician “who neither has a financial interest in continued inpatient treatment of the minor nor is affiliated with the facility providing the treatment” conduct a review of whether the admission is medically necessary and to file a petition requesting release.⁴² Absent further detention proceedings under RCW 71.34, minors age thirteen and older cannot be held for more than 30 days after their need for treatment was reviewed or they petitioned for release.⁴³

Under the Juvenile Court Act, the state may place foster youth in mental health treatment facilities with consent from the parent, legal



guardian, or legal custodian or a court order.⁴⁴ The statute still requires placements “in a facility, with available treatment space, that is closest to the family home” unless that would “jeopardize the health or safety of the child.”⁴⁵ However, this legislation authorizing placement in a treatment facility clearly established an intent for youth over the age of thirteen to retain their rights under RCW 71.34:

“The legislature intends that admission of such minors for mental health hospitalization be made pursuant to the criteria and standards for mental health services for minors established in chapter 71.34 RCW, and that minor children in the care and custody of the department in need of mental health hospitalization shall retain all rights set forth therein. The legislature specifically intends that this act may not be construed to affect the standards or procedures established for the involuntary commitment of minors under chapter 71.34 RCW.”⁴⁶

Regardless of whether Clarinda Academy is considered “inpatient treatment,” it is a facility requiring participation in treatment that the students may not leave at will. Yet, the youth at Clarinda Academy have enjoyed none of the protections that other Washington minors have. The state, as their custodian, has circumvented these procedures to authorize involuntary placement without having to demonstrate the requirements that Washington parents of young people over the age of thirteen must meet in order to force their children to accept treatment.

Consent for Treatment

The students DRW interviewed reported that they were being held at Clarinda Academy against their will. They wanted to return to Washington and did not express consent to receiving residential treatment at Clarinda. A few explained that they had initially agreed to “try” Clarinda based on what they later considered to be misleading statements. For instance, one person who loves music had been told there was a school choir, but discovered there is no choir and that singing violated one of the group norms on that individual’s dorm. Others had agreed to try Clarinda under the impression that they could return to Washington if they chose. When they tried to advocate for discharge, they were told that they had to successfully complete Clarinda’s program before discharging.



DRW accessed investigation participants' records from the Children's Administration and interviewed the participants' public defenders to investigate claims of involuntary commitment without due process. These records further demonstrate that the State of Washington has placed young people in its custody at Clarinda Academy without consent or due process. For instance, in one case, records showed that even though the young person was over the age of consent for treatment in Washington, social workers provided consent for treatment in Iowa.

Informed Consent to Treatment

I apply and consent to such psychiatric, psychological, mental health assessment(s), medical, medical screening and follow-up, dental exam(s) and all necessary dental treatment, diagnostic, immunizations to include, but not limited to, MMR, meningitis, Gardasil (females only) and/or other immunizations to ensure healthy living. I also apply and consent to substance abuse assessment & treatment as deemed necessary, emergency and hospital treatment including anesthesia, as professionals utilized/contracting with Clarinda Youth Corporation, DBA Clarinda Academy may prescribe and/or deem necessary to maintain the health of my child/ward. I am aware the practice of medicine, dentistry and mental health is not an exact science, and I acknowledge that no guarantees have been made to me regarding the results of treatment or examinations.

Legal Guardian/Parent Initials here **Students Initials here**

I have read and understand the information above. I understand that my initials are the same as my signature in this document. I understand I can terminate the informed consent to any or all by way of written form to Clarinda Academy and/or Clarinda Youth Shelter(s).

Legal Guardian/Parent Signature: **Date:** 11/7/17

Legal Guardian/Parent Printed Name:

Student's Signature: **Date:**

Student's Printed Name:

Clarinda Academy/Clarinda Youth Shelter is a JCAHO accredited organization.



Confidential
Exhibit 5



While records documented varying degrees of willingness to go to Iowa prior to admission, Children's Administration records documented statements expressing a clear desire to leave after they arrived.

██████████ is not happy that ██████████ is at Clarinda Academy. ██████████ feels that ██████████ has never felt like this while at a placement.

Confidential
Exhibit 4 at
p. 28

Case Note 1 of 1 Entered By : ██████████ Date Entered : 09/21/2017 Time Entered : 09:55 AM

The SW got a call from ██████████ ██████████ stated that ██████████ doesn't want to be at that placement. ██████████ is having a hard time with ██████████ peers and is getting bullied. SW asked if ██████████ has told staff about this and ██████████ stated that ██████████ has but nothing is happening. ██████████ also stated that ██████████ wants to get a visit from ██████████. The SW told ██████████ that Clarinda pays for family/relatives/friends to visit but the SW isn't sure what the process is but will follow up. The SW then talked with the case manager about the bullying. The case manager stated that ██████████ doesn't have much contact with ██████████ in the dorms but will talk to floor staff about that. The case manager stated that ██████████ is working on ██████████ tone of ██████████ when ██████████ is talking to ██████████ peers and ██████████ is doing a lot better.

Confidential
Exhibit 6

Case Plan for the youth (including permanency planning):

a. What does the child know about the current plan?

██████████ believes ██████████ plan is to finish ██████████ program. ██████████ disagrees with this as ██████████ doesn't want to be

at the Academy.

Confidential
Exhibit 7 at
pp. 4-5

The only authority for placing foster youth at Clarinda Academy that DRW found in Children's Administration records were references or copies of orders from dependency review or permanency planning hearings.



No findings addressed the standard or process for involuntarily detaining individuals for treatment under RCW 71.34. Instead, the court orders give a blanket authorization for the department to “authorize and provide all recommended by the child’s treating doctor or psychologist, subject to review by the court, as needed.”⁴⁷

III. Order

Placement

- 3.1 The child remains a dependent child pursuant to RCW 13.34.030(6) (a) (b) (c). Court supervision shall continue.
- 3.2 An Order Dismissing Dependency shall be entered. *(separate order required)*
- 3.3 The child shall be in the care and custody of DSHS for placement in:
 - Foster care. *The child may be placed in therapeutic placement in Iowa.*
 - Relative placement with _____ (name).
 - The home of a suitable person _____ [name].
 - The home of an adoptive parent or other person with whom the child’s siblings or half-siblings live.

Confidential Exhibit 8 at p. 10

In-State Alternatives

In at least one instance, DRW identified records documenting that one of the youth had another alternative placement available in Washington State, but was placed in Iowa at another Sequel-owned facility before transferring to Clarinda Academy. Despite having an in-state placement, Children’s Administration determined that this person’s needs would be “best met” in an out-of-state rural facility.

Efforts to secure alternative residential care within Washington resulted acceptance by Excelsior Youth Services. However, it was determined that [redacted] needs would be best met through Forest Ridge. Thank you for consideration of this request.

Confidential Exhibit 9 at p. 1

4. For New Contracts

Please explain why you are requesting this provider for this services. Explain why you are not using a current Contractor: [redacted] has been accepted for out of state residential care with Forest Ridge Youth Services through the SEQUEL network of providers, located in [redacted] Iowa. [redacted] is currently placed at NWCH in Lewiston, Idaho, but a thirty day termination notice has been issued as a result of consistently unsafe and disruptive behaviors [redacted] is in need of a closely contained and restrictive setting that can address [redacted] trauma history in a remote or rural location, due to a pattern of running and engagement in acts of self harm while in the community. [redacted] has been accepted by Excelsior Youth Services but [redacted] needs dictate a setting that is remote or rural.

Confidential Exhibit 9 at p. 2



Similarly, the Clarinda Academy case manager for another investigation participant informed DRW that the individual had an alternative placement in Washington. However, the case manager could not confirm if this was "officially the plan."

From: Heather Hunter [mailto:heather.hunter@sequelyouthservices.com]
Sent: Wednesday, May 23, 2018 1:58 PM
To: Susan Kas
Cc: ██████████ (DSHS/CA)
Subject: Re: ██████████..

Let me know if you have any questions!! ██████████ can be a character... we called ██████████ after ██████████ talked to you and ██████████ is hoping/planning on being ██████████ placement after ██████████ leaves here but I have never heard that it was "officially the plan" but ██████████ is adamant that ██████████ wants ██████████ to come and live with ██████████! ██████████ definitely needs to continue to work on some things- not to minimize that ██████████ has already come a long way but ██████████ emotions management skills continue to be an area of concern for ██████████!

Thanks,
Heather

Confidential
Exhibit 10

When DRW asked whether there was timeline for discharge, the case manager responded it would depend on whether Washington would allow the individual to "be discharged unsuccessfully."

