



Oregon

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Department of Human Services

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**STATE OF OREGON
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE PROGRAM**

IN THE MATTER OF

Scotts Valley School, Applicant.

Notice of Intent to Revoke Renewal of
License to Operate a Therapeutic
Boarding School and Notice of Opportunity
for a Hearing

By certified mail to:

**Scotts Valley School
620 Scotts Valley Road
Yoncalla, OR 97499**

1. Notice

Pursuant to ORS Chapter 183, ORS 418.005(1), ORS 418.205 to ORS 418.327, OAR 413-215-0001(1), OAR-215-0001(2)(i) and OAR 413-215-0601 to OAR 413-215-068 please be advised that this letter serves as notice that the Department of Human Services intends to revoke your license to operate a Therapeutic Boarding School in Oregon.

DHS intends to revoke your license under OAR 413-215-0096(4) and OAR 413-215-0121(1)(a) and (2) because you are not in substantial compliance with the rules according to OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0601 to OAR 413-215-0681, you have been provided an opportunity for corrections under OAR 413-215-0111(4), and have failed to maintain substantial compliance.

"Safety, health and independence for all Oregonians"
An Equal Opportunity Employer

2. Authority

ORS 418.005(1)(a) gives DHS the authority to adopt "all necessary rules and regulations for administering child welfare services" in order "to establish, extend and strengthen welfare services for the protection and care of homeless, dependent or neglected children or children in danger of becoming delinquent * * *."

ORS 418.327 sets forth the requirements for inspection and review of private residential boarding schools and the licensing of those schools by DHS, as well as authorizing DHS to adopt rules to carry out those requirements.

DHS has adopted administrative rules that prescribe standards for licensing private child caring agencies, including therapeutic boarding schools, and procedures for DHS to follow when DHS denies the application. The following rules prescribe licensing and operational standards for therapeutic boarding schools: OAR 413-215-0001 to 413-215-0131 and 413-215-0601 to 413-215-0681. OAR 413-215-0081 to 413-215-0121 set forth procedures for DHS to follow when licensing and monitoring therapeutic boarding schools and assessing an application to renew a license to operate a therapeutic boarding school.

OAR 413-215-0006, OAR 413-215-0606, and OAR 413-215-0081 define the following terms:

"Applicant" means an *agency* that is in the process of applying for a license from the Department.

"Agency" means a private child-caring agency or an organization or school that offers a residential program for children.

"Private Child-Caring Agency" means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.

"Revocation" means the Department withdraws a previously- issued license upon finding that an agency is not in *substantial compliance* with the rules in Division 413-215.

"Substantial Compliance" means a level of adherence to the rules in Division 413-215 and other applicable law that, although failing to meet one or more of the requirements of these rules, in the Department's estimation does none of the following: (a) Constitute a danger to the health or safety of any individual; (b) Constitute a willful or ongoing violation of

the rights of children or families served by an agency; (c) Prevent the accomplishment of the Department's purposes.

"Department" means the Department of Human Services, Child Welfare.

"Licensee" means a *private child-caring agency* or an organization or school that offers a residential program for children (regulated by ORS 418. 327) and holds a license issued by the department.

"Therapeutic Boarding School" means an organization or a program in an organization that is primarily a school and not a residential care agency, as defined in OAR 413-215-0506; provides educational services and care to children for 24 hours a day; and holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

OAR 413-215-0101 requires DHS to make periodic inspections to each licensed agency and each facility operated by the licensed agency at least once every two years. As part of the assessment under OAR 413-215-0096(4), the Department must determine whether the program run by the licensed agency is maintained and operated in accordance with the rules in OAR 413-215 and all other applicable rules and law.

OAR 413-215-0106 (1) and (2) requires DHS to investigate each report received of abuse, dereliction, or deficiency in or by an agency. The Department will notify the executive director and board of directors of any needed corrective action, of the deadlines for completing the corrective action, and of any other actions the Department may initiate as a result of the investigation.

OAR 413-215-0111(1) and (2) requires DHS to issue a plan of correction as result of an inspection, or at any time, to a private child caring agency that explains the actions required to be taken by the private child caring agency to be in compliance with the rules in Division 413-215 and other applicable statutes and rule. In addition, DHS may establish deadlines by which the private child caring agency must correct the deficiencies noted in the corrective action plan.

