

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)
 Plaintiff,)
 v.) CIVIL ACTION NO:
) 2:08-CV-475-ALM
THE STATE OF OHIO, et al.,)
)
 Defendants.)

)

THIRD COMPLIANCE REPORT

Pursuant to provision V.H. of the Consent Order in U.S. v. Ohio, 2:08-CV-475, the United States, as Monitor, submits its third report of its assessment of the State of Ohio’s (“State”) compliance with the June 5, 2008 Consent Order. For each substantive provision of the Consent Order, a recitation of the provision is provided, followed by a narrative describing the United States’ analysis of the State’s compliance efforts, and a compliance rating. Where possible, the United States provides recommendations to assist the State in attaining substantial compliance with a particular provision.

This compliance report represents the United States’ assessment of the State’s compliance with all the provisions of the Consent Order, which relate to Ohio Department of Youth Services (“ODYS”) policies, procedures, and practices governing the protection of youth from harm, mental health care, general medical care, grievances, special education, programming, and documentation for youth at the Scioto Juvenile Correctional Facility (“Scioto”). The Third Compliance Report is organized in this order and follows the structure of the Consent Order.

The United States based its assessment on document review (including, but not limited to, policies, procedures, training documents, youth records, incident reports,

grievances, medical records, and education documents), expert reports from Drs. Kelly Dedel, Michelle Staples-Horne, and Daphne Glindmeyer, youth interviews, and an on-site compliance tour on February 22-24, 2011. We have attached to this compliance report the expert reports¹ of Drs. Dedel, Staples-Horne, and Glindmeyer. Consistent with the U.S. v Ohio Consent Order, the United States provided the State with a draft version of this Compliance Report and expert reports two weeks² prior to filing with the Court. On April 26, 2011, the State provided the United States with its comments to the draft third compliance report. In sum, the State disagrees that any current and ongoing violations of federally protected rights have been identified in the draft third compliance report.

EXECUTIVE SUMMARY OF COMPLIANCE RATINGS

We report that of the 53 provisions in the U.S. v. Ohio, the State has achieved substantial compliance³ with 39.62% (21 provisions), partial compliance with 30.18% (16 provisions), beginning compliance with 28.30% (15 provisions), and non-compliance with 1.88% (1 provision). Overall, the State faces the greatest

¹ Dr. Dedel prepared her third Protection From Harm (“PFH”) report (“Dedel Third PFH Report”) and her second special education report (“Dedel Second SPED Report”), labeled as Attachments A and B respectively. Dr. Glindmeyer prepared her Second Mental Health Report (“Glindmeyer Second Mental Health Report”), labeled as Attachment C. Dr. Staples-Horne prepared her Second General Medical Care Report (“Staples-Horne Second Medical Report”), labeled as Attachment D..

² On April 8, 2011, the United States sent the State a draft version of the compliance report and expert reports. The draft version did not include mental health. The United States provided the State the mental health portion of the draft third compliance report on April 13, 2011.

³ “Substantial Compliance” indicates that the State has met or achieved all of the components of a particular provision. “Partial compliance” indicates that the State has made notable progress in achieving compliance with the key components of the provision, but substantial work remains. “Beginning compliance” means that the State has made notable progress in achieving compliance with a few, but less than half, of the key components of the provision. “Non compliance” means that State has made no notable progress in achieving compliance on any of the key components of the provision.

challenges in the area of mental health, where the bulk of the provisions (77.77%) were rated as being in beginning compliance. This is due in part to challenges in maintaining sufficient mental health staff. The State is actively recruiting new mental health staff, in particular psychiatrists. The State has demonstrated strong improvement in medical and special education and is compliance with 80% and 72.72% of those provisions, respectively. We recognize and commend the State’s progress and significant efforts to date in working towards achieving substantial compliance with all the provisions in the Consent Order. We note, however, that ODYS recently announced the closing of the Ohio River Valley Juvenile Correctional Facility (“ORV”), which most likely will result in at least some youth being transferred to Scioto. Accordingly, the State should begin to prepare now for the increase in population and with it an increase in demand for mental health, medical, and special education services.

The chart below represents the most recent compliance rating and percentage of type of compliance for each subject matter area of the U.S. v Ohio stipulation. A detailed discussion is provided throughout the remainder of this compliance report.

COMPLIANCE RATINGS

	Substantial	Partial	Beginning	Non Compliance
Protection From Harm	57.4% (4 provisions)	42.85% (3 provisions)	N/A	N/A
Mental Health	N/A	16.66% (3 provisions)	77.77% (14 provisions)	5.5% (1 provision)
Medical Care	80% (8 provisions)	20% (2 provision)	N/A	N/A
Special Education	72.72% (8 provisions)	18% (2 provisions)	9% (1 provision)	N/A
Programming	N/A	100% (2 provisions)	N/A	N/A
Grievances	33.3% (1 provision)	66.6% (2 provision)	N/A	N/A
Documentation	N/A	100% (2 provisions)	N/A	N/A
TOTAL:	39.62% (21 of 53 provisions)	30.18% (16 of 53 provisions)	28.30% (15 of 53 provisions)	1.88% (1 provision)

I. PROTECTION FROM HARM

A.1 GENERAL PROTECTION FROM HARM

The State shall, at all times, provide youth in the facilities with safe living conditions. As part of this requirement, the State shall take appropriate measures to ensure that youth are protected from abuse and neglect, use of excessive force, undue seclusion, undue restraint, and over-familiarization. (See Consent Order III.A.1)

In assessing this provision, we reviewed the State's self-assessment and documents requested prior to tour, and interviewed youth and staff. Based on our review, we were again impressed with the level of detail and effort reflected in the State's assessments regarding youth violence, use of restraint, use of seclusion, and allegations of child abuse. In our Second Compliance Report, due to the increase in youth violence at Scioto, yet decrease in such violence at other ODYS facilities, we recommended the State focus on interpreting the data it collects to determine trends and root causes. In her second report, Dr. Dedel suggested that the State discern the underlying causes of the increase in youth violence and enact specific strategies to address conditions that may provide the opportunity for violence. In late 2010, the State undertook such analysis and, in summary, found that a combination of workforce stability issues (fluctuating staffing levels for social workers, unit managers, psychologists and psychiatrists) and the lack of special management plans for certain specific youth were collectively responsible, at least in part, for the increase in violence. The State is to be commended for its prompt and exemplary efforts towards investigating the source for the increase in violence. Most importantly, once the State uncovered these causes, it then instituted changes/steps to begin to address the problems. (See Dedel Third PFH Report at 4-5). We commend the State for its efforts and success.

As noted above, provision A.1 of the U.S. v. Ohio Stipulation requires the State to "ensure that youth are protected from abuse and neglect, use of excessive force, undue seclusion, undue restraint, and over familiarization." On February 25, 2011, Drs. Dedel and Glindmeyer provided exit briefings about their preliminary

findings based on the February 2011 compliance tour. In a separate call, on that same day, the United States informed the State of general concerns it had based on interviews with Scioto youth in February 2011. Through a letter dated March 11, 2011, the United States memorialized the same concerns. Due to the nature and importance of these allegations we note them for the Court below.

During the February 2011 compliance tour, the United States visited six housing units and interviewed 25 youth.⁴ Our interviews indicated that many Youth Specialists (“YS”) engage professionally with youth and care about their well-being. Also, most Chief Inspectors Office (“CIO”) investigations about alleged abuse and neglect investigations about YS staff are generally well done. (This is discussed in further detail under provision A.5.) However, and deeply troubling, our youth interviews indicate that a significant number of YS staff manifest indifference to the risk of being held accountable for mistreating youth. The allegations we received indicate that cultural change at Scioto is incomplete, and that significant shortcomings remain in the State’s ability to protect Scioto youth from harm.

The United States does not endeavor to corroborate each of the allegations identified. However, the general consistency of the allegations, the existence of corroborating evidence in some cases, and the documented high rates of staff noncompliance with basic safety checks (discussed under section A.3 below) are strong evidence that supervision and accountability of staff at Scioto are insufficient to protect youth from harm. Contributing to this problem is a widespread distrust in the grievance process (discussed under sections D.1 and D.2 below).

Among the allegations that we received from youth at Scioto are that some YS staff:

⁴ The 25 youth represent approximately 18% of the youth at Scioto during the February 22-24, 2011 tour.

- Attempt to enter sexual relationships with youth and engage youth in discussions about sexual activity;
- Intentionally provoke youth by taunting them and then “write them up” for fighting;
- Threaten youth not to cooperate with investigations by the CIO or Scioto investigators;
- Berate or talk down to youth by calling them inappropriate terms such as “bitch,” “ho,” or “retard,” or talk inappropriately about their mothers; and
- Bribe youth with food, snacks, or extra free time in exchange for services by the youth. These services include writing a grievance against a disfavored YS or attacking or fighting a disfavored youth.

The United States recommended to the State that Scioto administration remind all staff (YS, medical, mental health, recreation, etc.) that mistreatment of youth will not be tolerated and that all staff are responsible for reporting their colleagues if they witness such behavior.

In the same March 11, 2011 letter, we also described problems with third-shift supervision not executing their rounds, delays in receiving medical care (sick calls filled), the quality of mental health care remaining significantly below minimum standards required by the Consent Order, and complaints from youth that they spend an inordinate amount of time engaged in activities such as playing cards or locked up in their rooms. We discuss these issues throughout this compliance report.

Since provision A.1, “General Protection From Harm,” is composed of the subject areas in provisions A.2-A.7 (Use of Force, Seclusion, Restraint, Investigation of Serious Incidents, Staff training, and Employment Practices), compliance in A.1 is dependent upon the State’s achievement of substantial compliance with all PFH provisions. As noted above, the State faces challenges with provisions A.3 (Seclusion) and A.5 (Investigation of Serious Incidents). This is consistent with our Second Compliance Report based on our tours in October and November 2010. We discuss both provisions below.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

The State must actively address its failure to comply fully with provisions A.1, A.3 and A.5. Specifically, the State needs to address the belief among some YS staff that they will not be held accountable for mistreating or threatening to mistreat youth (A.1 prohibits abuse and neglect of youth), and ignoring their duty to conduct security checks (required by provision A.3). The State also needs to improve the quality of investigations regarding alleged staff misconduct and address any retaliatory threats by YS staff against youth for cooperating in investigations (required by provision A.5). These are chronic problems that the United States described in its findings letter to the State in 2007. To be clear, until the State addresses these serious risks to the youth under its custody, it will not reach substantial compliance with provision A.1.