From: Heather Hunter
To: [Susan Kas](#); ██████████ (DSHS/CA)
Subject: Re: ██████████..
Date: Friday, May 25, 2018 8:15:43 AM

I guess the question would be if Washington is looking for ██████████ to successfully complete the program or be discharged unsuccessfully.... at this point it would be an unsuccessful discharge. ██████████ has made progress and changes and I certainly don't want to minimize that... but still struggles significantly at times and can be a real handful when ██████████ "gets stuck in my feelings" as ██████████ says!

Thanks,
Heather

Confidential
Exhibit 10

Despite no involuntary treatment proceedings or orders, the investigation participants' records suggests that they cannot discharge at will. While two of the individuals have recently discharged, both spent over a year out-of-state. The public defenders assigned to represent the third stated that as of the beginning of August, there was no discharge plan to return to Washington State.



Oversight of restraint use is inadequate.

The use of physical restraints has been widely criticized by advocates and policymakers as being harmful and dangerous for people with behavioral health conditions. For example, the federal Substance Abuse and Mental Health Services Administration (SAMHSA) has been committed to reducing and ultimately eliminating the use of restraint for the following reasons:

Studies have shown that the use of seclusion and restraint can result in psychological harm, physical injuries, and death to both the people subjected to and the staff applying these techniques. Injury rates to staff in mental health settings that use seclusion and restraint have been found to be higher than injuries sustained by workers in high-risk industries. Restraints can be harmful and often re-traumatizing for people, especially those who have trauma histories.

Beyond the physical risks of injury and death, it has been found that people who experience seclusion and restraint remain in care longer and are more likely to be readmitted for care.⁴⁸

Numerous other advocates echo these calls to limit, reduce and/or eliminate the use of physical restraint for young people.⁴⁹ As the U.S. Supreme Court held long ago, the right to be free from the unreasonable use of bodily restraint is a constitutionally guaranteed liberty that the state is obligated to ensure for individuals who are “wholly dependent” on the state.⁵⁰

Nevertheless, the use of physical restraints is a part of Clarinda Academy’s “seven levels of intervention.” According to students separately interviewed in the course of DRW’s onsite monitoring, Clarinda Academy uses physical restraints on a daily basis. The young interviewees described the same process and type of seated and supine restraints being used at Clarinda Academy. Multiple students demonstrated the same moves that staff use to pull their arms behind their back and force the student to sit on the ground where other staff would then assist in holding the student down. Several stated that the staff immediately put them on the ground and rarely if ever use standing or escort restraints. In several students’ words, “they just drop you.” One person reported being grabbed and forced to sit on the ground in a forward folded position so that the student’s head hit the ground, which resulted in the individual’s glasses getting broken. While conducting the interview, DRW observed this young person’s glasses were taped together. Some



students had been previously placed in Washington group homes and treatment facilities prior to being placed at Clarinda. When asked if they experienced or witnessed similar restraints occurring in Washington State, each answered with an emphatic “no.”

Some individuals reported to DRW during and after its monitoring visit that there were some exceptional Clarinda Academy staff who worked with them to de-escalate without physically intervening. Yet, they said there were also many staff who often used restraints even when students did not believe they were posing any risk of harm to themselves or others, and would keep students in restraints for longer than necessary. In some interviews, DRW heard allegations that staff use restraints when students try to walk away from a confrontational intervention. Several people repeatedly stressed that staff initiate restraints “if you move” during staff interventions.

DRW obtained individual files from both Washington’s Children’s Administration and Clarinda Academy to evaluate the oversight and practices for guarding against unsafe or unnecessary restraints. Based on documentation that DRW obtained from both Children’s Administration and Clarinda Academy, Washington has been failing to ensure the rights and safety of the young people placed at this institution.

State Law Requirements

Under the residential placement contracts with Washington State for each youth, Clarinda Academy must comply with Iowa State licensing standards.

1. Licensing or Statutory Requirements

The Contractor shall meet or exceed all minimum licensing requirements as required by statute, in the state in which the Contractor’s facility is located, for services provided under this Contract.

Exhibit E., Program Requirements Out of State Intensive/Residential Services, at p. 1

While both Washington and Iowa regulations limit the use of restraints to circumstances where restraint is necessary to prevent harm to self, others, or property, the Iowa regulatory requirements are not as narrow or prescriptive as the protections set forth in Washington’s regulations.⁵¹



Restraint Protections in State Regulations	Iowa	Washington
Limited to preventing harm or injury to self or others	✓	✓
Limited to preventing “serious” property damage		✓
Affirmative duty to redirect or de-escalate		✓
Standing position whenever possible	✓	
No obstruction of airway/breathing restrictions	✓	✓
No Prone Restraints	✓	
No pressure on heart, chest, or vital organs		✓
No pressure to joints		✓
Social worker/licensor written authorization required for regular use		✓

First, Washington’s rule only allows physical restraint to protect property from “serious damage” whereas Iowa code allows restraints to be employed to prevent any injury to property.⁵² During DRW’s monitoring in Washington State, several providers stated that they only employ restraints to prevent irreparable damage of property over a certain dollar value and would not restrain a youth for breaking inexpensive items, drawing or writing on walls, punching walls or doors, etc. DRW observed Washington providers in the process of making various repairs and understood that Washington providers consider making repairs to be a part of the supports they provide to youth who may be experiencing intense emotional problems.

Notably, Washington’s regulation affirmatively directs providers to avoid the need for restraints, stating:

“You must use efforts other than physical restraint to redirect or deescalate a situation, unless the child’s behavior poses an immediate risk to the physical safety of the child or another person, or of serious property damage.”⁵³

Conversely, Iowa’s regulation contains no such obligation for providers to actively avert crises that would necessitate restraints, and simply states, “The use of physical restraint shall be employed only to



prevent the child from injury to self, to others, or to property” and that these must be “in a standing position whenever possible.”⁵⁴ Thus, unlike Washington rules which explicitly requires providers to employ alternatives to obviate the need for restraint, Iowa’s regulation is silent about a duty to assist a young person to calm down without resorting to physical interventions.

Washington’s rule further prohibits using any types of restraint techniques that “restrict breathing, or inflict pain as a strategy for behavior control, or is likely to cause injury that is more than temporary,” and explicitly forbids any “Restriction of body movement *by placing pressure on joints*, chest, heart, or vital organs,” as well as other maneuvers such as choking, arm twisting, hair holds, etc.⁵⁵ Whereas, Iowa code only disallows “prone” restraints and any restraint that “obstructs the airway of a child.”⁵⁶ The young people at Clarinda Academy consistently described experiencing seated restraints involving pressure on their knees, shoulders, and elbows, which cause lasting pain and soreness in their necks, backs, arms, and legs. Unlike Washington’s regulations, Iowa’s rules do not explicitly proscribe pressure on joints as DRW observed young people independently demonstrate during monitoring interviews. In the one restraint that DRW witnessed during its monitoring of in-state facilities, staff were not putting pressure on any joints, and released the hold as soon as staff could safely bring the child to a room where the child could de-escalate.

Finally, Washington requires prior written approval from the DSHS social workers or licensors for use of physical restraints “on a regular basis.”⁵⁷ By contrast, Iowa’s rule calls for “the rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child’s rights and to ensure safety shall be set forth in the child’s record” but does not detail who must authorize the regular use of restraint.⁵⁸ There is no Iowa mandate for the child’s guardian or social worker to approve the routine use of restraints, nor is there a requirement that the authorization itself be in writing.

Reported Allegations

The individuals from Washington who had been placed at Clarinda Academy voiced their concerns about the use of restraints to others both before and after DRW’s February 2018 monitoring visit. While DRW could find no written consent by Washington social workers to authorize the routine use of restraints, all had received information about Clarinda’s practices and the young people’s complaints.⁵⁹ Yet,



the young people who spoke to DRW expressed doubts that their social workers could or would do anything to help them.

According to interviews and records, none of the Washington social workers had gone to Clarinda Academy to visit the individuals they had placed there. All of the young people were flown over 1700 miles to the State of Iowa where strangers picked them up and drove them to the facility.



Photos of view from plane and car en route to Clarinda Academy

Rather than sending Washington social workers to Iowa to conduct health and safety visits in person, Washington contracts with social workers in Iowa to meet with the young people and fill out a “Contracted Health and Safety Visit Report” form.

On the Visit Report form, there is a section on “Discipline Issues” with a question that asks: “What are the consequences if the youth breaks a rule?” Each form that DRW reviewed contained responses that all begin with identical language: “There are several consequences that can happen if a youth breaks the rules. **They can be restrained**, put into a verbal or group support” (emphasis added). The responses then include individualized examples of restraints each young person reported experiencing along with explanations for why the individuals understood they had been put in restraints. Several included voiced concerns and/or rationales that did not demonstrate an imminent risk to anyone’s safety.