Based on its assessment of ongoing compliance issues within your school, DHS intends to revoke your license.

OAR 413-215-0121(1) permits DHS to revoke a license to operate a therapeutic boarding school upon finding that an agency is not in substantial compliance with the rules in Division 413-215. DHS intends to revoke your

license because you have not proven that you continue to meet the standards in OAR 413-215-0001 to OAR 413-215-0131 and OAR 413-215-0601 to OAR 413-215-0681.

OAR 413-215-0121(6) permits DHS to establish a waiting period before DHS will accept a new application for a license if DHS has revoked or denied a license. If your license is revoked, DHS may require that you wait up to 3 years before submitting a new application for a license.

3. Basis for Revocation

DHS' decision to revoke your license is based on records in your therapeutic boarding school licensing file and statements to DHS and other professionals who worked with you regarding your therapeutic boarding school. To maintain the confidentiality of the students' identities, they will be referred to throughout this document as student A, student B, and so on.

In July and August of 2015 a comprehensive licensing review was conducted to ensure compliance with Licensing rules. This comprehensive licensing review followed six years of multiple licensing reviews where corrective actions were given to Scotts Valley School so the School might become compliant in areas that were found to be non-compliant.

OAR 413-215-0061(3) Personnel Files

OAR 413-215-0061(3) sets forth the rules regarding personnel files for a private child-caring agency. OAR 413-215-0061(3) requires that "the agency and its contractors must have a personnel file for each employee is maintained for a minimum of two years after the termination date of each employee and must include (c) Criminal records and child abuse check clearance and disposition... (d) Annual performance evaluations... (f) Records of personnel actions (g) Starting and termination dates and reason for termination."

In the review from July of 2015, DHS has determined that reference checks were not in the file for two staff before they started working at the School.¹ In August of 2015, DHS discovered that one staff, Jad Thommen, had completed his own reference checks. Corrective actions were issued for both of these infractions.² After the July 2015 review, Scotts Valley emailed DHS with the requested documentation,

¹ See July 7, 2015 Site Visit Report (attached as Exhibit 12).

² See August 4, 2015 Site Visit Report (attached as Exhibit 13).

though the documentation was still missing the date the check was completed and was not in the file at the time of the review.

Issues with documentation for hire, such as reference checks and background checks for Scotts Valley School staff, has been a recurring issue since the school's opening in 2009.

In the first licensing review on June 8, 2009, a corrective action was issued as personnel files were missing required information such as background checks and reference checks.³

In the review conducted on October 29, 2009, it was again noted that personnel files were inadequate and missing documentation, including reference checks.⁴

Then, in a review by DHS in November of 2012, another corrective action was issued due to staff lacking background checks.⁵

In the review from April of 2014, a corrective action was issued due to several personnel files not containing reference checks.⁶

Moreover, Scotts Valley has failed to document annual performance evaluations for all employees.

In the recent review from July of 2015, no annual evaluations had been conducted for any staff and a corrective action was issued.⁷

In the review from August of 2015, recent performance evaluations were in staff files, though the signature on one was illegible and no signature or indication of who completed the evaluation was contained on another.⁸

In the review from July of 2014, a corrective action was issued due to performance evaluations not being completed on a consistent basis.⁹ Scotts Valley

³ See June 8, 2009 Site Visit Re-Licensing Documentation (attached as Exhibit 1).

⁴ See Letter dated November 17, 2009 (attached as Exhibit 2).

⁵ See Letter dated December 10, 2012 (attached as Exhibit 4).

⁶ See April 23, 2014 Site Visit Report (attached as Exhibit 7).

⁷ Ex. 12.

⁸ Ex. 13.

⁹ See July 10, 2014 Site Visit Report (attached as Exhibit 8).

was instructed to complete and document annual reviews in each staff's personnel file. This remains an area of unresolved concern.

Finally, an employee, [REDACTED], was terminated from his employment sometime in March of 2015. However, no documentation of the circumstances surrounding his termination or the date of his termination were documented in his personnel file. In July 2015 and August 2015, there were findings of non-compliance regarding the required documentation surrounding [REDACTED]'s termination and corrective actions were issued.¹⁰ Upon DHS informing Scotts Valley School of this issue, a "Staff Termination Report" was completed in August of 2015, five months after [REDACTED] was terminated.

