

Segregated & Secluded:

An Investigation of D.C. Residents at the Florida Institute for Neurologic Rehabilitation

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Since 1996, University Legal Services, Inc. (ULS), a private, non-profit organization, has been the federally mandated protection and advocacy (P&A) program for individuals with disabilities in the District of Columbia. Congress vested the P&As with the authority and responsibility to investigate allegations of abuse and neglect of individuals with disabilities. Accordingly, ULS provides administrative and legal advocacy to protect the civil rights of District residents with disabilities.

ULS staff directly serves hundreds of individual clients annually, with thousands more benefiting from the results of investigations, institutional reform litigation, outreach and education and group advocacy efforts. ULS staff addresses client issues relating to, among other things, abuse and neglect, community integration, accessible housing, financial exploitation, access to health care services, discharge planning, special education, and the improper use of seclusion, restraint and medication.

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TABLE OF CONTENTS

Executive Summary 4
Introduction..... 5
Investigation..... 7
 Community Integration 9
 Restraint & Seclusion 11
 Other Complaints..... 18
Conclusion and Recommendations..... 19

Executive Summary

At least 21 District of Columbia residents with disabilities have been sent, through the Child and Family Services Administration and the Department on Disability Services, to the Florida Institute of Neurologic Rehabilitation (FINR), an institution in rural Florida, in the past five years. Starting in April 2006, University Legal Services (ULS) began receiving serious complaints regarding excessive use of seclusion and other human rights violations at FINR. In response, ULS attempted to conduct an institution-wide investigation of all District of Columbia residents at FINR. FINR refused to provide documents to ULS as required by Federal law. Nevertheless, ULS moved forward.

As this report details, District residents at FINR are subjected to violations of numerous District of Columbia human rights policies, including the use of chemical restraint with individuals with developmental disabilities, seclusion for up to seven days at a time, and the informal use of physical restraint without a written doctor's order. Other residents report staff cursing at them and treating them "like garbage." The residents at FINR spend most of their time isolated from the community. The vast majority of residents ULS interviewed desperately wanted to return home.

ULS raised all of these concerns directly with FINR and with the Department on Disability Services. There is no evidence that FINR has ceased these practices, or that the District has taken effective steps to ensure that these residents' rights are protected. Instead, the District continues to fund the placement of both children and adults at FINR.

I. Introduction

University Legal Services, Inc., (ULS), is the designated Protection and Advocacy System (P&A) for the District of Columbia. Pursuant to several federal statutes, including the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) and the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI Act), P&As generally conduct monitoring of facilities; provide education, information, and referral to programs and services addressing the needs of individuals in facilities; investigate incidents of abuse and neglect; and pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with disabilities.

The Florida Institute for Neurologic Rehabilitation (FINR) is a residential facility located on 900 acres in rural Wauchula, central Florida. FINR houses approximately 90 adults and 30 youth and children under age 18. As of April 2007, approximately 17% of FINR's residents had their placements funded by the District of Columbia. Of the 21 District of Columbia residents who were at FINR in April 2007, 11 residents were in the custody of the District of Columbia Child and Family Services Agency (CFSA), and the other 10 residents were recipients of services from the Department on Disability Services (DDS). FINR is not certified to accept Medicaid or Medicare. This means that the District must spend all local funds, and is not reimbursed any portion of this expense by the federal government. (FINR costs approximately \$500 per day per resident). More importantly, this also means that FINR is not subject to the Conditions of Participation that are contained in federal regulations for facilities receiving Medicaid or Medicare

funds. FINR is accredited by the Joint Commission (formally known as “JCAHO”) and Commission on Accreditation of Rehabilitation Facilities.¹

Starting in April 2006, ULS began receiving complaints regarding the treatment of a District of Columbia resident being provided services at FINR. In the process of investigating these complaints, ULS found, with respect to that individual, that FINR repeatedly violated the “District’s Restricted Control Procedure/Behavior Support Policy,” a Department on Disability Services (DDS) (formerly the District of Columbia Mental Retardation and Developmental Disabilities Administration (MRDDA)) human rights policy that limits the use of seclusion, restraint and aversives against individuals with developmental disabilities. ULS wrote a detailed letter to FINR on August 18, 2006, explaining their policy violations and requesting that they revise that individual’s behavior plan to ensure it complied with DDS policy. FINR did not significantly revise the behavior plan.

