

Abuse at the North Carolina School for the Deaf: Disability Rights NC Calls for New Leadership

In recent years, the North Carolina School for the Deaf in Morganton (NCSD) has drawn the attention of citizens across the State. Parents, employees, stakeholders and state officials continue to debate the future of NCSD and the other residential schools for students who are deaf and/or blind. In recent years, there have been proposals to close or consolidate the residential schools. Now, oversight of the schools is transferring from the Department of Health and Human Services Office of Education Services (OES) to the State Board of Education, with the OES eliminated along with staffing changes.

The students at NCSD face an additional challenge that is even more daunting than a major administrative shift — a culture in which abuse and neglect are permitted and actively concealed by the school's top administrator. For more than two years, Disability Rights NC has investigated and substantiated allegations of abuse, neglect and exploitation at NCSD. As this report demonstrates, the students at NCSD are unsafe in school and in the dorm. Staff members who advocate for the students are subjected to intimidation and retaliation. It is imperative that new leadership be appointed to eradicate the culture that tolerates abuse, neglect and efforts to hide such incidents.

Recommendations

Students at NCSD continue to be at risk of abuse, neglect and exploitation. Students, their parents and staff face threats of retaliation. Disability Rights NC therefore urges that the following recommendations be adopted to protect the students at NCSD.

Immediately adopt a written policy prohibiting the use of prone restraint in all OES schools. Prone restraint is a dangerous restrictive intervention that can impede a child's ability to breathe, causing injury or even death.

Immediately remove and replace the school director at NCSD. The incidents reported here clearly demonstrate that the current director permits and perpetuates acts of abuse by failing to take swift and decisive action to protect students. NCSD must maintain an environment where abuse is not tolerated. Creating this environment requires a cultural shift – a shift that cannot be achieved with the current leadership. Any future leadership must (i) have expertise in managing both academic and residential services; (ii) be qualified to educate students who are Deaf and hard-of-hearing; (iii) be fluent in sign language; and (iv) refuse to tolerate abuse, neglect or exploitation of any kind at NCSD.

Maintain the Ombudsman position at the state level. Regardless of which state agency operates the residential schools for students who are deaf and/or blind, Disability Rights NC recommends that the agency maintain the Ombudsman position or one that is comparable. The Ombudsman position is critically important, both to facilitate state-level oversight of the schools and to provide advocacy to the students as needed. The Ombudsman currently travels between the three schools, addressing staff needs and providing a presence from OES. The Ombudsman interacts with the students regularly, listening to and

addressing their concerns. This role is particularly important because most of the students reside at the school and do not have regular, direct access to a parent or other advocate outside of the school. Eliminating the Ombudsman position will negatively affect the state's oversight of these schools and will strip the students of an invaluable layer of advocacy.

Maintain and/or create additional oversight at each of the three residential schools. Each residential school is required (by DHHS policy) to have a Human Rights Committee (HRC), an independent group that monitors and reviews procedures related to student safety. The most important role of the HRC is to review incidents of abuse and neglect at the school and to assist in addressing and resolving the incidents. The HRC often serves as a safe place for students to voice their concerns. The state agency that operates the residential schools should adopt policies to maintain the HRCs and the layer of protection these groups provide to the students.

Most state-run residential facilities in North Carolina have an internal advocate who is available to the residents on a daily basis. While the Ombudsman and the HRC currently fill some of this advocacy role at the residential schools, the students cannot access them on a daily basis. The state agency that operates the residential schools may wish to consider implementing an internal advocacy program to supplement the work of the Ombudsman and the HRCs.

Student A: In School Incident

Student A is an NCS D student who is deaf, has an intellectual disability, and has a health condition. In February of 2010, Student A reported that Teacher 1 injured her and damaged her personal property. Student A's physical injuries were consistent with reports that Teacher 1 and a colleague, Teacher 2, forced Student A into a prone (face-down) restraint. The position is explicitly prohibited by the restraint curriculum in which NCS D staff is trained, as the position can restrict the student's breathing and cause injury or death. Staff acknowledged these dangers, and further acknowledged that placing Student A in a prone restraint would be particularly dangerous, given her health condition. Despite this knowledge, staff reported that they pinned Student A's arms beneath her, placing her in prone restraint. This not only endangered her health but also prevented the student from communicating through sign language. Staff used such force to restrain Student A that the student's sweater was torn in several places and she sustained deep fingertip-shaped bruises on her arms. Disability Rights NC determined that Teacher 1 used excessive force in restraining Student A; therefore, the allegation of abuse was substantiated.