OAR 413-215-0061 (4) Personnel and OAR 413-215-0656 (1) Staff Training.

OAR 413-215-0061(4) governs staff orientation for private child caring agencies and OAR 413-215-0656(1) governs staff training for therapeutic boarding schools. OAR 413-215-0061(4) requires that "an agency must provide orientation to each newly hired employee within 30 days of employment on all of the following subjects: (a) Agency policies and procedures. (b) Ethical and professional guidelines. (c) Organizational lines of authority. (d) Attributes of population served. (e) Child-abuse reporting laws and requirements. (f) Privacy laws. (g) Emergency procedures. OAR 413-215-0656(1) requires that in addition to the orientation requirements in OAR 413-215-0061(4), a therapeutic boarding school must meet all of the staff training requirements with respect to its staff: (1) Staff of the therapeutic boarding school must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following: (a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping students build positive personal relationships and self-control. (b) If restraint and seclusion are utilized by the therapeutic boarding school, approved techniques and monitoring. The training must be clear that the policy of the therapeutic techniques and monitoring. The training must be clear that the policy of the therapeutic boarding school is that restraint or seclusion is used as an intervention of last resort."

Scotts Valley has failed to insure that appropriate training and orientation is provided to staff and documented. In the August 4, 2015 review, it was noted that staff [REDACTED] did not have any documentation of ever completing orientation training and a corrective action was issued.¹¹

¹⁰ Ex. 12 and 13.

¹¹ Ex. 13.

In the July 7, 2015 review, two staff – Ronald Lyons and Lynn Moore – were noted to be lacking documentation of orientation training as well and a corrective action was issued.¹² Upon Scotts Valley receiving the July 2015 corrective action regarding the two staff, a record of their training was provided to DHS which appeared to be retroactively dated to represent the time of the original training and hire, which appears to have been April 2015. This documentation was not in the personnel file at the time of review in July, and clearly was not completed within 30 days of hire.

Lack of staff training, orientation, and documentation thereof has been a persistent area of non-compliance.

In the review from June of 2009, the first corrective action was issued regarding personnel files and the lack of documentation therein.¹³ One of the concerns was a lack of documentation regarding various trainings, including behavior management, food handling, and CPR.

In the review from October of 2009, documentation of staff orientation and ongoing training was noted as an area of concern.¹⁴

In the review conducted in November of 2012, a corrective action was again issued.¹⁵ At that time, the concern was that the documentation regarding staff training did not indicate the subject matter of the training, though the training itself had been documented.

In the April 2013 review, personnel files lacked documentation that ongoing trainings were being completed and a corrective action was issued.¹⁶

During the August 2013 DHS review, Scotts Valley School was unable to provide any documentation or proof that current staff had completed the required orientation training at any time, and specifically not within 30 days of their hire. A corrective action was again issued regarding this concern.¹⁷

¹² Ex. 12.

¹³ Ex. 1.

¹⁴ Ex. 2.

¹⁵ Ex. 4.

¹⁶ See April 4, 2013 Site Visit Report (attached as Exhibit 5).

¹⁷ See August 21-22, 2013 Site Visit Report (attached as Exhibit 6).

In the April 2014 review, a corrective action was issued as personnel files lacked documentation of orientation training, both its completion within 30 days and the content of the training.¹⁸

This was also a concern in the July of 2014 review, as there was no documentation in personnel files of orientation training taking place within 30 days of hire nor was there documentation regarding ongoing training for environmental emergencies and universal precautions. Another corrective action was issued at that time.¹⁹

In the Stipulated Final Order from September of 2014, Scotts Valley agreed to "Conduct and document staff trainings on child abuse reporting, behavior management, and other SVS procedures, including any training materials given to the employees."²⁰

Scott's Valley's ongoing failure to conduct or document required training in a timely manner despite repeated notice and corrective actions demonstrates that the School is not in compliance with licensing requirements. In addition, the possible lack of training (as evidenced by the lack of documentation of said training) has led to further concerns regarding the competence of staff to provide safe and appropriate care for students at the facility.

OAR 413-215-0651 (8) Medication.