Discipline issues:

a. What are some of the rules of the home or facility that the youth?
 ■ is to be respectful, follow directions, and listen.

b. What are the consequences if the youth breaks a rule?
 There are several consequences that can happen if a youth breaks the rules. They can be restrained, put into a verbal or group support. ■ reports that ■ was restrained the other day because ■ didn't know why ■ was in a verbal. ■ was in the restraint for 45 minutes. ■ also ran away on Monday and was caught.

Confidential
Exhibit 4
at p. 29

Discipline issues:

a. What are some of the rules of the home or facility that the youth?
 Students are expected to listen, follow the rules, and directions. ■ continues to struggle following the rules.

b. What are the consequences if the youth breaks a rule?
 There are several consequences that can happen if a youth breaks the rules. They can be restrained, put into a verbal or group support. ■ continues to have restraints weekly. ■ reports that ■ recently had one on Tuesday. ■ does not feel that ■ should be getting restrained all the time. ■ is a negative student right now as well.

Confidential
Exhibit 7
at pp. 14, 19

Discipline issues:

a. What are some of the rules of the home or facility that the youth?
 Students are expected to listen, follow the rules, and directions. ■ is trying to follow the rules per report. ■ does not feel like this is the place for ■ however.

b. What are the consequences if the youth breaks a rule?
 There are several consequences that can happen if a youth breaks the rules. They can be restrained, put into a verbal or group support. ■ has been restrained several times since arriving at Clarinda Academy. ■ reports that recently ■ told staff to restrain ■ and then ■ was assaulted by a peer and so they restrained ■ as well. ■ is having a hard time with the program because ■ does not like staff in ■ face when they intervene. ■ lets them know that they are triggering ■ from past events that have happened to ■. ■ identifies that they do not listen to ■.

Confidential
Exhibit 11
at p. 7

Discipline issues:

a. What are some of the rules of the home or facility that the youth?
 Students are expected to listen, follow the rules, and directions. ■ had a set back where ■ had to go to the restroom and they told ■ to wait. ■ said, "so I pouted like a 5 year old because I needed to go to the bathroom". Provider encouraged ■ to think about what ■ said. ■ knows that the behavior was wrong but ■ still did it. ■ reports that yeah ■ knew it was wrong.

b. What are the consequences if the youth breaks a rule?
 There are several consequences that can happen if a youth breaks the rules. They can be restrained, put into a verbal or group support. ■ was recently restrained because ■ was picking at ■ leg and ■ refused to give up ■ string. Provider encouraged ■ to think about why they may want ■ to give up the string. ■ was able to identify that they thought ■ was going to use it to self harm. ■ is on close observation right now due to cutting ■ but ■ did not identify with what object.



In addition, DRW found documentation in other Children’s Administration and Clarinda Academy records showing that social workers had received other reports about the use of restraints. One person’s case manager at Clarinda Academy sent an email to the Washington social worker to report the student’s allegations of being restrained, despite having done nothing.

Hi [redacted]... just passing on that [redacted] had another issue yesterday (1/18) which led to physical management. [redacted] claims "I didn't do nothing" but staff reported [redacted] was refusing to follow any instructions, yelling, threatening, then when asked [redacted] did go toward the breezeway between dorms and slammed the door open, they tried to talk and get [redacted] to calm down but [redacted] kept being loud and threatening/challenging, brought [redacted] hands up quickly and to be on the safe side they initiated a standing restraint which [redacted] fought against and it ultimately went to a supine restraint (on the floor) as [redacted] continued to fight the restraint.... [redacted] was in better mindset again this morning and told me [redacted] would work back but just letting you know!!! Big picture [redacted] is doing better but does have [redacted] moments!!

Confidential Exhibit 12 at p. 1

On another occasion, the visiting social worker also emailed Washington a “heads up” that this individual reported passing out as a result of another restraint.

Here is [redacted] note for the month. [redacted] continues to have set backs in [redacted] program and not doing well. [redacted] did talk about a restraint that happened and said [redacted] passed out. I did talk to staff about this to see if this happened. Staff has no record of this happening. They did report that [redacted] did feel dizzy after a restraint but did not have documentation that [redacted] passed out. Just a heads up of what [redacted] is saying happened.

Confidential Exhibit 12 at p. 2

After completing one Health and Safety visit, the contracted visiting social worker for these student emailed another “heads up” to the Washington worker about the student’s allegations regarding the restraint episode that resulted in the student’s glasses getting broken.

Here is [redacted]s note for the month. [redacted] is doing a little better in [redacted] behaviors since [redacted] is rated a positive student. Although, [redacted] was recently restrained where [redacted] glasses were broke. [redacted] identifies that it was because the pushed pushed [redacted] head to the ground. Just a heads up.

Confidential Exhibit 12 at p. 3

In a Health and Safety Visit Report for a different student from Washington, the contracted social worker recorded concerns that Clarinda Academy uses restraints “for no reasons.”

Relationship with caregivers:

a. Does the child feel safe in the placement or have any concerns?

[redacted] talked about not wanting to be at the placement. [redacted] reports that kids are restrained for no reasons. [redacted] feels [redacted] "bill of rights" are not being heard. Provider asked what [redacted] bill of rights are. [redacted] said [redacted] didn't know.

Confidential Exhibit 4 at p. 28



In response to one email specifically requesting a call to a student expressing concerns about restraints, the Washington social worker emailed back that her phone was not working.

>
> Hello,
>
> █████ stopped me and wanted to talk to me briefly. █████ is having a hard time with restraints and wants to talk about court. Can you try to give █████ a call at Clarinda Academy?
>
> Thanks,
>
> Erica
>
> Sent from my iPhone

Confidential
Exhibit 13

>
> Unfortunately my work phone is not working at the moment. We do have court on 08/22/17 at 9:30am. █████ copy along with your facilities copy is in the mail.
>

Despite numerous statements that Clarinda Academy uses restraints “all the time” as a “consequence” for breaking the rules, “to be on safe side,” or even “for no reason,” Children’s Administration case notes do not document any follow up by Washington social workers to talk with or visit the youth who had reported abusive restraints. DRW found no other evidence that reports by contracted social workers resulted in any action by Washington State to determine whether Clarinda Academy improperly uses restraints in violation of Washington’s own standards, i.e. WAC 388-145-1820, RCW 26.44.020 and RCW 9A.16.100.

Clarinda Academy’s Restraint Practices

Policy and Behavior Management Plans

To further investigate allegations of inappropriate restraints, DRW reviewed and requested Clarinda Academy’s policies and plans to assess the standards for employing restraints. Neither the policies nor the plans contained specific nor individualized guidance to help prevent incidents from escalating into restraint episodes.

Under Clarinda Academy’s “Physical Restraint/Crisis Intervention” policy, physical restraints are a “last resort option when students are creating situations which pose an imminent/immediate harm to themselves or others.”⁶⁰



The Clarinda Academy policy requires one of following criteria:

1. Imminent or immediate danger to themselves
2. Imminent or immediate danger to others
3. Any behavior including serious disruption, destruction of property or truancy that could pose an imminent or immediate danger to self or others.⁶¹

The policy does not define “imminent or immediate danger.” Unlike the other “Behavior Change Methodologies” policies that detail numerous examples of “norms” and “accountabilities,” the policy on physical restraint offers no examples of behavior that may indicate “imminent or immediate danger.” Additionally, there is no definition of “serious disruption” or examples of such disruptions that create “imminent or immediate danger.”

Nonetheless, DRW considered the possibility that more detailed descriptions of what constitutes “imminent or immediate danger” would be included in individual plans. Clarinda Academy’s policy states that treatment plans “should address any contraindications or inappropriate interventions for the student,” and Washington’s contracts with Clarinda Academy require that each student have an “Individualized Behavior Management Plan.”⁶² This plan should include details such as “safety issues” and “factors that may contribute to escalated behavior for the youth,” as well as “response strategies for preventing or defusing escalated behavior” and a “back-up plan for de-escalating behavior.”⁶³ Washington’s contract further obligates Clarinda Academy to obtain signatures on the Individual Behavior Management Plans “from the youth, the youth’s [Children’s Administration] Social Service Specialist, and parent” or “foster parent.”⁶⁴

In response to DRW’s request for “individual treatment and behavior support plans,” Clarinda Academy produced initial and quarterly assessments that its legal counsel confirmed contained the treatment and behavior plans.⁶⁵ The assessments included general references to negative attitudes, lack of motivation, refusal to take responsibility, tendency to argue disrespectfully with “authority,” and histories of criminal or “aggressive” or “menacing” behavior. Yet, DRW found no list of specific and current behaviors that present particular “safety issues.” None of the assessments contained explicit information to define actions that create an “imminent and immediate danger” or any



personally tailored instructions for limiting types of interventions or effective ways to help each student calm down. None had signatures from the youth or any Children’s Administration staff.