Disability Rights NC investigated an allegation that staff later retaliated against Student A for reporting this incident. Student A regularly reports having "meetings" with staff to discuss "private business." Her reports are typically followed by behavioral outbursts. Moreover, several days after the initial report, Student A reported that Teacher 1 had assaulted her a second time. Evidence gathered during Disability Rights NC's investigation supported the allegation. The evidence further established that the assault caused Student A physical pain, thus constituting corporal punishment, the use of which is prohibited by OES policy. Disability Rights NC determined that Teacher 1 assaulted Student A and caused her physical pain, seemingly in retaliation for Student A's original complaint. Therefore, this second allegation of abuse was substantiated.

Disability Rights NC found evidence that Student A's mother was retaliated against following the allegations against Teacher 1. In late April of 2010, during the course of Disability Rights NC's investigation, Teacher 1 made an allegation of abuse against Student A's mother. According to Teacher 1, Student A reported that her mother came to the dorm and spanked her, causing her injury. There is no evidence to support this allegation. In sharp contrast to the allegations against Teacher 1, there was no physical evidence to support the allegation against Student A's mother. Student A allegedly reported

this incident to Teacher 1 but refused to repeat the allegation to any other NCS D staff. However, Student A openly and consistently repeated the allegations against Teacher 1 to all staff involved. Therefore, this allegation of abuse was not substantiated. Moreover, Disability Rights NC determined that the Student A did not generate an allegation against her mother.

Finally, Disability Rights NC determined that staff was subjected to retaliation and intimidation following this incident. DHHS policy requires the school director to report allegations of abuse to the student's parent. Multiple staff reported threatening and harassing behavior from administrators, including confrontations by the school director, for informing Student A's parent of the incident.

DHHS policy also requires staff to report allegations of abuse to OES. These reports go to the Ombudsman, an OES employee who serves as a liaison between the residential schools and the families they serve, who investigates allegations of abuse in the schools on behalf of OES, and who can advocate on behalf of the students. In Student A's case, the Ombudsman addressed her mother's concerns, spoke with Student A, received information and concerns from staff, investigated the allegations on behalf of OES, and facilitated Disability Rights NC's investigation. Multiple staff who shared information with the Ombudsman reported being threatened and harassed by administrators as a result. According to one staff member, an administrator told her that staff members are too open with the Ombudsman and that "some things need to stay on campus." One administrator openly admitted to Disability Rights NC that the person who reports an incident "pays a price for it—there are no secrets on this campus."

While staff members at all levels failed to appropriately report and investigate this incident, thus demonstrating systemic failures to protect the students, the ultimate responsibility for these failures lies with the school director. Specifically:

- North Carolina law requires all citizens to report suspected abuse to the Department of Social Services (DSS). N.C.G.S. § 7B-301. DHHS policy states that all NCS D employees must report suspected abuse. The policy further states that the school director is responsible for ensuring that "suspected incidents of abuse are immediately reported" to DSS. Evidence demonstrated the director specifically instructed staff to report allegations of abuse to the school social worker, who would determine whether to forward the

reports to DSS. In Student A's case, the director knew of the allegation the day the student came forward. The director did not report the incident to DSS. Instead, she delegated the duty to the school social worker—a duty he failed to carry out for five days. Staff reported to Disability Rights NC that they are not to directly report abuse they observe.

- DHHS and OES policy require the school director to notify the student's parent as soon as possible after receiving a report of suspected abuse. In Student A's case, the director knew of the allegation before she left the school campus that day. She did not contact the parent. In fact, the director left the school for the day, despite her knowledge that Student A's mother was on her way to the campus and wished to speak with the director. There is also evidence that the director verbally reprimanded dorm staff who reported the incident and injuries to Student A's mother.
- DHHS and OES policy mandate that all allegations of abuse **shall** be investigated and places the responsibility for authorizing such investigations with the school director. The director failed to initiate an investigation into Student A's allegations.
- DHHS and OES policy require the school director to take appropriate measures to protect the victims of alleged abuse. Such measures may include suspending staff during the investigation of the allegation and/or taking disciplinary action following the investigation. In Student A's case, the director failed to take a single action to protect the student. Teacher 1 is still in the classroom—and still teaching Student A.