OAR 413-215-0651(8) governs medication records in therapeutic boarding schools. OAR 413-215-0651(8) requires *that* "a written record must be kept for each student listing each medication, both prescription and over-the-counter, that is administered. The record must include all of the following: (c) Dates and times medication is administered. (d) A record of missed dosages."

During the August 4, 2015 review, DHS issued a corrective action regarding medication logs as it was discovered that students were being provided with vitamins, which was not being documented in medication logs for any student.²¹

¹⁸ Ex. 7.

¹⁹ Ex. 8.

²⁰ See Stipulated Final Order (attached as Exhibit 9).

²¹ Ex. 13.

Issues with medication records have been a recurring area of non-compliance for Scotts Valley School.

In the first review in June of 2009, a corrective action was issued as the school did not properly complete medication log forms regarding medication given to students, medications for students were all mixed together, and the records did not document physician instructions regarding the prescriptions.²²

In the October of 2009 review, the medication issue had been indicated as improved, but ongoing concerns were noted regarding completion of medication logs and the reasons for missed dosages.²³

During the August of 2013 review, a corrective action was again issued regarding concerns with medication logs.²⁴ DHS noted that some errors in the logs were crossed out with no record of why the medication was not administered and there were several blank spaces with no record of why the dosage was missed.

In the April of 2014 review, another corrective action regarding medication logs was issued.²⁵ The concern was again that the logs indicated missing doses with no explanation provided. At that time, Scotts Valley was also provided with a list of what information needed to be included on the medication logs.

However, in the July of 2014 review another corrective action regarding medication logs was issued.²⁶ The logs continued to lack necessary information, such as the time of administration of the medication.

Issues with medication logs and documentation continues to be an ongoing concern.

OAR 413-215-0636(1)(b) Food Services

OAR 413-215-0636(1)(b) governs food services for a therapeutic boarding school. OAR 413-215-0636(1)(b) requires that a therapeutic boarding school must

²² Ex. 1.

²³ Ex. 2.

²⁴ Ex. 6.

²⁵ Ex. 7.

²⁶ Ex. 8.

meet all of the following requirements related to food services: "(1) Nutrition and dietary requirements (B) Snacks must be available and provided as appropriate to the age and activity levels of students."

In the most recent review of August 4, 2015, a corrective action was issued as it was noted that snacks are not available to students at all times.²⁷ For example, if the students forget to prepare snacks then staff will refuse to provide or retrieve snacks for the students.

Issues with food services has been an ongoing area of concern.

At the first review in June of 2009, a corrective action was issued due to lack of food handler's cards amongst the staff or staff receiving training regarding food.²⁸

Beginning with the August of 2013 review, an issue with the provision of snacks to students began. At that time, a corrective action was issued as not all students were provided with snacks, though students who played football at the local high school were given snacks.²⁹ It was also noted that many students at the program reported being hungry.

A corrective action was again issued regarding food services in April of 2014.³⁰ At that time, students and staff both reported that snacks were not available to all students.

In the Stipulated Final Order from September of 2014, Scotts Valley agreed to "Have snacks available to all students at all times, upon request of the students and ensure that the students are aware that snacks are available."³¹

However, in the December 3, 2014 review, it was noted that a student who had an allergy to the provided snacks was not given an alternative snack to eat, therefore depriving this student of the food altogether. A corrective action regarding this was issued at that time.³²

²⁷ Ex. 13.

²⁸ Ex 1.

²⁹ Ex. 6.

³⁰ Ex. 7.

³¹ Ex 9.

³² See December 2, 2014 Site Visit Report (attached as Exhibit 10).

In the December 29, 2014 review, this was still an issue for the student with the allergy and another corrective action was issued.³³ As stated above, snacks remained an issue at the time of the August of 2015 review.

Throughout all of these reviews, students consistently report being hungry. The issue regarding food is pervasive enough that DHS has concerns the lack of food may cause serious health issues for the students or reflect a neglectful environment.

Provision of food and access to appropriate nutrition has been an ongoing, repeated area of violation for Scotts Valley School and demonstrates that the school is not in compliance.

OAR 413-215-0676 Consents, Disclosures, and Authorizations.

