



Central Office – Legal Services Unit  
7800 Shoal Creek Blvd., Suite 171-E  
Austin, Texas 78757  
V/TDD 512.454.4816  
Toll Free 1.800.252.9108  
Fax 512.454.3999  
[www.advocacyinc.org](http://www.advocacyinc.org)

December 4, 2008

*Via CMRRR 7005 2570 0002 2377 6265  
and Facsimile no. 512.463.1849*

Governor Rick Perry  
Office of the Governor  
State Insurance Building  
1100 San Jacinto  
Austin, Texas 78701

Re: U.S. Department of Justice Statewide CRIPA Investigation of the Texas State Schools  
and Centers

Dear Governor Perry:

Advocacy, Incorporated (“Advocacy”) is writing this letter to urge the State of Texas to take immediate action to prevent any further abuse and neglect to persons it is entrusted with its care, persons residing in Texas State Schools.

Advocacy’s findings, and now those of the Department of Justice (“DOJ”), establish that the State Schools in Texas are in crisis, and that the health and safety of 4,600 residents with developmental disabilities are at imminent risk. The DOJ investigation found that “much of the Facilities’ difficulties stem from high staff attrition rates and from staff vacancies, especially for direct care staff and clinicians.”

This was the exact finding in a preliminary investigation conducted by Advocacy more than three months ago. Advocacy detailed its concerns in writing to Commissioner Horn about staff vacancies and deficiencies and requested a meeting with her to discuss these and other problems, as well as the actions necessary to ensure that residents are protected from harm. Advocacy apprised the Commissioner on September 2<sup>nd</sup> that “limited staffing will inexorably lead to the negligent care of the residents,” and that “because of inadequate staffing and inadequate space, active treatment is scarce to non-existent.” Advocacy concluded, as DOJ now has, that without additional staff and appropriate training, the Facilities could not meet “their constitutional obligations to their residents.” Despite the seriousness of the problems identified by Advocacy and the grave risk of imminent harm to the residents, the Commissioner has so far refused to meet with Advocacy.

The State of Texas can no longer wait for the Commissioner of the Department of Aging and Disability Services to take action. The lives of those vulnerable Texans with disabilities entrusted to State care are currently in imminent jeopardy and immediate action is crucial in light of the DOJ's finding that the Facilities cannot currently provide adequate health care or medical care to their residents. As the DOJ concluded:

- In 2007 there were 450 confirmed cases of injuries from inadequate supervision, neglect, and improper use of restraints.
- Approximately ten state school residents die every month, or one resident every three days.
- Serious, systemic problems currently exist throughout the 13 State School facilities, including their inability to:
  - protect residents from harm;
  - provide adequate health care;
  - provide adequate behavioral services;
  - provide freedom from unnecessary or inappropriate restraint;
  - provide adequate habilitation; and
  - provide services to qualified individuals with disabilities in the most integrated setting appropriate to their needs.

Because the DOJ determined that “[u]ntil the Facilities can successfully retain, train, and supervise their staff, they will face enormous difficulties in addressing the health and safety of the residents,” Advocacy requests that the following *immediate steps* be taken to ensure the safety of residents while attempting to implement remedial measures proposed by the DOJ. These steps include:

- Placing a *Moratorium on all Admissions* to all State Schools and State Centers.
- Establishing an *independent, state-funded Immediate Needs Assessment Team* to develop plans and recommendations to address those residents deemed most at risk, especially children and the medically fragile.
- *Prohibiting the use of mechanical restraints, papoose boards, and straightjackets* on residents with developmental disabilities.
- *Prohibiting the dispensing of psychiatric medication without a comprehensive psychiatric assessment*, a comprehensive behavioral assessment, a written order by a physician, and the consent of the resident or their legally authorized guardian. If a resident is unable to consent, a second opinion should be obtained from an independent psychiatrist.
- The creation of a *Independent Compliance Advisory Board* to oversee the implementation of these and other necessary actions which we will work with you to establish the composition of the board which should at least be comprised of disability advocates; a

previous or current resident of a state school; and a family member of a resident of a state school. This Board should report directly to the Governor and the Lt Governor

Advocacy would appreciate the opportunity to meet and discuss with you the above proposal as well as the other concerns it has uncovered in its role as the Protection and Advocacy system for the State of Texas.

Sincerely,

A handwritten signature in black ink, appearing to read 'Beth Mitchell', with a stylized flourish at the end.

Beth Mitchell  
Senior Managing Attorney

Cc: Commissioner Horn

Enclosures: (3)