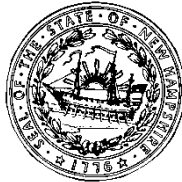


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November 14, 2014

David Armstrong, Administrator
Lakeview NeuroRehabilitation Center
244 Highwatch Road
Effingham, NH 03882

Re: Special Monitoring (RSA 186-C: 5) Findings of Noncompliance

Dear Mr. Armstrong:

The New Hampshire Department of Education (NHDOE), Bureau of Special Education (Bureau) appreciated your cooperation during the special monitoring on-site visit on October 10, 2014 conducted by Bureau staff, Santina Thibedeau, State Director of Special Education and Deborah Krajcik, Education Consultant, and the on-site visit on October 29, 2014 with Santina Thibedeau and a local special education director. The intent of the special monitoring on-site visits was to ensure that Lakeview School is in compliance with IDEA 2004 and New Hampshire Rules for the Education of Children with Disabilities amended May 15, 2014. The basis of these on-site visits is the Governor's directive outlined in the press release dated September 30, 2014 and the subsequent directive to the Superintendents from the Commissioner of Education dated October 2, 2014.

The two on-site visits and the review of the documents focused on a review of the three major components of operating a private approved special education program: policies and procedures, credentialed personnel, and curriculum.

The NHDOE, in accordance with Ed 1126.03(e), will be placing the Lakeview School on provisional approval as of the date of this letter. Lakeview School shall not accept any additional students, either students with disabilities from New Hampshire or any other state until the NHDOE removes the provisional approval. Please provide to the NHDOE a current list of the states and districts in which the current Lakeview School students reside. Also note that the provisional approval status will remain until all findings of noncompliance have been verified as corrected by the Bureau. Lakeview School is participating in the 2014-2015 Case Study Compliance Review Process with the Bureau's vendor. Immediately, the Bureau is to conduct the compliance review process, and the vendor is to be removed from overseeing the process. Any additional findings of noncompliance identified through the case study compliance review process must also be resolved prior to changing the provisional approval status.

The findings of noncompliance are identified below:

Program Approval of Public and Non-Public Programs

Lakeview School has NHDOE special education program approval for two programs as identified in the letter dated April 16, 2014: Elementary and High School. During the 2012-2013 Case Study Compliance Review, there was indication that the Life Skills Program was part of the High School Program. Lakeview

School was encouraged to submit an application to have this program approved. In the last two years, there was no effort made by Lakeview School to submit this application. During the current special monitoring visit, the Bureau observed two separate high school programs. Recent documents submitted by Lakeview School confirm the operating of this non-approved Life Skills Program.

Program Approval of Public and Non-Public Programs

Ed 1126.03(a) All programs operated by LEAs, public academies, private providers of special education, public agencies, and other non-LEA programs shall be approved, utilizing the New Hampshire special education approval process in Ed 1126.02 as determined by the Bureau of Special Education in the department.

Lakeview School is operating an additional program, High School Life Skills, which is not approved by the NHDOE.

Corrective Action: Lakeview School must immediately stop operating the Life Skills Program. Students currently participating in the Life Skills Program must be transitioned to an appropriate program by the sending LEA. The Bureau will review evidence of the corrective action at a subsequent on-site visit.

Administration

The Special Education Policies and Procedures presented to the Bureau at the on-site visit included a policy on prone restraint. The Director of Education stated that the policies and procedures were outdated. Another version of the Policies and Procedures was printed for the Bureau at the on-site visit. This version did not contain dates. The explanation from Lakeview School was that the version was printed from PDF and not Word. A separate copy of the policy, Physical Intervention Policy for All Individuals Served, was provided with the most current revision date of 02/13. The Policies and Procedures on file at the NHDOE from the 2012-2013 Case Study Compliance Review appears to be another version, which states that Lakeview School does not employ any aversive behavioral interventions and that the staff is trained on the Mandt System. There does not appear to be written policies that are current, consistent and utilized. Additional evidence supporting this finding of noncompliance can be found in the appendix.

Administration

Ed 1114.04(a)-(g) outlines the mandated written policies for a private provider of special education.

Lakeview School did not show evidence of written policies that comply with Ed 114.04 (a)-(g).

Corrective Action: Lakeview School must develop written policies that address Ed 1114.04 (a)-(g). Lakeview School's updated, board approved Special Education Policies and Procedures must be provided to the Bureau within 2 months of the date of this letter. Also provide the agency's organization chart.

Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities

Upon reviewing a student's file, the Bureau came upon a form titled "Incident Report." The Bureau asked for the policy for when this form would be completed by staff. No policy was provided. There was a question on the form, "Was any form of physical restraint used?" The writer was then required to circle yes or no. This question prompted the Bureau to ask about the policy complying with the requirements of RSA 126-U. The Director of Education could not provide evidence that restraints would only be used "...to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to the child or others. It shall be used only by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate" (RSA 126-U:5).