During August 2006, ULS raised all of the above-mentioned concerns with DDS, and learned that at that time, DDS case managers were not routinely monitoring FINR.² Furthermore, although ULS was told during meetings with DDS that DDS requested that FINR stop using techniques that violate D.C. policy, there was no evidence that FINR was willing to comply with this request, or that DDS had taken steps to enforce the District’s rules. It also became clear that DDS had no formal mechanism in place for investigating serious reportable incidents that took place out of state. There were no

¹ The existence or absence of these accreditations, while certainly informative, should not be considered dispositive evidence that a facility meets federal or District human rights standards. Cf. Wyatt By and Through Rawlins v. Rogers, 985 F. Supp. 1356, 1429 (M.D. Ala. 1997) (“JCAHO accreditation and Title XIX certification, in and of themselves, do not demonstrate compliance with the Wyatt standards or, for that matter, constitutionally required treatment.”).

² Since that time, ULS understands that DDS has been to FINR at least two times, and has become more involved in monitoring the conditions and treatment of residents.

flexible funds in place to provide for travel on short notice for the District's own DDS Incident Management Enforcement Unit (IMEU), the department responsible for investigating reports of human rights violations, and there was no formal relationship with Florida's Adult Protective Services or another investigatory agency that would allow IMEU to contract out or delegate its investigatory responsibility. Therefore, if a complaint happened to come to the attention of the District, the District relied on telephone interviews, reports from the facility that is the subject of the investigation, and sometimes face-to-face interviews with residents months after the alleged incident took place.

Because of the number of District residents at FINR, the complaints of human rights violations, the lack of District or federal oversight of FINR, and FINR's lack of internal corrective action, ULS launched a full investigation into the treatment of District residents at FINR.

II. Investigation

In April 2007, ULS staff visited FINR for two and a half days. ULS interviewed 15 residents, and observed another 5 nonverbal residents. ULS toured the facilities, including the living areas, the cafeteria, the school, and the vocational building. This report is based on those observations and interviews, and the in-depth review of the records of four individuals.³

This report is incomplete and was substantially delayed because FINR unlawfully refused to release the records of the majority of District residents, despite ULS' yearlong

³ ULS would like to thank the staff and administrators at FINR for the hospitality they extended during the April 2007 visit.

attempt to obtain these records. FINR also refused to give ULS contact information for individuals who have a legal guardian.⁴ ULS sent FINR four separate letters regarding their legal obligation to release these records and contact information. While FINR responded to some of the letters, they never produced legally sufficient reasons for failing

⁴ The DD Act provides:

A P&A shall “have access to all records of--(i) any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access; (ii) any individual with a developmental disability, in a situation in which--(I) the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access; (II) the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and (III) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; and (iii) any individual with a developmental disability, in a situation in which--(I) the individual has a legal guardian, conservator, or other legal representative; (II) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; (III) such representative has been contacted by such system, upon receipt of the name and address of such representative; (IV) such system has offered assistance to such representative to resolve the situation; and (V) such representative has failed or refused to act on behalf of the individual.”

42 U.S.C. § 1504 (a)(2)(I). Similarly, the PAIMI Act states:

A P&A shall “have access to all records of--(A) any individual who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access; (B) any individual (including an individual who has died or whose whereabouts are unknown)--(i) who by reason of the mental or physical condition of such individual is unable to authorize the system to have such access; (ii) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and (iii) with respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities (either of which result from a complaint or other evidence) there is probable cause to believe that such individual has been subject to abuse or neglect; and (C) any individual with a mental illness, who has a legal guardian, conservator, or other legal representative, with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy, whenever--(i) such representative has been contacted by such system upon receipt of the name and address of such representative; (ii) such system has offered assistance to such representative to resolve the situation; and (iii) such representative has failed or refused to act on behalf of the individual.”