Remarkably, all the initial and quarterly assessments for each individual investigation participant contained identical generic language for a “crisis plan”:

CRISIS PLAN: [REDACTED] will be prompted to utilize positive coping skills in the event of a crisis situation both on campus as well as in the community environment. In the event of [REDACTED] becoming an imminent danger and/or when [REDACTED] struggles to manage what [REDACTED] sees as a crisis situation staff will utilize de-escalation techniques in order to help [REDACTED] appropriately manage the situation. [REDACTED] will utilize [REDACTED] support system as [REDACTED] has identified including Clarinda Academy staff, peers, and/or those identified in [REDACTED] treatment plan.

Confidential
Exhibit 14 at p. 6
(also pp. 13, 21, 29)

CRISIS PLAN: [REDACTED] will be prompted to utilize positive coping skills in the event of a crisis situation both on campus as well as in the community environment. In the event of [REDACTED] becoming an imminent danger and/or when [REDACTED] struggles to manage what [REDACTED] sees as a crisis situation staff will utilize de-escalation techniques in order to help [REDACTED] appropriately manage the situation. [REDACTED] will utilize [REDACTED] support system as [REDACTED] has identified including Clarinda Academy staff, peers, and/or those identified in [REDACTED] treatment plan.

Confidential
Exhibit 15 at p. 16
(also pp. 6, 24, 32)

CRISIS PLAN: [REDACTED] will be prompted to utilize positive coping skills in the event of a crisis situation both on campus as well as in the community environment. In the event of [REDACTED] becoming an imminent danger and/or when [REDACTED] struggles to manage what [REDACTED] sees as a crisis situation staff will utilize de-escalation techniques in order to help [REDACTED] appropriately manage the situation. [REDACTED] will utilize [REDACTED] support system as [REDACTED] has identified including Clarinda Academy staff, peers, and/or those identified in [REDACTED] treatment plan.

Confidential
Exhibit 16 at p. 15
(also p. 7, 23, 31)

(Note that pronouns in excerpts have been redacted for privacy, but in two of these examples, the “crisis plan” did not use correct gender pronouns in reference to the individuals.)

Staff Judgment

With no definition in policy to identify “danger” and no individualized treatment plans outlining what de-escalation strategies are most likely to be effective for each person, the records suggest that Clarinda Academy staff must use their own subjective assessments of danger. All staff must receive Safe Crisis Management (SCM) training before initiating a restraint, but personnel records of staff involved in restraint episodes of Washington youth show that this training is provided inconsistently. Some employees had been provided over 40 hours of SCM training, but a significant number had ten or less hours documented in their files. Three employees had documentation of three or fewer SCM training hours.⁶⁶

Furthermore, staff personnel records contained alarming facts pertaining to their individual judgment. For instance, the records showed that over a third of the twenty-six staff who had participated in



restraining Washington youth had convictions for criminal driving offenses or illegal use of alcohol and controlled substances.

Numerous staff had received multiple warnings or corrections for failing to adhere to various Clarinda Academy policies, some of which resulted in students being placed at risk. In some examples, students were harmed.

3. Supervisor's views: [redacted] demonstrated a failure to use distance, eyesight and awareness when another student was restraining another student in the same manner as a staff member would restrain a student.

Confidential Exhibit 17 at p. 59

WARNING			
Date of Violation: _____	→ <input checked="" type="checkbox"/> Substandard Work	<input type="checkbox"/> Carelessness	<input checked="" type="checkbox"/> Safety and Security
NATURE OF VIOLATION	<input type="checkbox"/> Absence	<input type="checkbox"/> Tardiness	
Time of Violation: _____	<input type="checkbox"/> Disobedience	<input type="checkbox"/> Conduct	
COMPANY REMARKS			

There was an incident that occurred on the floor on 6-3-17 where two students were able to sneak into another students room after lights out and assault another student. [redacted] was working the dorm on the evening of 6-3-17 and the issue wasn't found out about until the next day after it was brought to staff attention by a student.

Confidential Exhibit 17 at p. 60

One staff had been disciplined for using inappropriate restraint methods on three occasions before Clarinda Academy finally terminated that staff's employment.⁶⁷ This employee had been involved in at least three restraints for one of the Washington youth participating in DRW's investigation, although it is unclear whether any of the three restraints of the young person from Washington overlapped with any of the three restraints for which the staff was disciplined.⁶⁸

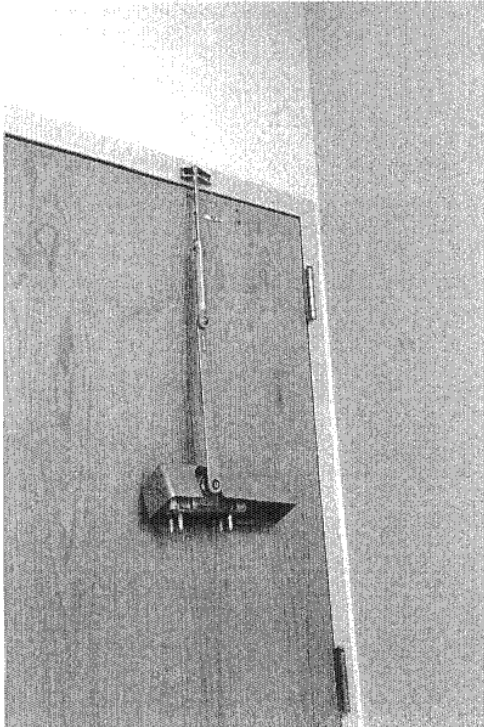
The third and final disciplinary action for this employee stated that this employee was "again" using an inappropriate restraint technique.

On 3/15/18 [redacted] was involved in a restraint with a student in which he again used improper SCM technique and was screaming at a student while in a physical management. Staff rotated [redacted] out of the restraint, per our training, and [redacted] stormed out of the room in a clearly aggravated manner shoving a door in Clarinda Academy's Upper Activity Center breaking a door. Due to the above mentioned behavior and [redacted] not completing the other correction action steps above I recommend [redacted]'s employment be terminated at Clarinda Academy.

Confidential Exhibit 17 at p. 64



When he was relieved of his position in restraining the student, he angrily “stormed out” and broke a door.



Confidential
Exhibit 17
at p. 65 with
photo of broken
door

Restraint Incidents

Based on the “Emergency Safety Intervention” (ESI) forms that Clarinda Academy staff use to document events leading up to each restraint episode, staff appear to use physical restraints for questionable reasons at best, and in some cases without justification. Several ESI forms documented at least one action by the student leading to the restraint, but there were no explanations in the individuals’ records or in the ESI forms to explain why staff interpreted the action to create an “imminent or immediate danger.”

For example, restraint episodes occurred when staff noticed one individual’s hands moving or clenching during a verbal intervention. While interviewing this person, DRW observed that this youth gesticulates abundantly when speaking, and the young person also described feeling physically tense when triggered. In these instances, though, staff interpreted the young person’s hand gestures as well as clenching face and hands as a signs of immediate danger, not signs of stress or an attempt to communicate in a moment of frustration.



In one of these episodes, a Clarinda Academy Youth Counselor initiated restraints after the individual moved a hand, even though the staff admitted to “not knowing” the individual’s “intentions.”

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: [redacted] was seen escalating to multiple group supports during which [redacted] began cussing at [redacted] staff and peers escalating to a Verbal Staff Intervention. [redacted] then began challenging staff and became aggressive. Staff then asked [redacted] to walk to the extending hallway to provide a safe environment for [redacted] peers and staff. On the way into the extending hallway [redacted] threw the door open being very aggressive. Staff then attempted to level with and talk to [redacted] but [redacted] continued to challenge and be aggressive. [redacted] then made a quick movement with [redacted] right hand towards staff and staff not knowing [redacted] intentions due to [redacted] aggressive demeanor [redacted] escalated to a single person upper torso. [redacted] then began attempting to walk staff backwards and escalated to a seated single person upper torso. [redacted] attempted to free [redacted] arms in the seated and escalated to a supine assist. [redacted] continued to attempt to free [redacted] arms and escalated to a full supine extension.