A.2 USE OF FORCE

The State shall develop and implement comprehensive policies, procedures, and practices limiting use of force on youth to situations where it is objectively reasonable and necessary. Staff shall be required to adequately and promptly document and report all uses of force. (See Consent Order III.A.2)

In our assessment of this provision, we reviewed the State's self-assessment and documents requested prior to tour, and interviewed youth and staff. Consistent with our Second Compliance Report, the State is in substantial compliance with this provision. We commend the State for maintaining its compliance rating.

Based on our review, the State's frequency of training in Use of Force ("UOF") continues to exceed that of generally accepted practices and relevant policies and procedures continue to meet the language of provision A2. Similar to our November 2010 compliance tour, we determined that the State undertakes various efforts to ensure that UOF occurrences were promptly and completely documented. In our Second Compliance Report, we described the appointment in Fall 2010 of a Facility Intervention Administrator ("FIA") to conduct internal

reviews of all UOF incidents. The FIA determines whether the documentation meets ODYS policy requirements, whether staff require additional coaching or training regarding documentation, and whether the incident should be referred for investigation. Separately, each incident is also reviewed by the Operations Administrator and the Deputy for Direct Services. Ten percent of the UOF incidents are also reviewed by the Superintendent. This activity unquestionably reflects a serious and thoughtful effort to ensure that all incidents of UOF on youth are limited to situations in which it is objectively reasonable and necessary. We note that two incidents we learned about from youth during the February 2011 tour and brought to the attention of the Deputy for Direct Services had already been identified for investigation internally by Scioto.

We agree with Dr. Dedel's suggestion that the State should investigate the cause for the reduced rate of physical restraint for the period August 2010 to January 2011 as compared to February 2010 to July 2010. We believe that such analysis could be helpful to the State in its own long-term goal of sustaining all the improvements it has accomplished thus far. (See Dedel Third PFH Report at 6). As mentioned by Dr. Dedel, youth who resided at Scioto in the past and who had recently returned noted that direct care staff now consistently attempt to de-escalate youth acting out prior to attempting a physical restraint. (See Dedel Third PFH Report at 7). This is an important factor in protecting youth from harm and we commend the State on its continued success.

Compliance Rating: Substantial Compliance

A.3 SECLUSION

The State shall develop and implement policies, procedures and practices so that staff use seclusion only in accordance with policy and in an appropriate manner and so that staff document fully the use and administrative review of any imposition of seclusion, including the placing of youth in their rooms outside normal sleeping hours. (See Consent Order III.A.3)

In our assessment of this provision, we reviewed the State's self-assessment and documents requested prior to tour, and interviewed staff and youth. Based on our review, we found that the State continues to demonstrate reduced rates of all types of seclusion (regular, pre-hearing confinement, and disciplinary). As detailed in Dr. Dedel's report, during the period from August 2010 to February 2011, almost one third of the youth placed in regular seclusion (which can last between 1 to 3 hours) were placed for less than one hour. For youth who engaged in violent misconduct and were placed in pre-hearing seclusion, approximately 80% were not required to remain secluded pending their disciplinary hearing. For the same time period from August 2010 to February 2011, the use of disciplinary seclusion has been low when compared to the number youth on youth incidents. Dr. Dedel found that disciplinary seclusion was imposed in about 60% of the incidents and the remaining 40% of the youth received an alternative consequence. (See Dedel Third PFH Report at 8). We commend the State for its success in limiting the different types of seclusion. We do suggest that more thought be given to the types of alternative consequences. For example, while some youth are tasked with writing an apology letter to another youth they assaulted (a constructive and meaningful act) other youth reported that they are easily and frequently subjected to sanctions such as repeatedly (hundreds of times) writing the facility rules, an act that has limited if any redeeming value or benefit to the youth.

Consistent with our findings in our Second Compliance Report, the State's success with this provision is undercut by failures by some third shift staff who inconsistently monitor youth during the nighttime. During the February 2011 tour we received complaints from youth alleging that YS staff on the third shift were not conducting their nightly watches as required. In February 2011, we received multiple complaints that some third shift (10:00 p.m. to 6:00 a.m.) staff ignore youth who want to use the bathroom. A few youth further alleged that they or other youth they know have resorted to urinating on the floor of their room or on themselves because third shift staff did not open their room door soon enough. Youth made

similar allegations in their grievances for the time period November 1, 2010 to February 1, 2011. We heard similar complaints in November 2011, when youth alleged that staff did not conduct their watches because they were too busy watching television. We appreciate the State's efforts to resolve this problem—such as cutting cable programming signals to television sets after 11:00 p.m. and increasing the number of random videos they check weekly from one to two—but ultimately the problem is one of supervision and accountability. This is illustrated by recent allegations from numerous youth that some third shift staff have simply switched to watching DVDs instead of television programs.

In order to corroborate these allegations, during our February 2011 compliance tour, we asked to see three randomly selected third shift videos. The United States viewed these videos with the State's counsel and the Deputy for Direct Services. One of the three third shift videos demonstrated that the only YS staff member assigned to the unit performed no checks at all from 12:00 a.m. to 6:00 a.m. The State indicated that it would check the video footage from the beginning of the shift (reportedly 10:00 p.m.) until 12:00 a.m., but any checks during that two-hour period would not negate the dereliction of duty observed for a full six hours. While the other two randomly selected videos demonstrated staff appropriately conducting their rounds, it appears that the State's current efforts to deter YS staff from ignoring their duties are still falling short. On April 6, 2011, the United States received a response letter to the March 11, 2011 post-tour letter thanking the United States for its recommendations and stating in part that “[a]dditional time, effort, and resources will be needed to determine exactly what improvements are most appropriate for the youth at Scioto JCF, and how best to implement them.” We did not receive any further information regarding the two-hour period of the video watched in which no checks were performed.

With regard to security checks conducted in general, Dr. Dedel notes that during the time period from November 1, 2010, to February 1, 2011, eight of the 17

shifts (47%) randomly checked by Scioto administration evidence some problem with staff completing safety checks of youth in their rooms. (See Dedel Third PFH Report at 9-10).

As Dr. Dedel discussed in her first and second PFH reports, anytime a youth is placed behind a closed door, the risk of self harm increases. (See Dedel Second PFH Report at 13). A youth who is intent on harming himself will keep track of when staff conduct their checks and act as soon as the staff member moves on. For this reason, long gaps between monitoring checks are of great concern and must be addressed immediately. Since the State has not improved its monitoring of youth during bedtime hours it has not met the language in provision A.3 and remains in partial compliance.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

As discussed above, in order to reach substantial compliance, the State must address the issues involving security checks during periods of seclusion and night time checks during third shift when youth are in bed. The State should also consider creating a set of approved consequences that are meaningful and appropriately calibrated to the severity of the youths' misconduct.

A.4 RESTRAINT

The State shall develop and implement policies, procedures and practices so that only safe methods of restraint are used at the facility and only in those circumstances necessary for safety and security and, to the extent possible, when less restrictive means have been properly, but unsuccessfully, attempted or with respect to therapeutic restraints pursuant to a medical order to protect the health of the youth. (See Consent Order III.A.4)

In our assessment of this provision, we reviewed the State's self-assessment and documents requested prior to tour, and interviewed youth and staff. Based on our review, we found that the State has continued to strengthen its efforts to ensure

that staff are well-trained in safe methods of restraint and that the training results in positive results. In 2010, at least 90% of the Scioto direct care staff received all the required Managing Youth Resistance (“MYR”) training. (See Dedel Third PFH Report at 11). We encourage the State to ensure that the remaining 10% of staff receive the MYR training in the near future. The MYR training is now required once a quarter rather than annually. In November 2010, Dr. Dedel reviewed 10 UOF incident reports previously reviewed by the State’s internal auditing process and found that the reviews were appropriate. We understand that the internal auditing process has not been changed or modified. Lastly, when we interviewed youth, they generally corroborated that staff attempt to break up fights between youth first using verbal commands and if that fails, they intervene physically. The methods described by the youth appeared to be consistent with the MYR curriculum. We note that the ODYS policies and procedures for the use of restraint were in substantial compliance during our last review and remain the same. Accordingly, the State continues to be in substantial compliance with this provision. We commend the State on its continued success under this provision.

Compliance Rating: Substantial Compliance

A.5 INVESTIGATION OF SERIOUS INCIDENTS

The State shall develop and implement policies, procedures and practices so that appropriate investigations are conducted of all incidents of: use of force; staff-on-youth violence; serious youth-on-youth violence; inappropriate staff relationships with youth; sexual misconduct between youth; and abusive institutional practices. Investigations shall be conducted by persons who do not have direct or immediate indirect responsibility for the employee being investigated. (See Consent Order II.A.5)

In our assessment of this provision, we reviewed the State’s self-assessment, documents requested prior to tour, and interviewed youth. Based on our review, we determined that, while the State’s policies, procedures, and investigations manual appear to sufficiently address the investigatory process and timing and meet the

requirements of provision A.5., the level of investigations at the facility level continue to be lacking.

In our Second Compliance Report, we discussed our various concerns regarding a series of allegations by female youth about inappropriate sexual comments from male staff. In particular, we detailed how the facility administration appeared to be unaware of the allegations of inappropriate sexual comments from staff until we informed them, how the facility had allegedly lost or misplaced the youth's statement reporting the allegation, and how when CIO investigated the matter, they asked youth about privileged conversations the youth had with the United States. When we interviewed female youth during our February 2011 tour, we learned that since November 2010, Scioto staff have been more proactive about reporting and addressing instances of other staff exhibiting inappropriate relationships with youth. We are hopeful that Scioto's administration will aggressively pursue sanctions against staff who prey on any youth at Scioto, since such behavior is not only illegal, but contrary to the very rehabilitative purpose of Scioto.