Student B: In School Incident

Student B is an NCS D student who has multiple disabilities. In February of 2010, Student B reported that Teacher 2 slapped and injured her. Evidence showed that Student B first reported the allegation to Teacher 1; there is no indication that Teacher 1 took further action on the report. Student B then approached several staff members and repeated the allegation. Staff stated that the student was nervous and expressed her fear of reporting a teacher. Although Student B complained of pain from the incident, the administrator involved failed to send the student to the nurse (and may have actively prevented the student from seeking medical attention). Therefore, there is no evidence of physical injury to support the allegation.

Again, academic staff failed to appropriately report and investigate this incident. The ultimate responsibility for these failures – failure of all staff to report the suspected abuse; failure to provide medical services to the student; failure to initiate an investigation into Student B's allegation; and failure to protect the student – lies with the school director.

Student C: Dorm Incident

Incidents of abuse, neglect and exploitation of students at NCS D are not all recent or limited to the academic setting. In late 2009, Student C alleged that he wanted to contact his mother regarding a family emergency. Dorm staff refused to grant Student C's request. The student told staff he wanted to talk to the school director. The dorm staff restrained Student C by pushing him on his chest and backing him against a wall.

Disability Rights NC determined that staff inappropriately prevented Student C from contacting his mother and used excessive force in restraining the student. Student C's request did not interrupt his academic schedule. Staff used a restraint technique outside of the approved curriculum in which NCS D staff is trained. Their actions put direct pressure on the student's chest, which could restrict his breathing and cause injury or death. The use of restraint in this situation, where the student was not a danger to himself or others, violated NCS D policy. Therefore, the allegation of abuse was substantiated. Disability Rights NC issued a number of recommendations to prevent further incidents of abuse. NCS D declined to fully implement any of the recommendations.

As in the above cases, the school director failed to comply with DHHS and OES policies. Specifically:

- The student reported the allegation to the director that same evening. The director failed to report the incident to DSS immediately. A report was finally made to DSS six days after the incident occurred and only after the Ombudsman began investigating the allegation and NCS D's compliance with OES procedures.
- The director knew of Student C's allegation that evening, but failed to contact his parents for six days.
- The director failed to initiate an investigation into Student C's allegation.

Dorm Director: In Dorm

In December of 2008, a student informed at least two staff members that the Dorm Director repeatedly entered the girls' high school dormitory unannounced and typically did so during their scheduled shower time. The complaint was reported to the OES Ombudsman, who followed up with both the school director and with OES. The Ombudsman believed that the matter was being addressed. However, the director did not take further action at that time.

In March of 2009, a group of students again reported these allegations to NCSD staff and the Human Rights Committee, adding that the Dorm Director also routinely viewed the video feed from the girls' dorm, typically when the students were wearing pajamas. The Dorm Director is no longer employed at NCSD.

While staff members at all levels failed to appropriately report and investigate these allegations, it is ultimately the school director's responsibility to ensure that students are free from abuse, neglect and exploitation. Specifically:

- Evidence demonstrated that the director knew of these allegations when they were first reported in

December of 2008. The director declined to report the allegations to DSS at that time. She failed to contact DSS about the allegations at any point during the Dorm Director's employment and/or during the investigation into these allegations.

- The director failed to contact the parents of any of the students who made or were affected by this allegation.
- The director failed to initiate an investigation into these allegations when they were first reported in December of 2008. She authorized an investigation nearly four months later. However, the director directly participated as a member of the investigation team, undercutting her supervisory role and acting in a manner contrary to the intent of the DHHS and OES investigation policies.
- Despite her knowledge of these allegations in December of 2008, the director failed to take any measures to protect the victims of the alleged abuse, such as suspending the Dorm Director. The school director provided an opportunity for the Dorm Director to continue exploiting the students for more than four months before acting on the students' reports.

DISABILITY RIGHTS
NORTH CAROLINA

Champions for Equality and Justice



2626 Glenwood Avenue, Suite 550

Raleigh, NC 27608

919-856-2195

www.disabilityrightsncc.org