OAR 413-215-0676 governs the consents and authorizations necessary for the school to obtain. This rule provides" (1) Consents. For each student (defined in OAR 413-215-0606) in placement with a therapeutic boarding school (defined in OAR 413-215-0676), the therapeutic boarding school must ensure that a parent or legal guardian signs a consent that authorizes the therapeutic boarding school, if applicable, to undertake each of the following: (a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the therapeutic boarding school is not required to use medical, psychological, or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The therapeutic boarding school must have policies and procedures for this practice, which are reviewed and approved by the student's parent or legal guardian. (b) To use the behavior management system of the therapeutic boarding school, including the point, level, or other behavior management techniques utilized by the therapeutic boarding school. (c) To use restraint or seclusion in the management of the student. The consent must specify the reasons such interventions are used by the therapeutic boarding school and how the employees of the therapeutic boarding school are trained and supervised in the use of restraint or seclusion. (d) To restrict the student's contact with persons outside the therapeutic boarding school, including visits, telephone communication, electronic mail, and postal mail. (e) To exclude or limit the student's possession of personal items. (f) To impose a dress code. (g) To restrict the student's participation in recreational or leisure activities in an appropriate manner, consistent with behavior or safety issues. (2) Disclosures to parent or legal guardian. At the time a therapeutic boarding school takes a student into placement, the therapeutic boarding school must ensure that each parent or legal guardian of the student receives and acknowledges in

³³ See December 29, 2014 Site Visit Report (attached as Exhibit 11).

writing the receipt of each of the following: (a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the therapeutic boarding school for any program-initiated room or body search. (b) A statement concerning the rights of students and parents or legal guardians served by the therapeutic boarding school. The statement must be written in a manner that is easy to understand, and the therapeutic boarding school must ensure that the student and the parent or legal guardian understand the statement. The statement must explain all of the following: (A) The student's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by a parent or legal guardian. (B) The student's right to privacy. (C) The student's right to participate in service planning. (D) The student's right to fair and equitable treatment. (E) The student's right to file a grievance if the student or family feels that they are treated unfairly, or, if they are not in agreement with the services provided. (F) The student's right to have personally exclusive clothing. (G) The student's right to personal belongings. (H) The student's right to an appropriate education. (I) The student's right to participate in recreation and leisure activities. (J) The student's right to have timely access to physical and behavioral health care services (c) The grievance policies and procedures of the therapeutic boarding school. (d) The therapeutic boarding school will make any written policy or procedure pertaining to program services available for review by the student, parent, or legal guardian, upon request. (3) Authorizations. (a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need to know basis. (b) All student-specific visitors must be approved or authorized by a parent or legal guardian. (c) Visitation resources must be pre-approved by the student's parent or legal guardian and the identity of these resources verified by the agency. (d) Activity-specific authorizations must be pre-approved by the student's parent or legal guardian to allow students to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding. (e) All other required authorizations must be pre-approved by the student's parent or legal guardian."

In the August 4, 2015 review, it was discovered that two student files were missing enrollment agreements, which contain all of the consents and authorizations necessary for the student. A corrective action was issued at that time.³⁴

The concern regarding lack of enrollment agreements and other consents or authorizations has been an area of ongoing concern and non-compliance since the School opened.

³⁴ Ex. 13.

In the first review in June of 2009, a corrective action was issued and the School was instructed to ensure that parents sign comprehensive consents and authorizations, including authorizations for routine and emergency medical care.³⁵

This was again an area of non-compliance in October of 2011 when it was noted that the student records did not include documentation that the students and parent(s) received notice of the students' rights. A corrective action was issued at that time.³⁶

After the November of 2012 review, another corrective action was issued as some students had still not been provided with notice of their rights, and as such there was not any documentation in the students' files of the rights being provided.³⁷

In the April of 2013 review, a corrective action was issued as student files were missing the required consents, disclosures, and authorizations. The program was instructed to ensure that the legal guardian for each student signed all authorizations.³⁸

In the August of 2013 review, there was a lack of documentation regarding the parent or legal guardian authorization of visitation resources. A corrective action was again issued.³⁹

In the April of 2014 review, another corrective action was issued as it was noted that consents, disclosures, and authorizations were missing from student files.⁴⁰

In July of 2015, just before the August review noted above, several consents and disclosures were noted to be missing from student files and a corrective action was issued.⁴¹

³⁵ Ex. 1.

³⁶ See October 19, 2011 Site Visit Re-Licensing Documentation (attached as Exhibit 3).

³⁷ Ex. 4.