42 U.S.C. § 10805(a)(4).

to release the records.⁵ ULS sent its last letter explaining FINR's federal obligation to release records to ULS on January 18, 2008, and reiterated our continued willingness to discuss the issue with FINR. No response was received.

This report focuses on two areas: community integration and the use of restricted controls, including restraint and seclusion. It should be noted that there were other subjects of complaint as well as areas where residents complimented FINR fairly consistently. For example, throughout the interviews, many of the school-age residents voiced satisfaction with the school and praised the teachers.⁶ Because ULS is charged with advocating for individual rights and protecting against abuse and neglect, the focus of this report is on two of the areas of greatest concern, and should not be read as a complete evaluation of all aspects of FINR.

A. Community Integration

At the time of the visit, all D.C. adult residents lived in one of several, long term, group cabins near the back of the property. FINR calls these cabins "supported independent living," but the cabins bear little resemblance to the definition of "supported living" that the District of Columbia uses. See, for example, D.C. Mun. Regs., tit. 29 § 993 (describing supported living as a homelike environment for one to three residents,

⁵ Pursuant to the DD Act regulations, "If a system is denied access to facilities and its programs, individuals with developmental disabilities, or records covered by the Act it shall be provided promptly with a written statement of reasons, including, in the case of a denial for alleged lack of authorization, the name and address of the legal guardian, conservator, or other legal representative of an individual with developmental disabilities." 45 C.F.R. § 1386.22(i); see also 42 C.F.R. § 51.43. In a letter to ULS dated August 22, 2007, FINR wrote that it "believes that if the guardians' names and contact information is to be provided to ULS, they should come directly from DHS/MRDDA." ULS explained to FINR numerous times that the obligation to release information remains with the facilities, and that the District cannot restrict access to private facilities. 45 C.F.R. § 1366.21(f). ("State law must not diminish the required authority of the Protection and Advocacy System.").

⁶ At the time of ULS' visit, the school had not been accredited, but ULS was told the school was in the process of becoming accredited. The current status of this is unknown.

with each resident having his or her own room). Instead, in FINR's "supported living," it is common to have eight individuals in a cabin, with one or two in a room. One of the cabins houses approximately twenty people. Furthermore, while the cabins have full kitchens, no food is kept in the cabins. Residents do not prepare their own food, but rather eat in a large cafeteria, where they are given the choice between one of two entrees.

FINR's campus is geographically isolated in a rural area, and stands in stark contrast to the environments that most District residents will return to. Trips to Wal-Mart take place on Thursday night, and on Saturday a trip is taken, usually to the movies and the mall. However, not all residents are allowed on these trips—permission is granted based upon behavior. Furthermore, destination decisions are made by the group; on a routine basis, it does not appear that arrangements are made for individual outings. There are few, if any, opportunities to walk around town, eat at restaurants, and/or participate in community activities alone or in small groups. There do appear to be a number of segregated social activities, which many residents enjoy. These include talent shows, sports activities, and dances.

If placements are viewed on a spectrum of most community-integrated to least community-integrated, FINR should be considered one of the least integrated. It is out of state, geographically isolated, and provides a stark contrast to the urban communities of most District residents. Furthermore, there is little private space or opportunity to engage in the activities one associates with having a home, such as cooking, having company, or spending time with chosen family and friends. Last, due in part to the rural environment

and geographic isolation, and also due to the structure of FINR, there are very few opportunities for individual activities of choice away from FINR's campus.

B. Restraint and Seclusion

ULS originally opened this institution-wide investigation based on reports that FINR was using techniques, such as chemical restraint and long term seclusion, which violate DDS policy. DDS policy has a category of provider conduct that is closely monitored, called "Restricted Controls."⁷ Within this category of Restricted Controls, some procedures are expressly prohibited, and some are permitted in limited circumstances. Those that are permitted are then subjected to scrutiny and additional requirements due to their potential for misuse and harm.