Confidential
Exhibit 18
at p. 29

Another incident was initiated by a Clarinda Academy Group Leader who had only 1.25 hours of SCM training documented in his personnel file.⁶⁹ The staff initiated the restraint after the young person clenched his hands and asked “or what?” when being “asked to accept intervention.”

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: The dorm had began running the nightly role plays of intervention. [redacted] began to escalate saying [redacted] “wasn’t gonna partake in these role plays.” [redacted] was intervened for leaving the bay, challenging [redacted] peers, and flipping [redacted] peers off escalating to a group support. While in a support [redacted] continued not accepting intervention and flip [redacted] peers off again escalating to a verbal staff intervention. [redacted] began making sudden flinching type movements in the verbal staff intervention while having [redacted] jaw clinched and [redacted] fist clinched, when asked to accept intervention [redacted] quickly turned sideways and yelled “or what” escalating to a single person upper torso assist. [redacted] began fighting trying to free [redacted] arms and push against staff escalating to a single person upper torso to a seated position. [redacted] began kicking [redacted] legs and trying to pull [redacted] arms free still escalating to a supine extension assist.

Confidential
Exhibit 18
at p. 32

The debriefing record merely mentioned a vague reference to the “nature of his actions and past behaviors” to explain “what exactly led to their uncertainty” and “need to initiate restraint.”

Discuss the ESI (including events leading up to ESI and de-escalation attempts) and if there is anything we could do better or differently next time. Review of discussion:

It was discussed with staff what exactly led to their uncertainty of [redacted] actions and the need to initiate restraint. Other potential de-escalation techniques were discussed but ultimately with the nature of [redacted] actions and past behaviors appropriate scm was necessary for this situation.

Confidential
Exhibit 18
at p. 33



On yet another occasion, a Group Living staff whose file documented only 2 hours of SCM training initiated a restraint because that same young person was cursing and not following instructions to keep the person's hands down to the side.⁷⁰

Explain events leading up to the ESI and how student's behaviors presented as imminent danger: [REDACTED] was laying in [REDACTED] bed when [REDACTED] was instructed to get in the bay with the group. [REDACTED] refused to follow instructions staff followed [REDACTED] levels to a verbal staff intervention. Staff instructed [REDACTED] to get off [REDACTED] bed and go to the bay with [REDACTED] peers [REDACTED] started cursing staff telling them to "F [REDACTED] Themselves " and calling them "bitches". Staff instructed [REDACTED] to follow last instruction and go to the bay or to the shoe closet to talk to staff. [REDACTED] continued to say "F [REDACTED] You Bitches to staff. [REDACTED] got out of [REDACTED] bed and continued to yell at staff while in the verbal staff intervention [REDACTED] yelled "F [REDACTED] You" as [REDACTED] lifted [REDACTED] hands towards staff [REDACTED] was instructed to put [REDACTED] hands to [REDACTED] side. [REDACTED] yelled "F [REDACTED] You" Again lifting [REDACTED] hands towards staff. Not knowing [REDACTED] intentions and for safety of others staff initiated a single person upper torso. [REDACTED] started fighting the restraint instantly escalating to a multiple person upper torso. [REDACTED] then continued to fight trying to pull away from staff escalating to a seated. While in the seated [REDACTED] was digging [REDACTED] chin in to the staff on [REDACTED] legs and threatening to bite staff escalating to a supine extension.

Confidential
Exhibit 18
at p. 20

Similarly, staff restrained another student a week after the person had been admitted to Clarinda Academy for violating expectations to be "still and respectful" during staff interventions. Staff interpreted the student's shoulder movement to demonstrate an intention to swing an arm toward staff and placed the student in a seated restraint:

Explain events leading up to the ESI and how student's behaviors presented as imminent danger: [REDACTED] was seen getting feedback from [REDACTED] peers for going truant last night during guided group interaction. [REDACTED] wasn't open to feedback as indicated by [REDACTED] throwing off non-verbal facial expressions and not showing eye contact to [REDACTED] peers when they were trying to give [REDACTED] positive feedback and helpful advice. [REDACTED] then escalated to a verbal staff intervention for being disrespectful to [REDACTED] peers. While in this issue, [REDACTED] began to justify [REDACTED] behaviors and argue with staff. [REDACTED] turned [REDACTED] right shoulder as if [REDACTED] was going to swing [REDACTED] arm toward staff. Due to [REDACTED] being unsafe and moving when [REDACTED] knew the expectations of a verbal staff intervention were to be still and respectful, staff initiated a single man upper torso. [REDACTED] then escalated to a single man upper torso in a seated position for moving [REDACTED] body from side to side trying to free [REDACTED] from staff's grasp.

Confidential
Exhibit 19
at p. 1

According to this student's initial case plan and subsequent assessments, the reason for admission included running away and discussed a history of substance abuse without documentation of any historical signs of aggression that would support staff's interpretation that turning a shoulder indicated an intent to assault staff. Yet, when uncertain about a student's intentions, staff acted as if the student's motions were in preparation for an assault and erred on the side of escalating to the highest level of physical restraints.

CURRENT PRESENTING ISSUES

Reason for Admit: Reports indicate that [REDACTED] has struggled with running away from [REDACTED] court ordered placements. [REDACTED] was admitted to Clarinda Academy after being denied from other placements. [REDACTED] was transported to Clarinda Academy from Juvenile Detention.

Confidential
Exhibit 16
at p. 2



Yet another investigation participant experienced a restraint episode when staff observed the young person scratching the person’s own leg, which is not typically an action that could reasonably be viewed as creating a “danger.”

Explain events leading up to the restraint and how student’s behaviors presented as imminent danger: [REDACTED] was observed standing in [REDACTED] doorway . When [REDACTED] was addressed to show [REDACTED] hands to staff at all times because [REDACTED] is on close observation [REDACTED] became disrespectful escalating to a staff verbal for being disrespectful, cursing, and failing to follow through with last given instruction. While in a verbal staff intervention [REDACTED] continued to be disrespectful and started to scratch at [REDACTED] legs. When asked to stop scratching [REDACTED] legs [REDACTED] refused escalating to a single person upper torso. Once initiated [REDACTED] started struggling and fighting with staff escalating to a seated upper torso. _____

Confidential
Exhibit 20
at p. 4

Describe attempts to de-escalate: [REDACTED] was given several helpful levels of intervention to change her behaviors. _____

Nothing in the initial and quarterly assessments for that student discussed a particular danger associated with scratching. Instead, the assessments for this student repeated listed “current presenting issues” as being aggressive towards *others*, not self.

CURRENT PRESENTING ISSUES

Reason for Admit: [REDACTED] was placed at Clarinda Academy due to needing a [REDACTED] structured placement and being physically aggressive towards [REDACTED] peers and staff from [REDACTED] previous placement. [REDACTED] reports [REDACTED] is [REDACTED] “because of ODD”. [REDACTED] was last placed at Forrest Ridge prior to coming to Clarinda Academy.

Confidential
Exhibit 14
at pp. 1, 8,
16, 24

The assessments documented self-reports that the student had disclosed a history of engaging in self-harm, and at least one of the assessments stated that this student had been placed on close observations for expressing *thoughts* of self-harm while at the facility. But, the treatment plans had no descriptions of the student’s signs of self-harm or the types of self-harm that individual would be likely to attempt. Nor was there any information on the ESI form or other records about strategies other than the “7 levels” of intervention for re-directing or de-escalating when staff were concerned about possible self-harm. In a later interview, this person identified a handful of staff who were very skilled in helping to de-escalate without “using their hands,” but stated that other staff would go so far as to taunt with sarcastic questions such as, “why don’t you just go and cut yourself?”



Finally, some ESI forms completely failed to document any actions that would indicate “an imminent or immediate danger” as required by Clarinda policy as well as Iowa and Washington regulations. Records documented episodes that escalated into a restraint after the student pushed through staff in an attempt to walk away from an “intervention,” with no logical explanation of any ongoing threat or risk of harm.

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: _____

While transitioning into the AC [redacted] stormed away from the line in the hallway outside the AC. [redacted] was intervened by staff and while being intervened [redacted] walked away from intervention. [redacted] walked away from the staff intervention towards the door on the other side of the gym as staff trailed [redacted] ensuring safety calling for [redacted] to stop multiple times. After staff tried to position themselves in front of [redacted] to prevent [redacted] from going out the door [redacted] continued to walk towards the door pushing through the staff in front of [redacted] escalating to a single person upper torso at which time [redacted] immediately turned side to side pulling [redacted] arms out of staff grasp further escalating to a seated position and eventually on to a supine extension for continued struggling and being combative to the restraint. Upon transfer to the supine extension [redacted] began to calm down and deescalated in around 10 minutes.