The Bureau received an email dated November 4, 2014 at 1:04pm with the subject line: Additional Information Re: Restraints/Lakeview School. The email contained a document labelled "Code Green Packet." The Code Green Packet included an Emergency Safety Intervention Order Sheet, Problem-

focused Nursing Assessment form, Behavior Intervention Checklist for Safe Emergency–Debriefing Form and an Incident Report. The Code Green Packet did not show evidence of complying with RSA 126:U.

Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities

RSA 126:U Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities

Lakeview School did not provide evidence of complying with RSA 126:U.

Corrective Action: Lakeview School must comply by having all the required written policies and notice and record keeping requirements. Lakeview School's updated, board approved Policies and Procedures for implementing RSA 126:U must be provided to the Bureau within 2 months of the date of this letter.

Program Requirements: Curriculum

The Director of Education presented a document labeled Curriculum with a date of 2008-2009. This document did not show evidence that the students were having access to an elementary and high school curriculum. When one classroom teacher was asked about the curriculum she was using, she told the Bureau that she is using what the teacher used last year. The Director of Education informed the Bureau that Compass Learning was being used. However, when staff was asked if they were using this software, their response was that they were not using it.

Program Requirements: Curriculum

Ed 1114.05(g) In each private provider of special education or other non-LEA program, all children with disabilities shall have access to equal educational opportunities within their programs and access to and ability to progress in the general curriculum as required under 34 CFR 300.320.

The curriculum labelled 2008-2009 Program of Studies does not represent a general curriculum.

Corrective Action: Lakeview School must develop a curriculum for the grades 1-12. The curriculum must be provided to the Bureau within 2 months of the date of this letter.

Behavioral Interventions

During the on-site program observations and interview, the Bureau asked for evidence of a written statement of policies and procedures for managing student behavior. The Bureau witnessed an unsupervised male student who was found lying in the field behind the high school building. During the forty-five minutes of the student being unresponsive with six different Lakeview School staff (aide, teacher, nurse, case manager, Director of Education and Director of Quality Assurance) being present, no staff member could describe to the Bureau what the policy and/or procedure was to address this student and his behavior.

While attempting to address the needs of this student, the Bureau discovered another female student down behind the barn near the fenced in area for the animals. When the Bureau asked the Director of Education why a student would be wandering down by the fenced in area, the Bureau was informed that this was a "UA" by the case manager. A "UA" is an unsupervised absence. The Bureau asked the Director of Education what the policies and procedures were for students who were UA, and no evidence was presented that there were policies and procedures to address this situation. The Bureau instructed the Director of Education to go and address the issue with the female student who was UA, and the Bureau would remain with the male student. This female student who was found unsupervised was of extreme concern based on the media report on September 19th of a fifteen year old female who went into the woods at 8:30 am and was later found at 4:00 pm that day. It was reported that this fifteen year old female had to be transported from the scene for evaluation and treatment.

The Bureau also witnessed Lakeview School staff wearing what staff referred to as "protective wear." The Bureau observed Lakeview School staff wearing black nylon sleeves that covered the wrist to the shoulder with plastic reinforcement pieces; wool sleeves that cover the wrist to the shoulder; and Kevlar gloves. The wearing of this "protective gear" may be a result of the lack of written policies and procedures for managing student behavior.

Behavior Interventions

Ed 1114.07 (b) Each private facility or other non-district program shall have a written statement of the policies and procedures followed by the program in managing student behavior. This statement shall be provided to the sending LEA and the parent at the time each child with a disability becomes enrolled in the program, at the time of the annual review of the child's educational progress, and any time the facility or non-district program's policies and procedures for managing behavior are revised.

Lakeview School did not provide evidence of written policies and procedures for managing student behavior nor did the Bureau observe any procedures.

Corrective Action: Lakeview School is to develop written policies and procedures for managing student behavior. Lakeview School must train all school staff on the written policies and procedures and show evidence to the Bureau of who participated in the training as well as the content of the training. In addition, Lakeview School must show evidence that the written policies and procedures are provided to each sending LEA and each parent. The updated, board approved written policies and procedures; the training agenda and staff sign-in sheet; and evidence of the policies being provided to sending LEAs and parents must be provided to the Bureau within 2 months of the date of this letter.

Suspected Instances of Abuse

Upon reviewing a student's file, the Bureau came upon a form titled "Behavior Expectation Teacher (BET)." The Bureau asked for the policy when this form would be completed by staff. No policy was provided. There was a statement on the BET: Suspected Abuse/Neglect must be reported to QA Director and Administrator Immediately. This statement prompted the Bureau to ask about the policy for reporting abuse and neglect based on the state statute "any person who suspects that a child under age 18 has been abused or neglected must report that suspicion immediately to DCYF." Also, the Adult Protection Law requires any person who has a reason to believe that an incapacitated adult has been subjected to abuse, neglect, exploitation or self-neglect to make a report immediately to the Bureau of Elderly & Adult Services (BEAS). No policy was provided.