All residents interviewed, and some of the records received, reflect that FINR uses two restricted controls that are absolutely prohibited: chemical restraint and seclusion and/or secured time out rooms. FINR also uses physical restraint that, while not absolutely prohibited, must be carefully monitored and used rarely, according to DDS policy.

⁷ The policy was updated on November 30, 2007, and is now called Policy 6.2, "Restrictive Procedures." However, for the purposes of this report, ULS will continue to use the language that was applicable at the time the procedures at issue took place. Where there is a substantive difference between the new policy and the old policy, that difference will be noted via footnote.

1. Chemical Restraint/Use of Psychotropic Medication as a Restrictive Control

Of the four records ULS reviewed,⁸ two residents' records showed evidence of the use of chemical restraint, which is expressly prohibited by DDS policy. These two residents are in DDS' system, and DDS is responsible for overseeing their treatment. One resident was subjected to at least 10 uses of medication for "anxiety and agitation" over three years. (Seven of these incidents involved the administration of Ativan, a drug commonly used as a chemical restraint). While the use of psychotropic medications to control behavior is permitted by FINR, this form of chemical restraint is explicitly prohibited by DDS (formerly the District of Columbia Mental Retardation and Developmental Disabilities Administration (MRDDA)). MRDDA Policy, section V.G.⁹

Because FINR refused to let ULS review all but a few individuals' records, it is not clear how often chemical restraint is used. However, three additional residents described "needles" and "shots" they had seen being given to children at FINR. One person said that he saw a child who had so many shots that the child couldn't write his name down. Another child complained he was always sleepy. There is, at a minimum, a

⁸ ULS requested records for 17 residents. ULS did not request records for three residents who were their own guardians and who did not authorize ULS to look at their records. However, as noted above, FINR unlawfully refused to release the majority of the records that did not require ULS to contact a guardian prior to accessing the records because the District acts as the children's legal guardian, and unlawfully refused to identify the guardian for those individuals whose guardians needed to be contacted.

⁹ The policy was updated and is now contained in DDS Policy 6.5, "Psychotropic Medications." The policy forbids using psychotropic medications "expressly as a restrictive control." In turn, DDS Policy 8.2, "Human Rights Definitions," defines a restrictive control as a procedure that "[i]s prescribed medication to stabilize, alter, and/or change behavior or mood." Certainly, chemical restraint would fall into the category of a "restrictive control." In the alternative, even if these medications fell under the category of psychotropic medication that is "permitted on a time limited, emergency basis," (that is, medications that are prescribed "to prevent immediate deterioration of a person's mental status when a person manifests severe psychiatric symptoms," under Policy 8.2), this would constitute a serious reportable incident. ULS specifically requested any records related to incident reports or investigations conducted by FINR. No incident reports to DDS were received.

perception among the residents that chemical restraint takes place: a CFSA monitor wrote that one child at FINR “reported hearing that an older patient was given a PRN and died (FINR denied anyone has died at this facility as a result of a PRN.)”.¹⁰ These teenage residents have been in multiple residential treatment centers (RTCs) prior to FINR, and would be familiar with the use of PRNs and chemical restraint.

2. Use of Seclusion and/or Secured Time Out Rooms

Of the 4 records reviewed, 3 included evidence of what FINR calls “therapeutic cabin basing” – a practice that constitutes seclusion according to District policy.

Notably, “therapeutic cabin basing” is not addressed by FINR’s policies. However, FINR Director of Neuropsychology Dr. O’Keefe wrote the following description of the “therapeutic cabin basing” at ULS’ request:

“For major behaviors (behaviors that could harm self or others), such as physical aggression, property damage, inappropriate sexual behavior with contact, provoking others, and entering client-restricted areas, [the patient] is directed to her cabin for 7 days of Therapeutic Cabin Based Programming. [The patient] is eligible to earn 1 day off of the 7 days for each day she remains incident free (i.e., not engaging in physical aggression, property damage, etc.) equaling a minimum of 4 days and a maximum of 7 days.”