Describe attempts to de-escalate: Staff attempted to run the seven levels of intervention, but due to the fact that [redacted] was deemed non-threatening, the staff did not have an opportunity to reach all seven levels.

Confidential
Exhibit 20
at p. 10

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: [redacted] is on close observation. [redacted] refused 5 requests to return to [redacted] seat when [redacted] was standing by the door threatening to leave the room. I called for a group support and [redacted] pushed past me and stepped out into the hallway At this point staff attempted to initiate a bicep assist however [redacted] was able to pull [redacted] left arm away from staff further escalating to a single person upper torso.

*ingle person upper torso assist. He took over and I returned to my classroom.

Describe attempts to de-escalate: [redacted] had escalated earlier in skills and had been intervened to stay in the room and be respectful and focus on the lesson. [redacted] did not comply with this and again got out of [redacted] seat and I asked [redacted] repeatedly to sit down and stay away from the door.

Confidential
Exhibit 20
at p. 13

A different student was restrained for running away from the staff assigned as the individual’s “staff shadow.” While it may be a rule or norm violation to leave a staff shadow, the records did not offer any description for what “imminent danger” this created or why the “staff shadow” could not simply follow the student without making physical contact. Again, staff admitted that the student’s intentions were unapparent, offering no justification to believe the individual was imminently preparing to harm self, others, or property.

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: [redacted] was instructed to take [redacted] coat to the shoe closet to be hung up. [redacted] refused to get up. Staff again asked [redacted] to walk with [redacted] staff to the shoe closet as [redacted] was on staff shadow. [redacted] got up and ran down the hallway away from the staff [redacted] was supposed to be with, due to staff being unsure of [redacted] intentions [redacted] escalated to a single person upper torso.

Describe attempts to de-escalate: Staff spoke to [redacted] in a respectful and calm manner to get with [redacted] staff

Confidential
Exhibit 18
at p. 26



That same young person had been restrained on another day for refusing to leave a meal area so that the others “could continue to eat without disruption.” Nothing in that ESI report documented that this individual took any action to create anything other than a nuisance for others.

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: [REDACTED] was a constant disruption in the café, escalating to group supports intentionally so that [REDACTED] peers were not able to sit down and eat. [REDACTED] peers were becoming agitated over [REDACTED] antagonistic behaviors. Staff asked [REDACTED] to leave the café so that they could continue to eat without the disruption. [REDACTED] refused to leave escalating to an extended arm escort. While in the escort [REDACTED] threw [REDACTED] weight side to side trying to break free from the escort. Due to [REDACTED] continued struggles [REDACTED] escalated to a single person upper torso.
Describe attempts to de-escalate: [REDACTED] Staff and students used appropriate intervention. [REDACTED] was given a fresh start each time [REDACTED] escalated in hopes that [REDACTED] would stop taking issues to a group support.

Confidential
Exhibit 18
at p. 13

Likewise, an investigation participant was also restrained for refusing to leave an area that students of the opposite gender were going to be using. Even though it is against Clarinda Academy norms for male and female students to be in the same areas, there was no indication that allowing this individual to remain in the hallway with students of the opposite gender would put anyone in harm’s way.

Explain events leading up to the ESI and how student’s behaviors presented as imminent danger: [REDACTED] was given multiple opportunities to move from the hallway that the [REDACTED] were supposed to be utilizing. Staff then gave [REDACTED] four more opportunities to just walk to the other hall way. [REDACTED] then told staff to “F [REDACTED] off”. [REDACTED] Was given one more opportunity to move and when [REDACTED] refused [REDACTED] escalated to a two person escort. [REDACTED] then began to kick and punch at staff [REDACTED] then escalated to a multiple person upper torso. [REDACTED] then was seen continuing to kick and punch at staff where [REDACTED] escalated to a supine assist [REDACTED] then began to try to get out of the restraint and continuing to kick and punch staff was seen escalating to a full supine extension.
Describe attempts to de-escalate: [REDACTED] was seen given multiple opportunities to change [REDACTED] negative behaviors.

Confidential
Exhibit 19
at p. 17

The documentation DRW obtained demonstrates that Washington and Clarinda Academy are both failing to protect against the use of restraints for coercion or punishment for not following expectations. The Academy’s vague policy, generic crisis plans, inconsistent training, and tolerance for various staff misconduct - including tolerance for inappropriate restraints - create a fertile breeding ground for improper practices that would violate both Iowa and Washington rules. Even when provided with written reports, Washington social workers do not follow up on allegations of abusive restraints.



Furthermore, the allegations of abusive physical restraints are consistent with many of Clarinda Academy's own records. Although there were instances when Clarinda Academy staff documented a reasonably sound basis to believe a restraint was necessary to prevent injury to self or others, the records do not contradict the repeated allegations from multiple students that staff will also initiate restraints "if you move" during an intervention. Indeed, the records seemed to confirm that staff often interpret movement or failure to hold one's arms to the side or be "still and respectful" as signs of danger that necessitates a physical restraint. Moreover, Clarinda Academy is in breach of its contract requirement to develop individualized behavior management plans. Consequently, staff do not have instructions for de-escalating situations as Washington's regulations would require.

As demonstrated by Clarinda Academy's ESI records, all of the investigation participants from Washington have experiences with staff initiating restraints based on conclusory assumptions of danger, without explanation of any ongoing risk, or absent any identified threat at all.

Treatment fails to address complex trauma.

The State of Washington owes a duty to the young people who are in the custody of its foster care system. Foster children have a right to be "free from unreasonable risk of harm, including a risk flowing from the lack of basic services, and a right to reasonable safety."⁷¹ The state, acting as their "custody and caretaker" must provide for "adequate services" based upon the "exercise of professional judgment, standards, or practices."⁷² As the Washington Supreme Court observed:

"Foster children, because of circumstances usually far beyond their control, have been removed from their parents by the State for the child's own best interest. More often these children are victims, not perpetrators. Foster children need both care and protection. The State owes these children more than benign indifference and must affirmatively take reasonable steps to provide for their care and safety."⁷³

Furthermore, as beneficiaries of the Medicaid program, foster children are entitled to receive necessary mental health services, provided in a "reasonably effective" manner.⁷⁴



Dr. Gauri Goel is a psychologist who has spent much of her career providing treatment to adolescents in residential facilities.⁷⁵ Based on her practical experience, Dr. Goel is aware of the realities in providing treatment in congregate care settings. Having provided treatment to young people with histories of complex trauma, she has expertise in recognizing the needs of youth who have experienced abuse and neglect. As a practitioner in the public mental health system, she has direct knowledge of the professional standards for providing adolescent mental health treatment to address complex trauma symptomology.

Dr. Goel explains in her report summary that complex trauma is the “dual occurrence of exposure and adaptation to experiences of prolonged, multiple, and chronic events of trauma endured during childhood.”⁷⁶ Her summary describes how exposure to complex and prolonged forms of trauma may result in symptoms that include “impairments in self-regulation that often lead to various forms of maladaptive behavioral expressions.”⁷⁷ Dr. Goel summarizes how an understanding of behaviors as symptoms of complex trauma can inform clinical interventions:

“When assessed and treated through the complex trauma lens, behaviors are seen as an adaptation to complex trauma exposure rather than behavioral dysfunctions that are rooted in various other psychiatric conditions. When the basis of behavior is explored and attended through as a manifestation of complex trauma exposure, symptoms of trauma (including behavior) can be attended to.”⁷⁸

Unfortunately, treatment is often misguided. Dr. Goel cites research finding that youth with complex trauma symptoms are often diagnosed with conduct or oppositional disorders, as well as depression, anxiety, personality disorders, attention deficit hyperactivity disorders, substance abuse disorders, and bipolar disorder.⁷⁹ According to the research cited in her report summary, when treatment is based upon diagnoses “that are regarded as behavioral and not trauma-related diagnostic structures, the devastating reality is that their treatment is geared away from developmental responses to trauma ‘which is not only less effective but can be potentially harmful to the child over time.’”⁸⁰ Specifically, Dr. Goel warns that if strategies to address behaviors fail to consider trauma history, “the behavior may be reinforced as trauma triggers may inadvertently occur through the behavior modification process.”⁸¹