While the State's policies and procedures have met the requirements of provision A5, its practices are not yet compliant with this provision. In her review of 15 investigations investigated from November 1, 2010 to February 1, 2011, Dr. Dedel found that the facility level investigations continued to be problematic. (See Dedel Third PFH Report page 12-13). Dr. Dedel notes that several of these investigations the investigatory protocol "lacked the necessary vigor to ensure a reasonable finding" and that two investigations were so poorly written that it was difficult for her to discern the basis for the investigator's conclusions.

For the same time period, there were four allegations of inappropriate relationships between staff and youth,⁵ 10 allegations of inappropriate or excessive UOF, and one allegation of verbal abuse. (See Dedel Third PFH Report at 12). According to Dr. Dedel's review of these investigations, the CIO investigations were of high quality. *Id.* We are encouraged by the quarterly audits performed by the CIO and believe that they are instrumental in improving the quality of investigations from the CIO's office. We were also pleased to learn that the CIO plans to provide training to Scioto investigators.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

Consistent with our Second Compliance Report, we recommend the State regularly audit facility level investigations for completeness. Further, the State should take measures to remind its staff of the importance of relaying serious allegations to facility operations, whether youth convey these allegations orally or in writing. Lastly, we echo Dr. Dedel's recommendations to train all Scioto investigation staff on proper investigatory protocol, ensure that all investigations of employee misconduct and youth mistreatment meet generally accepted standards, and that the Staff provide feedback to youth about investigations that stem from an allegation or grievance about staff mistreatment. (This last point is discussed in further detail below in section D.2.) (See Dedel Third PFH Report at 13)

A.6 STAFF TRAINING IN BEHAVIOR MANAGEMENT, DE-ESCALATION MANAGEMENT, DE-ESCALATION AND CRISIS INTERVENTION

The facilities shall train all staff in behavior management, de-escalation techniques, appropriate communication with youth and crisis intervention before staff may work in direct contact with youth. (See Consent Order III.A.6)

⁵ During our February 2011 on site tour, we interviewed youth who alleged that recently YS staff on their unit have propositioned youth and/or attempted to enter into sexual relationships with youth.

In order to assess the provision, we reviewed the State's self-assessment, documents requested prior to tour, and interviewed youth. Based on our review of these documents, we found that the State continues to be in substantial compliance with this provision. Consistent with our Second Compliance Report, the State's training and development program in this area exceeds generally accepted practice. Additionally, based on a review of training documents, Dr. Dedel found that in 2010 92% of veteran staff completed all 24 separate training courses. (See Dedel Third PFH Report at 14). In our Second Compliance Report, we assessed staff training with regard to the Strength Based Behavior Modification System ("SBBMS"). As of November 2010, 93% of the Scioto staff received the SBBMS training. While we did not assess this training during our February 2011 tour, we encourage the State to maintain its high rate of training. Overall, we commend the State on its commitment to staff training.

Compliance Rating: Substantial Compliance

A.7 EMPLOYMENT PRACTICES

The State shall use reasonable measures, including background checks and criminal records checks, to determine applicants' fitness to work in a juvenile facility prior to hiring employees for positions at the facility. (See Consent Order III.A.7)

In our assessment of this provision, we reviewed the State's self-assessment and documents requested prior to tour. Pursuant to the relevant procedure, if a candidate is being recommended for employment after completing the screening and interview procedures, that candidate is required to pass a criminal background check prior to being employed. Candidates with various serious offenses are excluded from employment, while those with certain less serious offenses may be eligible pursuant to other requirements. During the period from November 1, 2010 to February 1, 2011, Scioto hired four new employees. All four employees passed their background check and did not have any criminal records for any offenses that would bar their employment according to ODYS regulations. Consistent with our

Second Compliance Report, the State has maintained its substantial compliance rating with this provision. We commend the State on the proper screening practices of prospective employees.

Compliance Rating: Substantial Compliance

II. MENTAL HEALTH

B.1 MENTAL HEALTH SCREENING

The State shall develop and implement policies, procedures, and practices to ensure that all youth admitted to the Facilities are comprehensively screened for mental disorders, including substance abuse, depression, and serious mental illness, within twenty-four hours of admission. This screening shall be performed by qualified personnel, as part of the intake process, consistent with generally accepted professional standards of care. (See Consent Order III.B.1)

In assessing this provision, we reviewed the State’s PowerPoint presentation, verbal self-assessment,⁶ new draft policies and procedures, and youth records, and we interviewed youth. Based on our review, it appears that the new ODYS policies and procedures, “Mental Health Screenings,” meet most of the requirements of provision B.1. Specifically, the procedure requires that a mental health trained or qualified mental health personnel (“QMHP”) assess a youth’s suicidal ideation, self injurious behavior, prescription of psychotropic medication, mental health issues, diagnoses, treatment and history of substance abuse within 24 hours of the youth’s admission. However, the State’s intake assessment documentation is of variable quality. (See Glindmeyer Second Mental Health Report at 2). Accordingly, while the relevant policy and procedure are consistent with the requirements of provision

⁶ For the February 2011 compliance tour, the State elected to present a verbal self-assessment only. We encourage the State to produce a written self-assessment as it did for the November 2010 compliance tour as it will allow the State to satisfy its duty to demonstrate compliance. (See U.S. v Ohio Consent Order at IV.E (requiring the State to analyze and assess its compliance with each provision); *id.* at V.H (requiring the Monitor to provide compliance reports that specify “the self-assessment steps the facility undertook to assess compliance and the results thereof.”)).

B.1, the facility's practice has not yet reached full compliance. We further discuss the quality of the assessment documents in provisions B.3 and B.4.

In our Second Compliance Report, we explained that the State informed us that it intended to implement on January 1, 2011 a new policy, "Behavioral Health Assessment, Screening, Appraisal and Evaluation," which, as the name implies, would address different aspects of a youth's behavioral health assessments including screenings. The new policy included a plan for the creation of a Behavioral Health Review panel to assess intake data and make recommendations about future housing, programming, and treatment needs. During our February 2011 compliance tour, the State informed Dr. Glindmeyer that it intended to introduce a new "Behavioral Health Appraisal" document, which it had not yet been tested but expected to be fully implemented as of March 15, 2011. The State anticipates that "Behavioral Health Appraisal" document would provide improved case conceptualization and diagnostic clarification with recommendations for treatment. Based on the nascent nature of the appraisal document, it was not possible to assess its effectiveness. Accordingly, the State remains in partial compliance with this provision.

Compliance Rating: Partial Compliance

Recommendation(s) to reach Substantial Compliance:

We encourage the State to develop and begin quality assurance review of, or clinical supervision for, assessment summary documents. The State should fully implement all relevant policies, procedures, and forms related to mental health screenings.

B.2 IMMEDIATE REFERRAL TO A QUALIFIED MENTAL HEALTH PROFESSIONAL

If the mental health screen identifies an issue that places the youth's safety at immediate risk, the youth shall be immediately referred to a qualified mental

health professional for assessment, treatment, and any other appropriate action, such as transfer to another, more appropriate setting. The State shall ensure that, absent extraordinary circumstances, qualified mental health professionals are available for consultation within 12 hours of such referrals. (See Consent Order III.B.2)

In assessing this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, policies, procedures, and psychology staff schedules, relevant Ohio statute, and youth records, and we interviewed youth and staff. Based on our review, we found that the relevant policies and procedures adequately describe procedurally how and under what circumstances a referral is to be made. It appears that, in order to have 12-hour weekday and 8-hour weekend coverage, the State relies heavily on its psychology staff and requires the psychology supervisor to be on-call continuously. We strongly suggest the State consider seeking some form of staffing relief in order to account for staff illness, vacation, and unexpected absences. Further, in keeping with Ohio Rev. Code Sec. 4757.02(A)(5), the State allows unlicensed staff, such as social workers, to qualify as the qualified mental health professional ("QMHP") required by provision B.2. Given that Scioto lacks sufficient psychiatric staff to provide social workers with support and supervision, we are concerned that unlicensed staff serve as QMHPs.

Between November 11, 2010 and February 11, 2011, Scioto staff conducted capacity assessments of 26 youth. With one exception, staff completed the assessments on the same day as the request. Staff completed the remaining assessment within two days after the request. During the same period, intake staff referred 32 youth for risk assessments. Mental health staff conducted all of the assessments on the same day as the referrals. However, staff did not note the times of the requests and the assessments on the documentation, so we could not determine whether staff completed the assessments within the four-hour time frame required by the State's procedure. Finally, according to the State, only four youth submitted written requests for mental health services between November 11,

2010 and February 11, 2011. Staff saw all four youth within four hours of their requests.

We note that the information above does not include referrals for mental health interventions that other mental health staff generate. Going forward, it would be helpful for the State to keep track of those requests as well since, based on the documentation we received from the State, youth do not frequently request mental health services in writing. This issue is discussed in more detail under provision 9, “Access to Qualified Mental Health Professional.”

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

The State should create quality assurance measures to ensure that all requests for mental health services by both mental health and other staff and provisions of services are made within the appropriate time frames.

B.3 IDENTIFICATION OF PREVIOUSLY UNIDENTIFIED YOUTH WITH MENTAL DISORDERS

The Facilities shall implement policies, procedures, and practices consistent with generally accepted professional standards of care to identify and address potential manifestations of mental or behavioral disorder in youth who have not been previously identified as presenting mental health or behavioral needs requiring treatment. (See Consent Order III.B.3)

In assessing this provision, we reviewed the State’s PowerPoint presentation, verbal self-assessment, policies and procedures, and youth records, and we interviewed youth and staff. Based on our review, we found that the State has made little progress in meeting the requirements of provision B.3. In November 2010, the State’s written self-assessment for provision B.3 did not address the identification of youth who were not previously identified as presenting mental health or behavioral needs requiring treatment. Instead, the State discussed the monitoring for decompensation of youth who are in seclusion, which is appropriate,

but insufficient. We agree with Dr. Glindmeyer that the goal of provision B.3 is to ensure that all youth who may not present with “a history of mental illness and who are not identified at the time of the initial assessment . . . are monitored over the course of their incarceration for exacerbations of symptoms and referred for mental health treatment” as clinically appropriate. (See Glindmeyer Second Mental Health Report at 5-6).