Letter from Dr. Kevin O’Keefe to Jennifer Lav, August 15, 2006. Some residents are required to stay in the cabins for shorter periods of time. According to residents

¹⁰ ULS is not aware of any resident of FINR dying as a result of chemical restraint. However, according to a Florida jury, a resident did die from a physical restraint. In 2005, a jury awarded the family of Michael Lieux \$5,000,000 for a death resulting from a restraint in 1998, from what appears to have been an avoidable restraint: “On November 28, 1998, Defendant’s staff suspected decedent of stealing some snack cakes; two of the staff went to his room and began a search for the snack cakes by going through decedent’s personal belongings. Defendant’s staff knew decedent was very meticulous and private about his belongings. A struggle ensued whereupon decedent was again taken to the floor and held in Defendant’s own containment method. During the seven to nine minute containment, decedent defecated and urinated, but the staff did not let him up. After seven to nine minutes, the staff noticed that decedent’s face had turned blue and he had stopped breathing. Minutes later, decedent’s heart stopped. Efforts to save him were unsuccessful . . . “ Fla. J. Verdict Rep. 05:10-23 (October 2005).

interviewed, “roombasing” (as this practice is often called by residents) lasts anywhere from 30 minutes to 7 days. Residents also report that “roombasing” is used for less dangerous acts than that described by Dr. O’Keefe, such as “horseplay,” refusal to take medicine, and consensual affectionate behavior without sexual contact (such as hugging and kissing) between adults.

There is a discrepancy between FINR’s account of what happens in the cabin and residents’ account. According to FINR, a resident “continues to follow her schedule, however her daily regimen is completed at an alternate site.” *Id.* According to all residents we spoke with, when they are “roombased” they are required to sit on their beds and are not permitted to listen to the radio or watch T.V. It appears that radios, T.V.s, and other devices are taken away from residents, even if these devices are the residents’ personal property.¹¹ They are not allowed to speak to any other residents, but can speak to staff. One resident said people were allowed out of their rooms every hour to smoke. They eat alone in their rooms, and they do not participate in any activities after they finish their school work, such as vocational training or recreational activities. They may

¹¹ Under both the old and new policies, a procedure that “restricts access to personal property or removes something the person owns or has earned” is a restrictive control. DDS Policy 6.2. Such procedures must be approved by the human rights committee prior to use. There is no documentation that this was done prior to ULS’ initiation of the investigation. FINR never concealed its policies. On at least one occasion, a behavior plan that included the use of “roombasing” and restrictions on the use of personal property was sent to DDS. Instead of referring the plan to the human rights committee or informing FINR about DDS policies limiting the use of restrictive controls, the DDS responded: “I received a copy of this document [the behavior plan with restrictive controls] from Ms. Heather Futch [FINR employee] and FINR in June of 2005. After carefully reviewing the document, it was signed and approved by myself and MRDDA Division Chief Mr. Dale Williams. Our acceptance and ultimate signature on the document officially state that the MRDDA approves the document, and we fully agree and approve with [sic] the current treatment plan and methods utilized by FINR in the necessary and appropriate rehabilitation of our consumer. . . .” Letter from DDS Case Manager Coordinator Terrance Ford to Heather Futch, FINR Case Manager, August 10, 2006. (Emphasis added). DDS was never able to explain how the document was approved without review by the Human Rights Advisory Committee. However, after this issue was raised to DDS by ULS, DDS sent a letter to FINR expressing disapproval of the very same behavior support plan due, in part, to FINR’s “therapeutic Cabin Based Programming.” Letter from Chrispin P. O’Conner, Supervisory Case Management Coordinator to Heather Futch, September 21, 2006.

read or write (which many residents have a limited ability to do). One adult resident reported that all she did while she was roombased was “color.”