To assess whether the young people from Washington have been receiving adequate treatment at Clarinda Academy, Dr. Goel reviewed the records DRW collected from Children's Administration and Clarinda Academy, and interviewed the individuals as well as Clarinda Academy's Clinical Director. Based upon child welfare records and interviews with the individuals, she found that prior to their admission to Clarinda Academy, all of DRW's investigation participants had experienced complex trauma including physical or sexual abuse and separations from biological and/or adoptive family members. In Dr. Goel's opinion, records documented each of them exhibiting symptoms commonly displayed by young people who have experienced complex trauma.⁸² However, based on their records and interviews, Dr. Goel concluded that Clarinda Academy is not offering treatment that acknowledges and/or attends to each of their complex trauma needs.⁸³

Dr. Goel stresses that individualized strategies to attend to complex trauma needs can be effective in helping youth recover. As she states in her report summary:

“By attempting to understand and attend to trauma symptomology unique to each youth, programs have the capability to aid youth in increasing their awareness of their own symptomology while working alongside them in creating individualized strategies that help them succeed. For one youth, taking time away from a potentially triggering climate might be the most effective strategy, whereas another youth might identify that he/she might be most supported with a trusted staff sitting quietly next to them for a few minutes. There are countless intervention strategies that can be employed at any given time. ***One intervention that works well for a particular youth might further escalate his/her peer. It is therefore imperative to make the effort in attending to each youth individually.***”⁸⁴

But, after reviewing Clarinda Academy treatment files, Dr. Goel found “no available information to support that the youth being treated are engaged in the process of creating a safety plan based on identifying their trauma triggers and corresponding strategies that they can employ with the aid of providers.”⁸⁵

In her report, Dr. Goel details how the inadequate treatment at Clarinda Academy has affected each of the individuals. In the summary of her opinion, she writes:



“Each youth’s treatment plan and corresponding therapy records at Clarinda Academy suggests that their behavior is being treated with little consideration for the impact of their complex trauma symptomology and/or needs. Given each youth’s expression of distress associated with the current behavior modification strategy employed by the Clarinda Academy program structure, reports that their trauma needs are not being addressed in individual therapy, and provided records that do not reflect a treatment plan and individual therapy that seek to explore the impact of and adaptation to trauma exposure specific to each youth, the treatment they are receiving is likely to be ineffective and potentially counterproductive in attending to their trauma-related needs.”⁸⁶

Dr. Goel further observed the distress caused by separation from established supports in Washington.⁸⁷ The summary recounts her interviews with all the investigation participants who “strongly proclaimed their ultimate goal to be returned to their home state in order to engage with health relationships they had created there (potential discharge locations), engage in treatment programming that addresses their specific trauma needs, and be in a physically safe environment.”⁸⁸ Yet, Dr. Goel found “they are being distanced from those who may be able to provide them with a sense of safety and security both within the here-and-now and as potential future caretakers.”⁸⁹

Finally, Dr. Goel opined that providing appropriate trauma-informed treatment would alleviate the need to use physical restraints, which have an even greater potential to harm youth with complex trauma. In the summary, she explains:

“Most significantly, the use of a trauma-informed approach allows for youth to avoid being engaged in physically restrictive interventions, which have the potential to further escalate their trauma symptomology and re-traumatize youth. If a youth has a history of being physically dominated and perpetrated against, he/she may experience significant psychological distress when being physically restrained.”⁹⁰

The Clarinda Academy students talked to Dr. Goel about how being put in restraints felt. One person said “it just adds on” to emotions from earlier trauma this individual had suffered. Another advised that if given the opportunity to run a program to help youth with traumatic pasts, the first rule would be “never use your hands” because that “just



escalates everything.” Dr. Goel’s summary acknowledges the harm the young people voiced in their interviews:

“All three youth have reported a significant amount of distress experienced both physically and emotionally due to their involvement in physical interventions at Clarinda Academy. Two of the three youth have likened physical interventions at Clarinda Academy to their histories of being perpetrated against, thus reporting the endurance of traumatic stress during and after restraints. It is likely that their described experiences of physical restraints that were unjustly employed and painfully executed exacerbated the level of internal distress already experienced.”⁹¹

Dr. Goel concludes by recommending a program “dedicated to assessing and addressing individual complex trauma needs collaboratively with each youth in Washington State.”⁹² Her full report contains discussion of each youth’s needs and a set of trauma-informed recommendations for Washington-based programs to treat these and other complexly traumatized youth.



Recommendations

In August 2018, DRW submitted this report to the Department of Children Youth and Families (DCYF), a new Department that began serving as Washington's child welfare agency in July 2018. DCYF and DRW met on October 1, 2018 to discuss strategies for addressing the problems identified in its investigation. DCYF affirmed its goal to be able to serve all foster youth in Washington State, and is committing to complete in-person visits to all youth who are currently in out-of-state placements.

Below are DRW's recommendations for restoring the rights of the Washington youth who have been subjected to emotional and physical abuse by Clarinda Academy, and for preventing risk of further harm in other out-of-state institutions.

1. DCYF should immediately terminate all contracts with Clarinda Academy.

Clarinda Academy does not have a track record to warrant additional or continuing contracts for serving Washington foster youth. This report and exhibits illustrate failures to provide individualized treatment and behavior supports in violation of Washington contracts. In addition, this investigation revealed evidence of physical restraint practices that, if conducted in Washington, would violate Washington regulations. As demonstrated by its own policies, using restraints is engrained in Clarinda Academy's "seven levels of interventions" and serves as the foundation for coercing compliance with its countless norms.

To ensure the safety and adequate treatment of Washington's foster children, DCYF should remove all the young people who are currently placed at Clarinda Academy and discontinue placing additional youth at this institution.



2.DCYF should audit all other out-of-state placements and end contracts with any other non-compliant facilities.

Out-of-state contractors should not be allowed to deliver lower quality services with fewer safety protections than is required for in-state providers. In addition to its onsite visits, DCYF should conduct audits with detailed record reviews to ensure treatment and behavior plans are appropriate and individualized, and review use of restraint practices for compliance with Washington requirements.

In order to adequately evaluate contractor performance, this review should include an assessment of all discipline and behavior policies, treatment plans, behavior plans, education plans, progress notes, restraint records, and documentation of staff restraint training sessions and curriculums. The assessment should analyze and compare treatment and behavior supports and resulting progress toward individualized treatment goals. DCYF should ensure all restraint records contain explicit documentation of pre-restraint de-escalation efforts, and that staff trainings are consistent with Washington licensing standards for acceptable restraint techniques. DCYF should cease to contract with all providers where there is a pattern or practice of neglecting to provide individualized supports or misusing restraints for non-emergent or otherwise unjustified reasons.

3.DCYF should conduct an internal audit of all out-of-state placements.

Considering the available alternative in-state facility for one individual prior to placement in Iowa, delayed discharge planning for a willing in-state placement of another individual, and repeated failures to respond to allegations of abusive physical restraints, DCYF should conduct an internal review of its case management practices. DCYF should evaluate each of its current out-of-state placements to ensure compliance with its own standards to conduct and document an exhaustive search for in-state options, to engage in active discharge planning, and to respond to any reports of abuse or neglect by out-of-state providers. DCYF should determine whether it needs additional



resources or trainings for social workers to identify alternative in-state and/or less restrictive options and to promptly follow-up on reports of alleged misuse of restraints.

4. DCYF should provide for all young people to receive visits from their natural support systems and prospective placements.

The young people who do not have involved biological or adoptive families need to stay connected to individuals who care about them, regardless of where they are placed. When no biological or adoptive family are seeking contact or reunification, any non-family supports desiring and qualifying to serve as a potential permanent placement should be eligible for travel assistance to facilitate ongoing contact, especially when a youth is located in an out-of-state facility where travel costs prevent regular visitation. DCYF should invest in promoting these relationships and clarify its policies to ensure that youth without family involvement are not barred from fostering relationships with caring and supportive non-family members.

5. DCYF should engage a multi-disciplinary team dedicated to building support plans for the least restrictive placements appropriate to each young person's needs.

DCYF should build a specialized team of social work, advocacy (i.e. CASA's and youth advocates), and behavioral health professionals with experience and expertise in providing services to youth with histories of complex trauma to review the strengths and needs of each youth who is placed or is at imminent risk of being placed out-of-state. The team should be charged with conducting intensive case reviews to identify each young person's underlying unmet needs leading to out-of-state institutionalization and to develop placements with Washington providers, family members, foster parents, or other qualified individuals willing to embrace youth in their homes. The team



should have authority to negotiate child-specific contracts with in-state providers, arrange evaluations and services for family reunification or placement with foster or non-family supports, develop and implement strategies to achieve stability and permanency, and provide coaching and training to providers and social workers.