The State provided us with one example of a youth, Youth 330, who was placed in the general population upon her admission to Scioto in May 2010, but began to experience mental health symptoms fourth months later. While the State appropriately identified this youth as in need of mental health care, this example is not sufficient to establish that the State has made notable progress in achieving compliance with the key components of this provision. Specifically, due to the State’s inadequate recordkeeping, we question the accuracy of the interventions the State reported in Youth 330’s case. Specifically, once the youth began to decompensate in September 2010, staff conducted a mental health assessment, but staff did not document any treatment that Youth 330 received from late September through October 2010. Instead, on November 1, 2010 – the day before our compliance tour – staff entered approximately ten late mental health entries into this youth’s chart. According to these late entries, the State provided this youth with generic, but ultimately sufficient care. Youth 330’s health record reflected a disturbing pattern of mental health staff entering notes in youth records well after their contact with the youth actually occurred. Such a practice falls well below generally accepted standards of care, makes it impossible for staff to follow a youth’s mental health treatment over time, and inhibits decision making. During our February 2011 compliance tour, facility staff candidly noted that they were aware of the need for ongoing and improved quality assurance to review documentation and the decision-making process regarding the mental health needs of youth. (See Glindmeyer Second Mental Health Report at 6).

We understand that the State is beginning implementation of its new policy,⁷ “Behavioral Health Assessment, Screening, Appraisal and Evaluation.” As of the time of the February 2011 compliance tour, the State had begun using the new policy and procedure to review assessments performed on Tuesdays, with the expectation of a complete expansion to review all intake assessments by April 1, 2011.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

As noted above, the State has not provided us with adequate information to determine that, in practice, it identifies and provides treatment to previously unidentified youth in a manner consistent with generally accepted professional standards of care. We recommend that the State ensure that the new draft policy regarding screenings, evaluations, appraisals, and re-evaluations captures previously unidentified youth, not merely youth in seclusion. The State must also ensure that staff complete documentation of mental health treatment provided to youth, including previously unidentified youth, in a timely manner. Late documentation does not have the richness of documentation completed immediately following a mental health contact. Finally, the State should engage in quality assurance monitoring regarding the reevaluation of youth who experience an exacerbation of mental health symptoms or behavioral challenges.

B.4 MENTAL HEALTH ASSESSMENT

The State shall implement policies, procedures, and practices to ensure that, as part of an overall assessment of the youth’s health, risk, strengths and needs, youth who are identified in screening as having possible mental health needs receive timely, comprehensive, and accurate assessments by qualified

⁷ Based on the draft language provided, we are concerned about the policy’s overall generic tone. We recommend adding language that addresses previously unidentified youth.

mental health professionals, consistent with generally accepted professional standards of care. Assessments shall be designed and implemented so as to identify youth with mental disorders in need of specific treatment and contribute to a full plan for managing the youth's risk. Assessments shall be updated as additional diagnostic and treatment information becomes available. (See Consent Order III.B.4)

In assessing this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, youth records, and ODYS policies and procedures, and interviewed staff and youth. Based on our review, we found that the State is currently performing mental health assessments and appraisals at intake/reception. The initial assessment summaries and mental health appraisal reviewed provided useful information for placement and initial treatment planning, but were of varying quality. During the State's verbal self-assessment, the State acknowledged that youth charts had not changed significantly since our November 2010 tour, with the exception of charts' increased fidelity to the subjective, objective, assessment, and plan ("SOAP") note format, more in-depth assessments, and possible inclusion of diagnostic criteria review and case conceptualization. (See Glindmeyer Second Mental Health Report at 7). Our review of recent intake assessments revealed that, while staff generate multiple assessment forms for youth, mental health staff's case conceptualization is still weak and the staff fails to tie all of the information obtained into a coherent package for the reader. Moreover, the intake assessments did not consistently provide a statement of specific diagnostic criteria justifying the diagnosis.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

We are encouraged to learn that the State has begun to establish clinical review teams to provide formal recommendations. The State should continue and expand its quality assurance measures to include a peer review process and clinical supervision. These quality assurance measures should be geared towards ensuring

that mental health staff accurately document all diagnostic formulations and develop a case conceptualization for each youth that ties together information obtained through the assessment process. (See Glindmeyer Second Mental Health Report at 7-8).

B.5 ADEQUATE MENTAL HEALTH CARE AND TREATMENT

The State shall implement policies, procedures, and practices to ensure that adequate mental health and substance abuse care and treatment services (including timely emergency services), and adequate rehabilitative services are provided to youth in the Facilities by qualified mental health professionals consistent with generally accepted professional standards of care. (See Consent Order III.B.5)

In assessing this provision, we reviewed the State’s verbal self-assessment, youth records, ODYS policies and procedures, and descriptions of treatment modalities, observed three group interactions, and interviewed youth and staff. While the State has begun to implement its new mental health policies since our last review, the State has not yet made notable progress in achieving compliance with the key components of provision B.5. Specifically, in addition to the State’s failure to develop adequate diagnostic formulations and case conceptualizations, detailed above, our review revealed numerous deficiencies with regard to the State’s provision of treatment planning, individual therapy, group therapy, and the quality of Scioto’s mental health staff.

The State reported during the February 2011 compliance tour that the New Freedom Phoenix program, which is the overarching treatment program for all Scioto youth, was fully functional in one housing unit and will expand into all units by April 1, 2011. All Scioto staff have completed the training required for the “Trauma and Grief Component Therapy for Adolescents.” We observed the first group meetings for this group therapy on the boys and girls mental health units. The group leaders were well-prepared and effective and youth were engaged in the group process. (See Glindmeyer Second Mental Health Report at 9-11). Social work and psychology staff are working together to co-facilitate cognitive behavioral

therapy (“CBT”) based groups. However, CBT trained YS staff demonstrated limited investment and involvement in the group process. This issue is discussed further under provision B.7, “Treatment Teams.”

Although youth receive group therapy, the State has not demonstrated that youth are receiving adequate assessments and treatment through this process. Specifically, documents tracking youths’ progress during group therapy were identical for several consecutive sessions, demonstrating that staff failed to conduct individualized assessments. We did not assess the mental health group notes for boys because the most recent documentation that the State provided us was from August 2010.

Our review of records related to individual therapeutic interactions, including individual counseling, revealed similar deficiencies. While psychology staff engage in and document crisis management, there is little evidence that they currently track youths’ progress toward their treatment plan goals as they participate in individual therapeutic interactions. Nor do staff incorporate the treatment plan’s specific targeted interventions into these individual sessions. We hope that the State will address these deficiencies as it moves towards developing an Integrated Treatment Plan (“ITP”) for each youth.

Finally, administrative staff reported concerns about the quality of work provided by some members of the mental health staff, particularly with regard to documentation. The administrative staff estimated that three social workers were “not functional” and one psychology staff “lags behind.” (See Glindmeyer Second Mental Health Report at 10). Administrators discussed plans to utilize the disciplinary process and performance evaluations in order to remedy these deficiencies.

Our review of documentation found that the quality of treatment plans varied. (See B.8 (“Integrated Treatment Plans”)). According to the State’s verbal

self-assessment, in recent months, Scioto staff diligently worked to complete treatment plans for youth in the new integrated format. Ongoing clinical supervision and quality assurance may be helpful for staff when adjusting to these new documentation criteria.

Despite these findings, we are encouraged by the fact that the State is already making strides towards improving its treatment program. Going forward, we look forward to learning about the full implementation of the New Freedom Phoenix program and any data the State can provide regarding the efficacy of the program. We also hope to see that the policies and procedures address the requirements of provision B.5 and ensure that QMHPs provide adequate mental health, substance abuse, treatment services, and rehabilitative services.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

Consistent with our Second Compliance Report, we recommend that the State ensure that the documentation in youth records clearly articulates the youth's progress towards goals in that youth's treatment plan and that youth reports incorporate or discuss targeted interventions in that youth's treatment plan. In particular, staff should consistently track youth's progress towards their treatment plan goals as they participate in group and individual interactions. Staff should conduct meaningful, individualized assessments and, as recommended in B.4, the State should document all diagnostic formulations and develop a case conceptualization for each youth. The State should also ensure the provision of evidence-based group therapeutic interactions and ensure that rehabilitative and substance abuse services are included in the new treatment program. The State should also expand the group curriculum available to male youth and engage and encourage direct care staff to participate in group modalities.

B.6 TREATMENT PLANNING

The State shall develop and implement policies, procedures, and practices so that treatment service determinations, including ongoing treatment and discharge planning, are consistently made by an interdisciplinary team through integrated treatment planning and embodied in a single, integrated treatment plan. (See Consent Order III.B.6)

In assessing this provision, we reviewed the State's verbal self-assessment, integrated treatment plans, and policies and procedures, and we interviewed staff. Based on document review and interviews with staff, we understand that, as of January 1, 2011, the State has begun to implement its interdisciplinary Treatment Team policy and its revised format for documenting treatment team planning by creating an "Integrated Treatment Plan." As discussed further in provision B.7 below, it appears that there was limited psychiatrist attendance at IDT meetings. While this is an improvement since our last compliance visit in November 2010, this remains problematic.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

We encourage the State to complete the Integrated Treatment Plan for all youth and begin quality assurance monitoring of the treatment planning process to ensure that treatment teams operate in an interdisciplinary fashion, with sufficient participation by all relevant disciplines, to generate a single, integrated treatment plan that meets the youth's needs. (See Glindmeyer Second Mental Health Report at 12). We also recommend that the State seek technical assistance with this provision to accelerate its compliance efforts.