“Roombasing,” even as FINR describes it, constitutes seclusion. Under both the old and new DDS policy, “the use of seclusion or secured time out rooms” is “expressly forbidden.” DDS Policy 6.2; MRDDA Policy § V.H.5. DDS’ old policy defined seclusion as “[p]lacement of an individual in a room or other area from which egress is prevented, and which results in involuntary isolation from others and from ongoing activities.” MRDDA policy § IV.¹² Under this definition, “roombasing” is seclusion, because:

1. The individual is required to stay in his or her room, away from others;
2. He or she is required to stay away from ongoing activities. He or she does not participate in any part of the program, except for being allowed to quietly complete school work on her own; and
3. Egress is prevented. For example, with one individual, a male staff person was ordered to sit with his back to the resident’s doorway and prevent egress.

Even if District policy did not forbid seclusion with this population, by any measure, seven days of seclusion is excessive. Seclusion is an emergency intervention, used to contain someone who is a danger to herself or others. As soon as the emergency abates, the seclusion should be stopped. For purposes of comparison, if FINR were a mental health facility for D.C. residents, such long term seclusion would never be permitted. According to the D.C. mental health regulations, seclusion can only be ordered for four hours at a time for adults and must be discontinued as soon as “there is an assessed stabilization of behavioral status such that the consumer no longer presents an imminent risk of serious injury to self or others.” D.C. Mun. Regs., tit. 22A § 508.5.

¹² DDS issued a new policy regarding “Human Rights definitions” on November 30, 2007. See Policy No. 8.2. Although seclusion is not defined under the new policy, the “use of seclusion or secured time-out rooms” is “expressly prohibited.” Policy 6.2.

Similarly, federal regulations prohibit the use of seclusion for coercion, discipline, or convenience in psychiatric facilities that receive Medicaid or Medicare funding. 42 C.F.R. § 482.13; 42 U.S.C. § 483.356. ULS is not aware of any research or evidence that supports the conclusion that long-term seclusion is an appropriate form of treatment for any population.

3. The Use of Physical Restraint

According to FINR, FINR uses the Professional Crisis Management (“PCM”) system of restraint.¹³ The specific PCM procedure used to restrain residents is called Brief Assisted Required Relaxation (“BARR”). Residents refer to BARR as “containment” or being “taken to the mat.” It was reported to ULS that restraint at FINR takes place on blue mats. The blue mats are visible as one walks around the campus.

It is unclear how often restraint takes place. In requesting records, ULS requested “All documentation related to each use of an emergency or programmatic use of a ‘level III’ procedure, as described in FINR policy 6.2.4.2.” This policy requires documentation of the use of restraint in an incident report, which must include the

“name of the individual, the date and the name of the person(s) who implemented the procedure, the time the procedure was initiated and terminated, the total duration of the procedure, a check for adverse health/physical effects (completed by the person or persons implementing the procedure), the location where the procedure was used, the behavior which initiated use of the procedure, attempts to implement less restrictive procedures, the type of procedure used, and a nursing check for adverse health/physical effects. Immediate notification of the medical director for approval and documentation of that order in the medical chart is also required. All incidents of manual restrain [sic] must be reviewed the next morning meeting by the interdisciplinary team and documentation of that

¹³ FINR’s policy regarding PCM is unnumbered, but it is titled “Professional Crisis Management (“PCM”), is signed by Joseph Brennick, President and Owner of FINR, and dated 7/3/06.

review with recommendations and actions taken noted on the incident report.”

FINR policy 6.2.4.2 (7/3/06).

The records review showed that this policy either is not implemented or FINR withheld these records (despite the specific request for them). For example, for one resident whose records ULS reviewed, there appeared to be 18 instances of “BARR” in a two year time period. However, for this individual, the interdisciplinary review, recommendations, or details of the restraint were not documented.

DDS has similar documentation requirements as those at FINR. See MRDDA Policy § VI. P. In addition, for planned restricted controls, such as manual restraint, DDS requires that the “physical and/or psychological risk to the individual from the specified restricted control procedures is clearly outweighed by the risk involved in not using these procedures.” MRDDA Policy § VI.K.