Suspected Instances of Abuse

Ed 1114.07(e) Each private facility or other non-district program shall have a written procedure based on state and federal law concerning the reporting of suspected instances of child abuse.

Lakeview School did not provide evidence of written policies and procedures for reporting abuse and neglect to either the Division for Children and Youth or the Bureau of Elderly and Adult Services. The statement on the BET form appears to be a barrier to complying with the state statute for mandated reporting since Lakeview School is required by this form to report to two individuals.

Corrective Action: Lakeview School is to immediately develop written policies and procedures for reporting suspected abuse and neglect to Division for Children and Youth and Bureau of Elderly and Adult Services. Lakeview School must immediately revise the BET form to comply with the state statute. The board approved written policies and procedures for reporting suspected abuse and the updated BET form must be provided to the Bureau within 2 months of the date of this letter.

Program Requirements: Certification and Licensure; Qualifications and Requirements for Instructional, Administrative, and Support Personnel

On October 10th, the Bureau met with the Lakeview Neurorehabilitation Center's leadership team at the start of the special monitoring visit, which included Corinne Rocco, Med, CAGS, Director of Education; James Lewis, PhD, Director of Youth Services; Michelle Campbell, RN, Regional Development Coordinator; Andy Anderson, Program Development and Marketing Consultant; Diane Gutierrez, AACBIS; and Amanda Goza, PhF, Clinical Director. The only certified educator on the leadership team is the Director of Education.

The Bureau questioned the role of Mr. Anderson. It was not clear if Mr. Anderson interacted with students or not. Mr. Anderson did not have a criminal background check. The Bureau asked for a copy of the contract in order to determine his role at the school. No evidence of a contract was provided.

Please refer to the appendix for further evidence regarding the certification of personnel.

Program Requirements: Certification and Licensure

Ed 1114.05(j) All administrative, instructional, and related service staff shall hold appropriate certification or licensure for the position in which they function as required by the State of New Hampshire, and other licensing entities. The determination of credentials required shall be made by the department.

Ed 1114.10(a) All administrative, instructional, and related service staff shall hold appropriate certification for the position in which they function as required by the State of New Hampshire or other licensing entity evidence of such qualification shall be on record with the program.

Lakeview School did not provide evidence that all administrative, instructional, and related service staff hold appropriate certification. There also was no evidence of what position individuals were hired for including the position of substitute teacher.

Corrective Action: Lakeview School must provide a complete personnel roster of all administrative, instructional, and related service staff including consultants and the certification they hold, the date that the certification expires and the role that they are hired for. The complete personnel roster must be provided to the Bureau within one month of the date of this letter. Also include evidence of the contract of Andy Anderson's work for Lakeview School including whether or not school districts are aware of his work.

Qualifications and Requirements for Instructional, Administrative, and Support Personnel

Ed 1114.10(f) Each private provider of special education or other non-LEA program shall complete a background investigation and a criminal history records check on every selected applicant prior to employment consistent with Ed 1114.11.

Employee and Volunteer Background Investigations

Ed 1114.11(a) Each private provider of special education or other non-LEA program, including any individual providing direct services to the student pursuant to Ed 1126.05, shall complete a background investigation, consistent with the provisions of RSA 189:13-a, prior to a final offer of employment.

Corrective Action: When Lakeview School provides a complete personnel roster of all administrative, instructional, and related service staff including consultants and the certification they hold, the date that the certification expires and the role that they are hired for; Lakeview School must also provide evidence that criminal history records checks were completed.

Copies of the IEP and Evidence of Implementation

During the on-site monitoring visit on October 10th, a 1:1 staff member did not have a copy of the student's IEP. During the on-site monitoring visit on October 29th, the Bureau asked the same student's 1:1 staff member if she was provided with a copy of the student's IEP. This staff member was not given a copy of the student's IEP.

Copies of the IEP and Evidence of Implementation

Ed 1109.04(a) The LEA shall provide each teacher and service provider listed as having responsibilities for implementing the IEP with a copy of the complete IEP for working and monitoring purposes. In addition, the LEA shall provide a private school or non- LEA provider responsible for implementing the IEP with a copy of the IEP on or before the first day of the placement.

Corrective Action: Lakeview School must ensure that each teacher and service provider listed as having responsibilities for implementing the IEP receives a copy of the complete IEP for working and monitoring purposes. Evidence of this corrective action must be provided to the NHDOE within one month of the date of this letter.

Sincerely,



Virginia M. Barry, Ph.D.
Commissioner of Education

Enclosure: Appendix

cc: Corinne Rocco, Director of Education
NHDOE File