B.7 TREATMENT TEAMS

At a minimum, the interdisciplinary treatment team for each youth in need of mental/behavioral health and/or substance abuse treatment should:

- a. *Be guided by a trained treatment professional who shall provide clinical oversight and ensure the proper functioning of treatment team meetings;*
- b. *Consist of a stable core of members, including at least the youth, the social worker, a JCO, one of the youth's teachers, the Unit Managers, and as warranted by the needs of the youth, the treating psychiatrist, the treating psychologist, registered nurse, and, as appropriate, other staff;*
- c. *Ensure that needed psychiatric evaluations are conducted on a youth before administering psychotropic medications to the youth;*
- d. *Monitor as appropriate but at least monthly, the efficacy and the side effects of psychotropic medications, including consultation with the facility medical, counseling, and other staff who are familiar with the youth;*
- e. *For youth under a psychiatrist's care: ensure the provision of individual counseling and psychotherapy when needed, in coordination with facility psychologists; ensure that all youth referred as possibly in need of psychiatric services are evaluated and treated in a timely manner; and provide adequate documentation of treatment in the facility medical records;*
- f. *Include, to the fullest extent practicable, proactive efforts to obtain the participation of parents or guardians, unless their participation would be inappropriate for some reason (e.g. the child has been removed from the parent's custody), in order to obtain relevant information, understand family goals and concerns, and foster ongoing engagement;*
- g. *Meet to assess the treatment plan's efficacy at least every 30 days, and more often as necessary; and*
- h. *Document treatment team meetings and planning in the youth's mental health records. (See Consent Order III.B.7)*

In assessing this provision, we reviewed the youth records, Interdisciplinary Team ("IDT") meeting minutes, observed group therapies and treatment teams, and interviewed youth and staff. Based on our review, it appears that the State's newly implemented standard operating procedure, "Interdisciplinary Team," 404.02.01, meets the requirements of provision B.7. Previously, the procedure did not include in the interdisciplinary team all individuals listed by provision B.7. The revised procedure, which went into effect on January 1, 2011, defines the "interdisciplinary team" as minimally consisting of "a unit manager, Clinician(s), Provider(s), Youth Specialist(s) and staff from Mental Health Services, Psychiatry, Education, Psychology and Recreation. Other participating staff may be included, such as from medical services, religious services, or administration." SOP 404.02.01(III). Further, the procedure states that "[w]henver possible family members will be

included in IDT meetings. Teleconference shall be made available to family members unable to travel to the facility.” SOP 404.02.01 (IV.C). We commend the State on its use of telecommunication to further parental involvement in interdisciplinary team meetings.

Our review of IDT team meeting minutes revealed that, there was limited psychiatric involvement in the IDT, most likely due to the limited psychiatric resources at Scioto. Specifically, for IDT meetings from November 11, 2010 to January 13, 2011, there were no psychiatrist attendance signatures. (See Glindmeyer Second Mental Health Report at 14). Youth confirmed the lack of psychiatric involvement in IDT meetings. One youth stated that the psychiatrist “comes to my team sometimes” while other youth noted that the “psychiatrist had not attended their IDT meetings.” Id.

Separately, we are troubled by the lack of consistent participation of YS staff in IDT meetings. During one IDT meeting, the YS appeared to be listening to the conversation but was pulled away by duties to answer the phone and respond to other YS staff who approached her. Id. YS staff appeared to be not interested or indifferent to group therapy sessions. For example, a group of male YS staff who were seated in the back of the room were talking and laughing amongst themselves as a female youth was discussing being gang raped. (See Glindmeyer Second Mental Health Report at 17). The YS staff actions were disruptive, counter therapeutic, insensitive and dismissive of the youths’ experiences. We reported this issue to Scioto administration immediately. However, they chose to relocate the group therapy session rather than deal with the YS staff issue. Id. We note that mental health staff indicated that this type of disruptive behavior by YS staff was a frequent occurrence. Id. Rather than being a disruption, YS staff should meaningfully participate as “full-fledged” functioning members of the IDT. (See Glindmeyer Second Mental Health Report at 14)

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

As discussed above, the continued lack of psychiatry staff participation in the IDT is troubling. The State should ensure that psychiatrists are sufficiently available to allow their participation in Interdisciplinary Treatment Team meetings. We strongly urge the State to educate all staff regarding the importance of the group therapeutic process and ensure that direct care staff are treated as valued members of the IDT. The State should consider quality assurance monitoring of treatment planning efforts and IDT meetings.

B.8. INTEGRATED TREATMENT PLANS

The State shall ensure that each youth in need of mental/behavioral health and/or substance abuse treatment shall have an appropriate, integrated, treatment plan, including an appropriate behavioral management plan, that addresses such needs. The integrated treatment plan shall be driven by individualized risks and needs, be strengths-based (i.e. builds on an individual's current strengths), account for the youth's motivation for engaging in activities contributing to his/her wellness, and be reasonably calculated to lead to improvement in the individual's mental/behavioral health and well being, consistent with generally accepted professional standards of care. (See Consent Order III.B.8)

In order to assess this provision, we reviewed the State's policies and procedures and youth records, and interviewed staff. Based on this review, we found that the State is in the process of collating multiple treatment and case planning documents into one overarching document called the Integrated Treatment Plan ("ITP"). The relevant policy, "Behavioral Health Services," describes the ITP document as a formal plan to address youth's various needs (including but not limited to mental health, rehabilitation and psychiatric). Scioto first implemented this policy on January 1, 2011. We are encouraged by the State's progress towards implementing this policy, since it requires the treatment team to consistently document youth progress and information gleaned during treatment team meetings. At the time of our February 2011 tour, mental health staff gave various estimates as to the number of youth whose plans had been re-written to

meet the new policy requirements. The State indicated that it aimed to complete the process for all youth plans by March 1, 2011. (See Glindmeyer Second Mental Health Report at 19).

During treatment team meetings, mental health staff appeared to be interested and knowledgeable about the youth, but the “rich discussion observed in treatment team” did not translate into an intervention and practice regarding the youth. (See Glindmeyer Second Mental Health Report at 15.) For example, at the time of our tour, one particular youth (110) had been in his room for four days and was apparently decompensating. The individualized behavioral plan for this youth provided nothing with regard to reward for positive behaviors that related to the January 15, 2011 goal of having the youth leave his room. While the youth responded to treatment with injections of neuroleptic medication, he began experiencing extra pyramidal side effects (typically tremors, slurred speech, anxiety, paranoia and akathisia). (See Glindmeyer Second Mental Health Report at 15). Rather than address the youth’s side effects through medications commonly used to ameliorate side effects, the psychiatrist discontinued the injections, which had kept the youth relatively stable. As a result, the youth decompensated. Youth 110 began refusing oral medications and was reportedly unable to tolerate the stimulating environment of the unit and thus preferred to stay in his room. The facility’s lack of psychiatric resources may have contributed to this pharmacological mistake. (See Glindmeyer Second Mental Health Report at 15-16). Had the State provided more resources and attention to Youth 110, the treatment team may have considered alternative modalities.

Although the mental health staff acknowledged that they should have developed alternatives instead of permitting the youth to remain in his room (the youth had begun to refuse to leave, bathe, or take psychotropic medication) the mental health staff struggled with creating a workable treatment intervention as they awaited permission to involuntarily medicate the youth. Ultimately, the

mental health staff created a new individual behavior management plan and the youth was relocated to another unit with limited stimuli. However, the YS staff had no written instructions available to them and reportedly had not received any training regarding the management of this youth's needs. (See Glindmeyer Second Mental Health Report at 16).

The 10 ITPs that the State provided us were of variable quality. The plans had admirable goals for youth, but the goals themselves were not measurable. For example, Youth 888's ITP goals included "reduc[ing] mental health symptoms and their impact on my daily life." (See Glindmeyer Second Mental Health Report at 19-20). Similarly, each goal included objectives, but only some objectives were measurable. Separately, one youth reported that the development of treatment goals was rushed and "tacked on to the end of the meeting." (See Glindmeyer Second Mental Health Report at 14).

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

The State should begin quality assurance monitoring of treatment plan documentation and implementation to ensure compliance with the requirements of this provision. (See Glindmeyer Second Mental Health Report at 20).

B.9 ACCESS TO A QUALIFIED MENTAL HEALTH PROFESSIONAL

The State shall develop and implement policies, procedures, and practices to ensure that youth who seek access to a qualified mental health professional are provided appropriate access in a timely manner. (See Consent Order III.B.9)

In order to assess this provision, we reviewed the State's verbal self-assessment, policies and procedures, documents requested prior to tour, and youth records, and interviewed youth and staff. Consistent with our Second Compliance Report, we found that the current policies and procedures for referrals detail steps

for *staff* to refer youth for a mental health assessment. The policy did not, however, address the requirements in provision B.9, namely that Scioto *youth* can independently access a QMHP in a timely manner. Also, consistent with our Second Compliance Report, Dr. Glindmeyer confirmed that access to mental health services continues to be dependent on whether a YS staff member is willing to call and request the service for the youth. Dr. Glindmeyer notes that of the youth she interviewed, “some youth indicated that they had to access mental health services via direct care staff, and ‘sometimes they don’t like you and don’t want to do it.’ Another youth reported, ‘we don’t fill out the request because [psychology staff] is there . . . but if they aren’t staff has to call . . . and sometimes they don’t want to do it . . . your regular staff usually will, but others could care less.’” (See Glindmeyer Second Mental Health Report at 21-22).

In the State’s written self-assessment for our November 2010 compliance tour, the State relied on particular language in the Youth Handbook that directs a youth to complete a “Request for Services” for routine concerns and to immediately tell a staff member if they feel like hurting themselves or others, and the staff member “will see the issue is addressed.” In our Second Compliance Report, we stated that, while we recognize that Scioto has readily available “Request for Services” forms, we were nevertheless concerned by the generic and vague description of staff’s role in obtaining assistance for the youth. More importantly, we expressed our concern that youth must go through staff in order to access care. (See United States’ Addendum to Second Compliance Report at 16). During our February 2011 tour, mental health staff explained that YS staff “verbally instructed” the youth to place the “Request for Services” form in the sick call box. (See Glindmeyer Second Mental Health Report at 22). The State must delineate this process and instruct youth on how to access mental health care without going through staff. Accordingly, the State remains in beginning compliance with this provision.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

The process for youth to self-refer to a QMHP should not rely on staff involvement. The State should revise its handbook to clearly state that youth need not go through staff to seek mental health services and delineate the process that they can follow to self-refer that does not involve YS staff involvement.