According to a CFSA monitoring report, “Residents reported inappropriate Professional Crisis Management [restraint] being used on them and other peers. . . . ; Resident report staff provoking them and peers; . . . [and] Resident reported seeing a staff member slam another CFSA client to the floor sometime last year.”¹⁴ Despite these findings, CFSA stated that the children at FINR are not in immediate danger. CFSA has increased their monitoring after concerns were expressed by ULS and an article was published in The Examiner, stating: “Since 1992, when Joseph Brennick resurrected his father’s business [FINR], Florida regulatory agencies and courts have been flooded with complaints. The Florida Department of Children and Family has received more than 400

¹⁴ CFSA site monitoring visit report, Date of site visit September 28-29, 2007.

complaints and has investigated and ‘verified’ more than 100 of them, department spokesman Al Zimmerman said.”¹⁵

C. Other Complaints

Many residents complained that staff treated them with disrespect. There were allegations of staff “cussing.” One resident said staff yelled at him, threatened him, and “treated him like garbage.” Another said that sometimes he sees fights between staff and clients—that staff horseplay, and residents take it seriously and fight back. A child showed us a scar above his eye, and said he got it from staff in a fight with them, and that he needed stitches for it. The complaints residents made to ULS are consistent with the complaints residents made to CFSA, including that “Residents reported staff using profanity toward them [and o]ne resident reported staff calling her derogatory names (i.e. bald-headed).”¹⁶

These complaints could not be verified. However, the fact that many residents perceive staff as treating them poorly is troubling. (It should be noted that, in contrast, all of the school-age children praised the school staff and teachers almost uniformly). The complaints about staff, if true, would constitute verbal abuse. There is never a legitimate reason for staff to use profanity towards a consumer or to treat a consumer in a derogatory manner.

There is at least one written record that suggests staff do not always treat consumers respectfully. When ULS began investigating FINR, we noticed that in one consumer’s file, there was an order stating, “Client to be taken to Hardee County

¹⁵ Bill Myers, D.C. Students Sent to Schools Facing Abuse Claims, Examiner, Sept. 20, 2007.

¹⁶ Supra, n. 14.

Livestock Market once monthly & as needed to obtain accurate weight. V.O. Dr. Villabla/K. Slater LPN.” At first, FINR explained that because of this individual’s weight, the scales that they had did not accommodate the individual. Therefore, an accurate weight could not be obtained on campus. Although ULS was able to intervene and subsequently FINR obtained a scale from a medical supply company that could accommodate this consumer’s weight, the fact that a consumer was taken to a livestock market to get weighed every month for a period of months without anyone objecting to this humiliating and degrading procedure adds legitimacy to complaints such as “staff treats us like garbage.”

III. Conclusion and Recommendations

FINR openly and repeatedly has used behavior modification techniques that are prohibited by DDS. These techniques include the use of long-term seclusion, chemical restraint, and other human rights violations. Furthermore, as the above examples convey, in some residents’ views, FINR staff have fostered an environment where controlling behaviors is paramount, sometimes at the cost of individual rights and dignity.

ULS is sensitive to the difficulty that many of the District residents have had finding a residential placement before being placed at FINR, and in no way should this report be construed as suggesting that the District forces anyone to move against his or her will. However, it should also be noted that the vast majority of FINR residents ULS interviewed wanted desperately to return home and were requesting assistance in doing so. DDS does appear to be in the process of helping some of these individuals move.

Nevertheless, a moratorium should be placed on new placements until FINR complies with District policy. If District residents are to receive treatment at FINR, funded by District taxpayer money, the District has a right to demand that FINR comply with District policies and, for that matter, generally accepted practices regarding the use of seclusion and restraint. It is not acceptable for the District to continue to offer FINR as an acceptable option to those entering the DDS system when there is public information that the placement does not comply with basic District human rights policies.