³⁸ Ex. 5.

³⁹ Ex. 6.

⁴⁰ Ex. 7.

⁴¹ Ex. 12.

OAR 413-215-0076 (6) Behavior Management

OAR 413-215-0079 (6) lists the requirement for a discipline policy. This states "(6) Discipline Policy. The agency must have and follow a discipline policy that includes prohibitions against all of the following: (b) committing an act designed to humiliate, ridicule, or degrade a child or undermine a child's self-respect (c) Punishing a child in the presence of a group or punishment of a group for the behavior of one child. (g) Permitting or directing a child to punish another child."

In the most recent review from August of 2015, students were observed acting as staff and punishing other students. For example, in the gymnasium one student was observed to be complaining of an injury, and two other students were yelling at her to "push through it" and informing the injured student that she was fine. Scotts Valley School Staff Dana Dumont observed this, but did not intervene or check on the injured student. During this same review, students were observed correcting other students and informing them of what they were and were not permitted to do. Additionally, female students reported that one student had indicated she had suffered from a rape. Other students confronted and berated the reporter until she "admitted" to lying. No staff intervened during this time or checked on the welfare of the reporter. A corrective action was issued.⁴²

Punishment of students and the use of students as staff has been an ongoing area of concern and noncompliance for the school.

In March of 2010, the Office of Adult Abuse Prevention and Investigation (OAAPI) completed an investigation regarding a report which indicated that now-former staff member David Stidham had grabbed a student by the neck and yelled "freak out, freak out." Stidham admitted he had done this, indicating that he just tries different things with students until something works and he was trying to provoke a reaction from the student. This conduct was noted as being questionable at best, but the report was not substantiated by OAAPI as the student did not report it affected his mental health or well-being.

In August of 2011, OAAPI completed another investigation where it was reported that staff Jad Thommen had cursed at a student and that now-former staff Wayland Wisby had beaten a student with a belt. The investigation regarding Thommen was determined to be not substantiated, as there was no indication that Thommen directed his curses as specific students or intended them as insults, though Thommen did admit to cursing in front of students. OAAPI noted that the appropriateness of this conduct was "debatable." The allegation regarding Wisby was inconclusive as the student

⁴² Ex. 13.

indicated it was abusive, but Wisby reported it as horseplay. The student was also inconsistent in his reports.

In June of 2012 another OAAPI investigation concluded regarding allegations that Wisby had verbally abused a student. The investigation discovered that the student had received discipline and was not allowed to talk. Other students were mocking him by calling him "Thomas the Tank Engine." The student wrote down that he was upset and felt like hitting the next person who called him that. While the student was seated, Wisby saw what he had written, approached the student and said "Choo choo motherfucker. Now are you gonna hit me?" This report was closed as inconclusive, as it was not known what affect this had on the students' mental health.

In August of 2012, OAAPI concluded another investigation regarding the School. The allegations were that a student with significant mental health concerns was left in the care of untrained therapeutic school staff and that the School had required the student to sit and face a wall for a significant length of time. Both of these were substantiated allegations. Regarding the first, the investigation discovered that none of the staff at the School, other than the director Dave Thomas, had any training, experience, or education regarding therapeutic care for emotionally troubled youth. The second allegation was related to the School's use of "the Wall." This was a tool where students were forced to sit and stare at a wall, without speaking to anyone, for approximately 12 hours a day. Staff reported this was used until a student was ready to comply and participate, but students reported that it was used as a punitive and disciplinary tool. The student at issue during the OAAPI investigation spent 2 weeks straight on the Wall, but other students reported that it could be up to a month. OAAPI determined that the use of the Wall was abusive.

As a result of that investigation, at the November of 2012 review, DHS issued a corrective action regarding the use of the Wall.⁴³

In June of 2013, OAAPI concluded another investigation. The allegations were that the school had used harsh tactics to discipline a student. The tactics at issue were the use of essays, which can be assigned by any staff for any reason. There is no limit on how many essays a student can accrue, though the essays can also be removed before being completed at the discretion of staff. Though the report had concerns about the effectiveness of the essays, the concern was unsubstantiated, as there was no evidence that the essays were harmful to the student at issue.

In August of 2013, DHS issued another corrective action to the school regarding the use of students as staff.⁴⁴ At that time, it was reported that students on a "higher

⁴³ Ex. 4.