B.10 MENTAL HEALTH INVOLVEMENT IN HOUSING AND PLACEMENT DECISIONS

The State shall develop and implement a system for ensuring that significantly mentally ill youth who do not have the adaptive functioning to manage the activities of daily living within the general population are provided appropriate housing and supports to assist them in managing within the institutional setting. (See Consent Order III.B.10)

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, relevant policies and procedures, and youth records. On January 1, 2011, the State implemented its "Behavioral Health-Special Services Living Units" policy, which guides the development of the Behavioral Health Review Panel. As we stated in our last report, we encourage the implementation of this policy because it requires that the interdisciplinary review and treatment process begin at the time of the youth's admission. As stated earlier, the Behavioral Health Review Panel has started reviewing intake data for youth who arrive on Tuesday of each week and making recommendations about youth's housing, programming, and treatment needs. Staff indicated that they plan to expand the responsibilities of the Behavioral Health Review Panel to include the review of the reception summaries of all youth admitted to Scioto. We commend the State for moving forward with the requirements of this provision.

The Youth intake screenings and completed intake assessments for the 10 most recently admitted youth indicate that staff recommended that they all go to

general population. (See Glindmeyer Second Mental Health Report at 23-24). In some of these 10 cases, staff recommended additional treatment modalities, including substance abuse treatment. The State should assess whether all of the youth placed in general population belong in the general population. Specifically, the State should track youth who are initially recommended for general population, but ultimately require an increased level of care.⁸ Such an assessment will reveal whether the State is adequately capturing all youth in need of mental health services and may prompt changes in the intake assessment process.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

We commend the State for finalizing and implementing the “Behavioral Health-Special Services Living Units” policy and beginning to implement the Behavioral Health Review Panel. The State has moved from beginning compliance to partial compliance with this provision. In order to reach substantial compliance, we encourage the State to monitor and track the efficacy of its policies and institute QA measures to review the accuracy and completeness of its assessments and placement decisions.

B. 11 STAFFING

The State shall staff, by contract or otherwise, the Facilities with adequate numbers of psychiatrists, psychologists, social workers, and other mental health professionals qualified through training and practical experience to meet the mental health needs of youth residents, as determined by the acuity of those needs. Mental health care shall be integrated with other medical and mental health services and shall comport with generally accepted practices. The State shall ensure that there are sufficient numbers of adequately trained direct care and supervisory staff to allow youth reasonable access to structured programming. (See Consent Order III.B.11).

⁸ This is consistent with Dr. Glindmeyer’s recommendations for provisions C.3 (“Identification of Previously Unidentified Youth with Mental Disorders”).

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, relevant policies and procedures, youth records, staff schedules, and interviewed staff. In our Second Compliance report, we determined that staff shortages existed at Scioto that compromised youth's mental health care. We cautioned the State that the associated stress on staff was not sustainable. Unfortunately, in the intervening months since our last assessment, the State has not improved in this area. Instead, Scioto has lost critical mental health staff. Specifically, while in November 2010, Scioto had a total psychiatric physician coverage of .7 Full Time Equivalent ("FTE") – which was insufficient coverage to meet the mental health needs of Scioto youth – Scioto now only has .42 FTE psychiatric coverage. While Scioto had an administrative psychiatrist on staff at the time of our last review, that position is now vacant.

The one psychiatric physician at Scioto only provides a total of 17 hours of clinical services per week. A review of the current psychiatrist's curriculum vitae revealed that he completed a fellowship in child and adolescent psychiatry, and is board certified in adult psychiatry by the American Board of Psychiatry and Neurology. Although the psychiatrist is not board certified in child and adolescent psychiatry, he is board eligible.

According to staff, this psychiatric physician interviewed for a potential full-time position at the facility and received an offer of full-time employment in late February 2011. However, even if the part-time psychiatric provider accepts full-time employment, Scioto does not have adequate psychiatric coverage if this psychiatrist is unavailable for any reason, including vacation, illness, or an unexpected absence. Moreover, the peer review process we have consistently recommended to the State requires at least two psychiatric providers.

Youth expressed variable levels of satisfaction with psychiatric care. Some youth were frustrated and indicated that they had to wait long periods to see the psychiatrist. For example, staff identified one youth at admission as in need of a

psychiatric evaluation but, due to limited resources, staff did not conduct the evaluation until six weeks later. One youth reported that, while the youth saw the psychiatrist at a reasonable interval, “he is just so busy . . . that he doesn’t listen . . . and sometimes I think he blows me off.” (See Glindmeyer Second Mental Health Report at 31). Another youth had a more positive report, stating “the doctor comes to my treatment team.” Id.

The State provided us with an analysis of its resource requirements. In this February 22, 2011 document, entitled “Rationale for the Distribution of Psychiatry Hours,” the State assumed that approximately 50% of the youth committed to DYS will receive mental health services. However, based on the relevant literature, this is an underestimation of the number of youth who need services. (See Glindmeyer Second Mental Health Report at 30). The State further assessed how many youth would require minimum, moderate, or high levels of mental health care. The State ultimately calculated that one FTE of psychiatric coverage would be sufficient to cover the 2496 annual hours of direct and indirect clinical service requirements to meet the needs of Scioto youth. One FTE is not likely sufficient to meet these youths’ mental health needs. Id. The State should re-evaluate the need for additional resources at Scioto.

With regard to psychology, the State reported that it has a total of four psychologists and six psychology assistants on staff. According to staff interviews, the facility employs a total of seven psychologists, three of whom are licensed, plus a psychology supervisor and two psychology assistants. Of the seven psychologists, five are assigned to the assessment units and the remainder are assigned to the program units. This level of staffing is consistent with our last review.

During our last assessment, 14 social workers provided services to Scioto youth. While there are still 14 social workers officially on Scioto’s staff, staff reported that three social workers were absent from the facility for various reasons, leaving 11 social work staff actually on-site and providing services. As noted in the

Protection From Harm section of this report, the State has acknowledged recent instability in social work staffing. See pages 4-5. At the time of the tour, Scioto also had two full-time mental health nurses and two full-time occupational therapists on staff.

In our Second Compliance report, we determined that the psychiatry, psychology and social work staff were not working together to create integrated treatment for the facility youth. Specifically, three separate sets of documents existed to provide guidance for a youth's mental health treatment: the Unified Care Plan, the Mental Health Treatment Plan, and the Interdisciplinary Treatment Team documents. Since our last assessment, psychiatry, psychology, and social work staff have increased their efforts to work together to integrate treatment for Scioto youth. As discussed earlier, Scioto is in the process of consolidating treatment planning documentation into one overarching document, the Integrated Treatment Plan. However, during interviews, staff provided inconsistent estimates regarding the number of youth who had actually received an Integrated Treatment Plan.

The State has not provided data supporting a finding that there are adequate numbers of adequately trained direct care and supervisory staff to allow youth reasonable access to structured programming as required by this provision.

Finally, we appreciate that the State has made efforts to remedy the staffing problems at Scioto. The State is engaging in active recruitment attempts to fill the administrative psychiatry position, which might allow for sufficient coverage. In the interim, in an effort to provide peer review and coverage, administrative staff is exploring the possibility of a contract with a local hospital. We look forward to assessing the results of the State's efforts in our next compliance report.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

The State cannot reach substantial compliance with this provision until it recruits additional mental health staff and fills the current vacancies. The State must significantly increase its psychiatric coverage in order to meet the mental health needs of Scioto youth. The lack of adequate psychiatric staffing at Scioto has hurt the quality of mental health services, as indicated in several other provisions, including B.7 (“Treatment Teams”), B.12 (“Medication Notice”) and B.13 (“Mental Health Medications”). The State should consider re-evaluating its staffing needs based on the technical assistance provided by Dr. Glindmeyer on-site and in her report. On the other hand, we are encouraged by the improved coordinated between psychiatry, psychology and social work staff and the State’s initial efforts to implement the Integrated Treatment Plan.

B.12 MEDICATION NOTICE

Before renewing a psychoactive medication prescription from a community provider or commencing the administration of a psychoactive medication to a youth, the State shall ensure that the youth, and, to the fullest extent practicable and appropriate, his or her parent or caregiver, are provided with information regarding the goals, risks, benefits, and potential side effects of the medication and given an explanation of the potential consequences of not treating with the medication, and that the youth has an opportunity to consent to such medication.

- a. Involuntary administration of psychotropic medication(s) to juveniles shall comply with applicable federal and state laws and regulations. The DYS clinical director, in consultation with the DYS medical director, shall review any request with DYS Legal Services prior to the approval for involuntary administration. (See Consent Order III.B.12).*

In order to assess this provision, we reviewed the State’s PowerPoint presentation, verbal self-assessment, relevant policies and procedures, and youth records, and interviewed youth and staff. During our February 2011 tour, staff acknowledged that the current psychiatric practitioner is not obtaining informed consent for youth who are already receiving prescribed psychotropic medications when they enter the facility. This provision requires the State to document youth’s informed consent for treatment with psychotropic medication, whether the youth’s prescription is new or a continuation of care from another provider. The psychiatric

provider reported that he does attempt to contact the youth's parent or guardian regarding new medication prescriptions.

In our Second Compliance Report, we determined that the State was in beginning compliance with this provision. Specifically, our review of youth records revealed that documentation regarding risks, benefits, side effects, and alternatives to treatment was present in youth's files but of varying quality. Our more recent review of youths' initial psychiatric evaluations revealed that there is no documentation of informed consent in the files of youth who enter the facility on prescribed medications and no documentation of the appropriate elements of informed consent in the files of youth who are prescribed psychotropic medications post-admission. (See Glindmeyer Second Mental Health Report at 27-28). Given the lack of documentation in youth's files, coupled with the staff's concession that informed consent is not occurring, we must find that the State is non-compliant with this provision.