Rather than simply expanding capacity in non-permanent group homes, this intensive multi-disciplinary approach to supplement in-state congregate care capacity would aim to ensure placements in the least restrictive and most integrated settings for young people to grow into healthy and independent adults.

Conclusion

Washington State's child welfare system has been isolating young people against their will in an exceedingly restrictive institution over 1700 miles away from their friends and family. In addition, this institution allows abusive restraint practices that Washington rules would prohibit in-state providers from using. Already having experienced complex trauma, the young people who have been placed at Clarinda Academy have suffered additional emotional and psychological harm.

To heal from old and new wounds, young people with histories of complex trauma need individualized treatment that will help them learn their own symptoms and effective strategies to successfully overcome the struggles they have already had to endure. Dependent and legally free youth with these kinds of histories are relying on Washington's foster care system to provide them with trauma-informed treatment that does not drive deeper wedges between them and their communities, that does not utilize cookie-cutter crisis plans and rigid behavioral interventions, and that does not ignore the underlying causes for their challenges.

To achieve all of these things, Washington must stop sending young people to places where the youth are further isolated from their communities and Washington cannot oversee their treatment. Clarinda Academy and other out-of-state institutions are segregating youth from any family or natural supports they need to be developing. As illustrated by the examples at Clarinda Academy, out-of-state placements limit Washington's ability to regulate practices and ensure services are appropriately tailored. To stop the harm youth are suffering, Washington must bring them home.



End notes

¹ See Protection and Advocacy of Individuals with Mental Illness (PAIMI) Act, 42 U.S.C. §10801 *et. seq.*; Developmental Disabilities Bill of Rights (DD) Act, 42 U.S.C. 15041 *et. seq.*, and the Protection and Advocacy of Individual Rights (PAIR) Act, 29 U.S.C. § 794e.

² *Id.*

³ 42 U.S.C. §15043(a); 42 U.S.C. § 10805(a); 29 U.S.C. § 794e(f).

⁴ *Id.*

⁵ See Programs listed at <http://www.sequelyouthservices.com/>; Children's Administration November 2017 Contract List, Exhibit A.

⁶ *Id.*

⁷ As Dr. Goel explains, young people who have been through multiple traumatic experiences are "at a significantly higher risk of experiencing detrimental psychological impairments when compared to youth who have endured single-incident trauma." Expert Report and CV, Exhibit D.

⁸ Under 42 U.S.C. § 10805, P&A's may access records of individuals who give consent to conduct investigations of abuse and neglect.

⁹ Copies of complete and non-redacted records are being attached as Confidential Exhibits 1-20. These records will not be publically available and should not be subject to public disclosure.

¹⁰ 42 C.F.R. § 51.2

¹¹ *Id.*

¹² See Expert Opinion and CV, Exhibit D

¹³ <http://www.clarindaacademy.org/>; Clarinda Academy Information, Exhibit B.

¹⁴ *Id.*

¹⁵ See <http://www.sequelyouthservices.com/>

¹⁶ <http://www.glenmillsschool.org/about/history/>

¹⁷ Exhibit B.

¹⁸ Exhibit B at p. 6.

¹⁹ Students and administrators from both Clarinda and Woodward Academy explained the use of the "seven levels of intervention" to address norm violations. See *also* Exh. B at p. 7.

²⁰ Exhibit B at p. 7.

²¹ 28 C.F.R. § 35.130(d).

²² *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 119 S. Ct. 2176 (1999).

²³ 20 U.S.C. § 1412 (a)(5).

²⁴ See 20 U.S.C. § 1401(3)(A)(i) (defining "child with a disability" to include a child "serious emotional disturbance").

²⁵ Exhibit C. at p. 9 ("Children's Rights Communication").

²⁶ *Id.*

²⁷ Exhibit C. at p. 16 ("Family Involvement Visitation").



²⁸ Clarinda Academy Policies, Exhibit C at 1 (“Children’s Rights Student Rights and Responsibilities”).

²⁹ Exhibit C at p. 22 (“Behavior Change Methodologies Physical Restraint/Crisis Intervention”).

³⁰ Initial and Quarterly Assessments, Confidential Exhibits 14-16.

³¹ Exhibit C at p. 27 (“Behavior Change Methodologies Behavior Expectations/Campus Norms”).

³² Exhibit C. at p. 32 (“Behavior Change Methodologies Behavior Expectations (Range of Consequences)”).

³³ *Id.*

³⁴ *Id.*

³⁵ Exhibit C at pp. 27 (“Behavior Change Methodologies Behavior Expectations/Campus Norms”).

³⁶ *Id.* at pp.27-29.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Exhibit C at pp. 35-37 (“Behavior Change Methodologies Behavior Expectations (Range of Consequences) Contraband Search”).

⁴⁰ See e.g., *Addington v. Texas*, 441 U.S. 418, 425, 99 S. Ct. 1804, 1809, 60 L. Ed. 2d 323 (1979) (“This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.”).

⁴¹ RCW 71.34.520.

⁴² RCW 71.34.610-620.

⁴³ RCW 71.34.610.

⁴⁴ RCW 13.34.320.

⁴⁵ RCW 13.34.330.

⁴⁶ Laws of 1999, ch. 188 § 1.

⁴⁷ See e.g. Confidential Exhibit 8, at p. 11.

⁴⁸ See <https://www.samhsa.gov/trauma-violence/seclusion>

⁴⁹ See e.g. <https://www.psychologytoday.com/us/blog/talking-about-trauma/201709/lets-eliminate-physical-restraints-in-group-homes>;
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.625.3790&rep=rep1&type=pdf>
; <https://www.cwla.org/reducing-restraint-and-seclusion/>

⁵⁰ *Youngberg v. Romeo*, 457 U.S. 307, 316, 102 S. Ct. 2452, 2458, 73 L. Ed. 2d 28 (1982).

⁵¹ Compare 441 IAC 114.20(237) to WAC 388-145-1820.

⁵² *Id.*

⁵³ WAC 388-145-1820(1) (emphasis added).

⁵⁴ 441 IAC 114.20(237)(3).

⁵⁵ WAC 388-145-1820(3)(a).

⁵⁶ 441 IAC 114.20(237)(3).

⁵⁷ WAC 388-145-1820(4)

⁵⁸ 441 IAC 114.20(237)(3)



⁵⁹DRW found no references to giving written consent, and there was nothing regarding use of restraints on the standard consents requested by Clarinda Academy at admission. See e.g. Confidential Exhibit 5.

⁶⁰ Exhibit C at p. 22.

⁶¹ *Id.*

⁶² Exhibit C at p. 23; Statement of Work Out of State Intensive Residential, Exhibit F at p. 3

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ See Confidential Exhibits 14-16.

⁶⁶ See training records in Confidential Exhibit 17 at pp. 1-58.

⁶⁷ See disciplinary actions reports in Confidential Exhibit 17 at pp. 61-65.

⁶⁸ Compare disciplinary actions reports in Confidential Exhibit 17 at pp. 61-65 to Confidential Exhibit 18 at pp. 23, 32, and 35.

⁶⁹ See training records in Confidential Exhibit 16 at pp. 1-29

⁷⁰ See training records in Confidential Exhibit 16 at pp. 30-39

⁷¹ *Braam ex rel. Braam v. State*, 150 Wash. 2d 689, 699, 81 P.3d 851, 857 (2003).

⁷² *Id.* at 700-01.

⁷³ *Id.* at 703.

⁷⁴ *Katie A., ex rel. Ludin v. Los Angeles Cty.*, 481 F.3d 1150, 1159 (9th Cir. 2007).

⁷⁵ See Exhibit D.

⁷⁶ *Id.* at p. 1.

⁷⁷ *Id.*

⁷⁸ *Id.* at p. 2.

⁷⁹ *Id.*

⁸⁰ *Id.* at pp 1-2.

⁸¹ *Id.* at p. 1.

⁸² *Id.* at p. 2.

⁸³ *Id.* at p. 1.

⁸⁴ *Id.* at p. 3.

⁸⁵ *Id.* at p. 4. Moreover, records do not demonstrate consistent training to ensure staff are adequately educated about meeting trauma-related needs. DRW found that four of the employees involved in physical restraints of Washington youth had not received Trauma Informed Care training, and the other 22 employees received approximately 1.5 hours of Trauma Informed Care training annually. At least four employees have received no documented training on suicide prevention.

⁸⁶ *Id.* at 4.

⁸⁷ *Id.* at pp. 3-4.

⁸⁸ *Id.* at p. 3

⁸⁹ *Id.* p. 4

⁹⁰ *Id.* at 3.

⁹¹ *Id.* at pp. 4-5.

⁹² *Id.*