⁴⁴ Ex. 6.

level" were assisting staff with placing other students in restraints. There was a lack of documentation regarding the use of restraints, and the school was instructed to complete documentation regarding the use of restraints and to cease having students assist with restraints.

In September of 2013, OAAPI completed another abuse investigation. The allegation at that time was that now-former staff Adam McHaffie had physically tipped a student out of a desk and pushed him in the face. This report was substantiated, though the report noted that the student had been intentionally annoying the staff for a considerable period of time and had a history of so doing.

In October of 2013, OAAPI completed another abuse investigation. The allegation was that the students had been restrained by other students. This report was not substantiated. While the investigation uncovered evidence that students were assisting with restraints, the program reported that such assistance had never been supported by the program, and the practice had been discontinued in any event.

In the July of 2014 review, a corrective action was issued due to a concern regarding names students are given by staff during required "seminars."⁴⁵ These names included Dog Fucker, Orphan Whore, and Twitchy Bitch. The program was instructed to cease the use of such names and ensure that no students' self-respect is degraded and that no student is humiliated or ridiculed.

In the Stipulated Final Order from September of 2014, Scotts Valley agreed to "Ensure that students are not being used in the role of a staff person at any time, either during regular daily operations or during the offered trainings or seminars, including but not limited to supervising other students, enforcing rules, or assisting with discipline" and "Ensure that no student is called a name which is humiliating, degrading, or which otherwise undermines the student's self-respect."⁴⁶

In the December 29, 2014 review, a corrective action was issued as students reported that the group is often punished for the misbehavior of one student.⁴⁷ For example, if a student is running behind, the whole group will be provided with essays as punishment. Additionally, students were informing other students what they can and cannot do and threatening those students with essays as punishment.

⁴⁵ Ex. 8.

⁴⁶ Ex. 9.

⁴⁷ Ex. 11.

Despite the above repeated corrective actions, the director of the School, Dave Thomas, continues to indicate he does not understand the difference between students being used as staff and students being mentors.

OAR 413-215-0631 (1) Environmental Health.

OAR 413-215-0631(1) governs the requirements regarding the safety of the students. Specifically, it states "A therapeutic boarding school (defined in OAR 413-215-0606) must meet all of the following requirements: (1) The program of the therapeutic boarding school must maintain an environment that ensure safety for program staff and clients."

During the review on August 4, 2015, it was discovered that the girls' dormitory had bed bugs. A student was observed to have multiple bites along her legs due to this issue and a corrective action was issued.⁴⁸ The Director, Dave Thomas, indicated that he was aware of the issue, but it is unclear when this issue arose and whether the school acted efficiently to resolve the issue.

The physical condition of the school was previously noted to be an issue in April of 2014 when the school was issued a corrective action for failure to ensure that light fixtures have protective covers.⁴⁹

After the December 2, 2014 review, a corrective action was issued as the School had a weekend-long seminar in an unheated gymnasium.⁵⁰

After the December 29, 2014 review, a corrective action was issued due to light fixtures lacking the required protective covers.⁵¹

During the July of 2015 review, a hole was observed in the floor near the entrance of the gym and a light fixture was missing its protective covering. A corrective action was issued instructing the school to fix the floor and install a protective cover for all lights.⁵²

⁴⁸ Ex. 13.

⁴⁹ Ex. 7.

⁵⁰ Ex. 10.

⁵¹ Ex. 11.

⁵² Ex. 12.

OAR 413-215-0641 (5)(a)(A) Safety

OAR 413-215-0641(5) gives the requirements for transporting students. It states, "A therapeutic boarding school (defined in OAR 413-215-0606) must meet all of the following requirements related to safety: (5) Transportation. The therapeutic boarding school must ensure the following when providing transportation to students it serves: (a) Driver requirements. (A) Each employee (defined in OAR 413-215-0606) transporting a student in a motor vehicle must have a current driver license on record with the therapeutic boarding school."