Scioto staff are aware of the challenges and deficiencies in the area of informed consent for psychotropic medication. During interviews, staff expressed the desire to see more consistency in documentation of informed consent, but also expressed concern regarding the limited psychiatric coverage. (See Glindmeyer Second Mental Health Report at 28). Staff further reported they are in the process of developing information for the youth and their parents on side effects of the psychiatric medications. Id. Interviews with youth revealed that youth are able to name some of the medications prescribed and some side effects of the medications.

Finally, the State has not filed any petitions for authorizations to involuntarily administer medications.

Compliance Rating: Non-compliance

Recommendation(s) to reach substantial compliance:

The State cannot reach substantial compliance with this provision until it consistently documents the presence of informed consent. The State must also document that it notifies youth that they have an opportunity to refuse such medication and that they received informed explanations of the potential consequences of refusing medication. While it is a positive sign that youth continue to be able to name some of the medications prescribed and some of the side effects, the State must document that it is consistently providing youth, and, to the fullest extent practicable and appropriate, his or her parent or caregiver, with information regarding the goals, risks, benefits, and potential side effects of medication. The State has not made any progress in this regard since our last assessment. In fact, likely due to staffing limitations, the State's documentation of informed consent has worsened. In our Second Compliance Report, we encouraged the State to consider a peer review process for informed consent and to develop information regarding side effects of psychotropic medication that is written in language that youth can understand. We continue to urge the State to adopt these recommendations.

B. 13 MENTAL HEALTH MEDICATIONS

The State shall develop and implement policies, procedures, and practices to ensure that psychoactive medications are prescribed, distributed, and monitored properly and safely, and consistent with generally accepted practices. The State shall provide regular training to all health and mental health staff on current issues in psychopharmacological treatment, including information necessary to monitor for side effects and efficacy. The State shall issue and implement policies and procedures for the administration of appropriate tests (including, for example, blood tests, EKGs, and Abnormal Involuntary Movement Scale tests) to monitor the efficacy and any side effects of psychoactive medications in accordance with generally accepted professional standards. The State shall also:

- a. Share medication compliance data with the psychiatrist and document the sharing of this information; and*
- b. Not withhold the provision of psychostimulants to youth when such treatment is clinically warranted. (See Consent Order III.B.13)*

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, relevant policies and procedures, lists of youth

prescribed medication, mental health caseload documentation, 10 youth records, clinical observations, and interviewed youth and staff. Since our last review, the State has updated and approved the “Recommended Laboratory Monitoring Frequency Guidelines.” While this policy is adequate, the State should ensure that it reviews this policy annually so that it remains consistent with generally accepted practices. We applaud the State for finalizing this draft policy. However, the State’s ability to ensure that psychoactive medications are prescribed, distributed, and monitored properly and safely, and consistent with generally accepted practices, is limited due to the current shortages in psychiatric coverage. Consistent with our last review, the psychiatry clinic at Scioto is not yet fully functional. The psychiatrist is making efforts to perform initial psychiatric evaluations, provide ongoing medication management, and attend some interdisciplinary team meetings. While we commend the psychiatrist’s efforts, the State cannot reach substantial compliance with this provision with its current psychiatric coverage.

Documentation regarding the most recent ten youth admitted to the facility who were prescribed psychotropic medication revealed consistent deficiencies. Youth psychiatric records lacked critical information, including weight and vital signs, monitoring for abnormal involuntary movements, information regarding laboratory examinations, the basis for the psychiatrist’s diagnosis (the “diagnostic formulation”), or the youth’s symptoms that formed the basis for prescribing the medication(s). (See Glindmeyer Second Mental Health Report at 31-33).

However, youth psychiatric records include adequate documentation of the youth’s historical information. In addition, most youth we interviewed were knowledgeable about most of their prescribed medications and were able to articulate the symptoms that some of the medications are addressing and some basic side effects. Youth also indicated that laboratory examinations had been performed during their stay at Scioto. Other positive aspects of psychiatric care

that we identified during our last review remain in place. For example, the psychiatrist again reported good access to laboratory examinations and reported taking after-hours calls for psychiatric emergencies at the facility. Also consistent with our last review, the psychiatrist did a good job establishing rapport with the youth during clinics, queried the youth regarding signs and symptoms of mental illness, inclusive of historical data, and reviewed the youth's medical record, inclusive of school and behavioral information.

At the time of the February 2011 tour, there were 138 youth housed on campus. Of these, 33 (or 24%) were prescribed psychotropic medication. Of these 33 youth, 9 were prescribed stimulant medications associated with diagnoses including Attention Deficit Disorder ("ADD"), Attention Deficit Hyperactivity Disorder ("ADHD"), or other Axis 1 mental health disorders.

Compliance Rating: Beginning compliance

Recommendation(s) to reach substantial compliance:

In order to reach substantial compliance with this provision, the State must recruit psychiatrists to fill the available positions. As youths' psychiatric records demonstrate, the State cannot ensure and document that psychoactive medications are prescribed, distributed, and monitored properly and safely without sufficient mental health staffing. Specifically, the documentation deficiencies we discovered are likely the result of diminished clinical resources. We continue to recommend that the State improve psychiatric documentation through quality assurance monitoring or a peer review process. In addition, the State should ensure that it provides regular training to all health and mental health staff on current issues in psychopharmacological treatment, including information necessary to monitor for side effects and efficacy, as required by this provision.

B.14 MENTAL HEALTH AND DEVELOPMENTAL DISABILITY TRAINING FOR DIRECT CARE STAFF

The State shall develop and implement strategies for providing direct care and other appropriate staff with training on mental health and developmental disabilities sufficient for staff to understand the behaviors and needs of youth residents in order to supervise them appropriately. (See Consent Order III.B.14)

In order to assess this provision, we reviewed the State’s PowerPoint presentation, verbal self-assessment and training documents. The State has provided an update on the behavioral health policy and procedure for all staff, trauma training for staff assigned to the girls units and the boys mental health unit, and training regarding self injurious behavior for staff assigned to the girls units and the boys mental health unit. The State also provided a three-day mental health intensive training to assist staff with the treatment team process. However, mental health staff excluded direct care staff from this training. Direct care staff would have benefited from this information. Direct care staff are an important part of the youth’s treatment team.

The State’s failure to include direct care staff in treatment team training is indicative of a larger problem at Scioto. It is apparent that direct care staff do not consider themselves to be an integral part of the treatment program. (See B.7 (“Treatment Teams”)). Dr. Glindmeyer provided the State with technical assistance on this matter during and after the tour. This is an area that will require a cultural shift at the facility, and will require teamwork, integration, and training.

Despite our request for a spreadsheet indicating all trainings attended by Scioto staff and dates of completion, the State failed to provide this information. During interviews, staff conceded that they have “not had the time to address the requirements of provision 14 or 15 thoroughly.” (See Glindmeyer Second Mental Health Report at 34). At this time, we have insufficient evidence to determine that the State has made significant improvements with regard to this provision.

Compliance Rating: Beginning compliance

Recommendation(s) to reach substantial compliance:

We urge the State to fully integrate direct care staff into youths' treatment teams. We continue to recommend that the State appraise its staff training needs and develop a curriculum to address these needs. Based on that appraisal, the State should continue the development of Mental Health Unit training and develop a mandatory training schedule for staff who provide care to youth on the mental health case load. Going forward, the State should create a spreadsheet that delineates staff attendance and completion of required training modules.

B.15 STAFF MENTAL HEALTH TRAINING

The Facilities shall train:

- a. *All staff who directly interact with youth (e.g. JCO's, social workers, teachers, etc.) on:*
 - (i) *basic mental health information (e.g. diagnosis, specific problematic behaviors, psychiatric medication, additional areas of concern) and recognition of signs and symptoms evidencing a response to trauma; and*
 - (ii) *teenage development, strength-based treatment strategies, suicide, and, for staff who work with female youth, female development.*
- b. *Clinical staff on the prevalence, signs, and symptoms of Post Traumatic Stress Disorder and other disorders associated with trauma. (See Consent Order III.B.15)*

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, and training documentation. As noted in provision B.14, Scioto staff frankly acknowledged that they have not had time to thoroughly address the requirements of this provision. The documentation provided by the State to demonstrate compliance with this provision supports the staff's statements. In our document request, we asked the State to provide a spreadsheet indicating which staff had completed training programs relevant to this provision with completion dates. In response, the State provided a list of 11 employees,

presumably all mental health staff, who had attended trainings on youth advocate training, MYR policy review, MYR practice, and mechanical restraints. In the future, the State should provide data regarding training in the required mental health subject matter areas delineated in this provision. This data must include not only training for mental health staff, but training for “all staff who directly interact with youth,” including direct care staff and teachers.

The State reported that it has trained staff on the new cognitive behavioral and trauma based treatment programs; however, the State did not include documentation of these trainings in the records provided for our review. The State provided numerous other training modules, including “Suicide Precautionary Equipment and Restraints,” and “Treatment of Youth with Mental Health Disorders.”⁹ However, we have no means of assessing staff attendance and training completion. Staff indicated that they have plans to develop a curriculum, a schedule, and a quarterly training regarding specific mental health issues in the future. (See Glindmeyer Second Mental Health Report at 36).

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

We urge the State to provide adequate evidence of its compliance with the requirements of this provision in the future, including a spreadsheet that delineates staff attendance and completion of the required training modules. We recommend that the State track and provide us with information that is directly relevant to its implementation of the requirements of the provision. As stated in the previous provision, the State should continue the development of Mental Health Unit training, and develop a mandatory training schedule for staff that provide care for youth on the mental health caseload.

⁹ A complete list is available in Dr. Glindmeyer’s report. (See Glindmeyer Second Mental Health Report at 37).