During the August 4, 2015 review, it was discovered that neither Jad Thommen nor Jeff Hutchinson had current driver's licenses on record at Scotts Valley School. Both of these potentially unlicensed drivers drive the students to various appointments. Without a license, a driver is also not likely to be insured or covered by the facility's insurance. A corrective action was issued.⁵³ Upon receipt of the corrective action for this issue, Scotts Valley School notified DHS that Mr. Thommen's license was now in his file. It is unknown whether Mr. Hutchinson's license was ever placed in his file or if he has a valid license. Lack of licensing in files was noted as a concern in October of 2009.⁵⁴

OAR 413-215-0021 (3)(b) and (4) Governance.

OAR 413-215-0021 provides the requirements for a governing board and general governing of a school. It provides "(3) Executive Director or program director requirements. An agency must operate under the direct supervision of an executive or program director appointed by the governing board. The executive director or program director must have all of the following qualifications: (b) Ability to maintain records on children and families, personnel, and the agency in accordance with these rules. (f) Good moral character, including honesty, fairness and respect for the rights of others. (4) The executive or program director must be responsible for all of the following: (a) The daily operation and maintenance of the agency and its facilities in compliance with the rules in division 413-215 and the established program budget. (d) Recruiting, employing, supervising, training, or arranging for training."

Scotts Valley School was first licensed as a therapeutic boarding school in 2009, with Dave Thomas as the Executive Director. Since that time, there have been several corrective actions surrounding the school's ability comply with Licensing rules. Thomas has been involved in all Licensing reviews and corrective actions. Thomas has been either unable or unwilling to implement and sustain required changes set

⁵³ Ex. 13.

⁵⁴ Ex. 2.

forth in corrective actions and in the settlement agreement as the executive director, employer and leader of the school. He has failed to ensure that staff comply with Licensing rules, complete proper documentation or provide for the safety and well-being of students.

When discussing issues with DHS, Thomas has frequently misrepresented facts or responded to inquiries in a circular fashion. He often blames his employees for failing to properly document or file information, without acknowledging his own responsibility to supervise those employees to ensure compliance with the rules. This has led, according to Thomas, to documentation being missing, destroyed, or unavailable to DHS to review as a part of site reviews. Thomas' inability to meet the requirement of subsection (3)(f) is an ongoing compliance concern.

3. Contested Case Hearing

You are entitled to request a hearing to contest DHS' decision to revoke your license to operate a therapeutic boarding school, as provided by the Administrative Procedures Act (chapter 183, Oregon Revised Statutes), OAR 413-010-0500(2)(e) and OAR 413-215-0121(4) and OAR 215-0121(5).

If you want a hearing, you must file a written request for hearing within 30 days of the date that DHS mailed this notice of intent to revoke. Your written request for a hearing must be sent to:

**Harry Gilmore
Manager of Children's Care Licensing Unit
Department of Human Services
Office of Licensing and Regulatory Oversight
500 Summer Street NE E-13
Salem, OR 97301-1074**

If a written request for a hearing is not received within this 30-day period, your right to a hearing under ORS chapter 183 shall be considered waived, except as provided in OAR 137-003-0528.

Upon receipt of a timely written request for hearing, DHS will notify you of the time and place of the hearing. You have a right to be represented by counsel at the hearing and legal aid organizations may be able to assist you if you have limited financial resources. In addition, as a corporation, under OAR 137-003-0505 (h), you "must be represented by an attorney licensed in Oregon, unless statutes applicable to

the contested case proceeding specifically provide otherwise." DHS will be represented by an Assistant Attorney General.

The laws about hearing rights and the hearing process are at ORS 183.411 to 183.470, OAR 137-003-0501 to 137-003-0700, OAR 413-020-0500 to 413-010-0535 and OAR 413-200-0396. If you request a hearing, you will receive information about the procedures, rights of representation, and any other rights relating to the conduct of the hearing before the hearing begins as required in ORS 183.413(2).

DHS may issue a final order by default revoking a license if: (1) you do not request a hearing in writing within 30 days; (2) you withdraw your request for hearing; (3) you notify the Office of Administrative Hearings, the administrative law judge, or DHS that you will not appear for a scheduled hearing; or (4) you fail to appear at a scheduled hearing. If DHS issues a final order by default, DHS designates its file concerning the subject matter of this notice as the record for the purpose of proving a *prima facie* case upon default.

STATE OF OREGON
DEPARTMENT OF HUMAN SERVICES

By: _____

Title: Donna Keddy, Department of Human Services
Director of Office of Licensing and Regulatory Oversight

Date signed: _____

Date mailed: _____