B.16 SUICIDE PREVENTION

The State shall review, and, as appropriate, revise current suicide prevention practices to ensure that suicide preventions and interventions are implemented consistently and appropriately, consistent with generally accepted professional standards of care. (See Consent Order III.B.16)

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, draft policies and procedures, quality assurance documents, and lists of youth on suicide precautions, and interviewed staff. The State provided its policy entitled "Suicide Prevention and Response." However, it appears that this policy is still pending. Mental health staff reported that, on a weekly basis, they review the list of youth on precautionary status and monitor youth on suicide status. Between January 11, 2010 and February 11, 2010, there were 36 instances in which staff placed youth on precautionary status. Of these 36 instances, four youth required precautions a total of two times, two youth required precautions a total of three times, and one youth required precautions a total of four times. Accordingly, six youth accounted for 16 instances of placement on precautionary status. These data indicate that a subset of youth may require additional mental health intervention and suicide precautions.

In our Second Compliance Report, we requested that the State provide quality assurance measures regarding suicide prevention. The State provided an example of an audit tool and an example of a compliance summary regarding suicide prevention. We appreciate the State's response to our request. However, these documents are of limited utility. Both documents were undated, so we could not determine when the State conducted the audit or the compliance summary. In addition, it was difficult to determine the sample size reviewed in the reports. Specifically, while the forms for the audit tool indicated that the sample size should be "10% of youth population and/or no less than 10 samples," the documents also indicated that "all CBT youth and females MH records" were audited, but did not specify a total number of records reviewed. The State's quality assurance measures

indicated 100% compliance across five areas related to suicide prevention. Yet, the compliance summary stated that the sample size was only three youth.

Staff noted anecdotally that the number of youth requiring precautionary status had decreased in the weeks prior to the tour. However, a decrease in the number of youth identified as at risk of committing suicide is likely multi-factorial. Specifically, while the decrease may be the result of improved treatment and intervention or, as Scioto staff hypothesized, the result of youth housed on mental health units settling into the facility milieu, the State must ensure that the reduction is not the result of the State's failure to identify youth at risk of self-injury.

Finally, in our Second Compliance Report, we alerted the State that its failure to develop a formal process for informing the psychiatrist when a youth is placed on suicide watch or other restriction fell below generally accepted standards of care. The State has not addressed this problem, and a formal process is still not in place.

Compliance Rating: Beginning compliance

Recommendation(s) to reach substantial compliance:

In our Second Compliance Report, we determined that the State had not provided us with sufficient information to assess this provision. Accordingly, we determined that the State was non-compliant. We appreciate that the State has provided data regarding the number of youth on suicide precautions and has made efforts towards developing quality assurance measures. We encourage the State to continue its quality assurance efforts and ensure that assessments include a representative sample of all youth and that results are dated. In addition, the State must ensure that it adequately identified and monitors youth requiring precautionary status. We urge the State to consider the need for additional mental health interventions for the subset of youth requiring frequent precautionary

status. We reiterate our concern that Scioto does not have a formal process in place to alert the psychiatrist if a youth in his care is placed on suicide watch. Finally, it does not appear that the State has finalized its suicide prevention policy since our last review. The State cannot reach substantial compliance with this provision until it finalizes and implements its suicide prevention policies and procedures.

B.17 TRANSITION PLANNING

The State shall ensure that staff create transition plans for youth leaving the Facilities consistent with generally accepted professional standards of care. (See Consent Order III.B.17)

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, ten medical release summaries and psychological service summaries, one discharge plan, and interviewed staff. During our February 2011 tour, staff acknowledged that Scioto is "in the infancy stages of transition planning." (See Glindmeyer Second Mental Health Report at 41). Staff expressed plans to work with social services staff to develop discharge plans and to begin planning youth's discharge upon their admission to the facility.

Our review of recent medical release summaries revealed some improvement in the State's documentation of transition planning, but many of the deficiencies we identified during our last review persist.¹⁰ For example, the medical release summary of Youth 111 included a listing of psychotropic medication, documentation of a 30-day supply of medication, and a listing of diagnoses. However, the youth's psychiatric diagnoses still included two "rule out" diagnoses at discharge, signaling that mental health staff had not finalized this youth's diagnostic assessment despite his two years of incarceration at Scioto. In addition, mental health staff documented concerns regarding this youth's mental health status and history of significant mental health symptoms, yet failed to document concrete mental health

¹⁰ Some of the medical release summaries the State provided were dated prior to our November 2010 tour, so we did not include those forms in the instant assessment.

referrals or linkages to community supports. Youth 222's medical release summary listed diagnoses and medications, but did not specify the amount of the medication the youth was prescribed at discharge. While mental health staff recommended community services, staff did not document how the youth would link with these community services or with whom or where her community psychiatric appointment would occur.

Since our last review, the State has finalized the "Behavioral Health Services" policy. This policy, if appropriately implemented, will help the State meet the requirements of this provision. The subsection on "Discharge Planning" requires the development of a staffing team responsible for creating youth's discharge summary. We reviewed one such discharge summary, dated January 12, 2011, regarding Youth 333. The diagnoses listed on the discharge summary differed from the diagnoses listed on the youth's medical release summary. In addition, two critical pieces of information on the discharge summary were incomplete – the "continuity of care/referral information" and "after care options."

Compliance Rating: Beginning compliance

Recommendation(s) to reach substantial compliance:

We continue to urge the State to develop transition planning services, including concrete linkages with community resources for all youth. Given the staff's verbal self-assessment, it is clear that the State is aware that it has significant work to do to reach substantial compliance with this provision. We encourage the State to proceed with its plans to begin discharge planning at the time of admission. The State should also ensure that staff complete all sections of the discharge summary form. We further recommend that the State begin quality assurance monitoring regarding the quality of documentation of discharge information and the integration of this information with the medical release summary.

B.18 OVERSIGHT OF MENTAL HEALTH SERVICES

The Facilities shall ensure that youth receive the care they need by developing and implementing an adequate mental health Quality Assurance/Improvement Program; annually assessing the overall efficacy of the staffing, treatments, and interventions used at the Facilities; and, as appropriate, revising such staffing, treatments and interventions. (See Consent Order III.B.18)

In order to assess this provision, we reviewed the State's PowerPoint presentation, verbal self-assessment, quality assurance reviews, and interviewed staff. At the time of our last review, the State's policies and procedures regarding Quality Assurance and Clinical Supervision were still in draft form. Staff reported that these policies and procedures became effective January 1, 2011. This policy does not clearly outline how the State should document its quality assurance reviews. While this policy may be purposefully vague, the State should consider reevaluating and clarifying the policy if the documentation deficiencies we identify below persist.

The State provided quality assurance reviews regarding "Integrated Treatment and Service Delivery." The reviews were not dated, so we cannot determine the dates or time periods of review. The documents listed multiple headings of subject matter reviews, including Individual Treatment Planning and Mental Health Referrals and Services.¹¹ The documents list standards below each of these headings. However, the documents do not define what the standards are, nor did the State provide a copy of the guiding document defining the standards. Accordingly, we could not assess the State's compliance with specific areas.

Despite these deficiencies, the Integrated Treatment and Service Delivery review was informative. Facility reviewers assigned numerous areas compliance ratings of 70% or below. For example, reviewers assessed seven items related to Individual Treatment Planning. Of these seven items, reviewers rated one at 100%,

¹¹ A complete list is available in Dr. Glindmeyer's report. (See Glindmeyer Second Mental Health Report at 44).

but reviewers rated the remaining six at below 68%. Of those six below 68%, reviewers rated two items at 0% and two items at 12%. Overall, the average rating for Individual Treatment Planning was 35.4%. Dr. Glindmeyer provides a thorough assessment of the results of the State's analysis in her report. (See Glindmeyer Second Mental Health Report at 45).

The State also provided a December 15, 2010, performance review for one mental health provider and the social services weekly report. The State did not provide documentation regarding regular clinical supervision of providers. The social services weekly report demonstrated that a small subset of Scioto's treatment staff exhibit a lack of commitment to the overall mental health treatment program. For instance, some staff missed multiple group therapy sessions. According to the weekly report for the week ending January 10, 2011, one provider did not have any documentation of individual sessions with youth documented in the case notes for the previous month. According to the report for the week ending December 20, 2010, treatment staff did not conduct any individual sessions regarding Youth 111 for the previous week. This finding is problematic, given Youth 111's serious mental health issues, which, as stated above, led the treatment team to place him in isolation without time out of his room for a period of four days.

As required by the newly implemented policies, the first quality improvement meeting took place on February 8, 2011. The State did not provide the minutes of this meeting, so we cannot yet assess the efficacy of this aspect of the policy's implementation.

During our February 2011 tour, staff reported that they are keeping statistics, but do not have a system in place to manage and analyze data. Staff also indicated that they have created a database for quality assurance information, and have hired a data manager. We recognize that the State is in the early stages of developing and implementing the framework for its new mental health care system.

However, since our last review, the State has made notable progress by developing mechanisms to track data and hiring a data manager.

Compliance Rating: Partial compliance

Recommendation(s) to reach substantial compliance:

In order to reach substantial compliance with this provision, the State should complete staff training and implement the planned mental health administrative structure, meetings and treatment modalities. Following the full implementation of these programs, the State should renew its efforts to engage in quality assurance monitoring to assess the efficacy of staffing, treatment and interventions. Finally, when providing quality assessment results, the State should ensure that it dates the documents and describes the standards it is monitoring.

III. GENERAL MEDICAL CARE

Juveniles in the custody of state correctional facilities have a due process right to adequate medical care. In order to assess the General Medical Care provisions, we reviewed relevant policies and procedures, staffing schedules, statistical data regarding completed dental procedures, staff training curricula, the health records of 12 youth, and interviewed youth during our February 2011 tour. We have attached the findings of our subject matter expert, Dr. Michelle Staples-Horne, to this Compliance Report. (See Staples-Horne Second Medical Report at Attachment D).

C.1 GENERALLY

The Facilities shall ensure that the individuals they serve receive routine, preventive, and emergency medical and dental care consistent with current, generally accepted professional standards. The Facilities shall ensure that individuals with health problems are identified, assessed, diagnosed, and treated consistent with current, generally accepted professional standards of care.

We are pleased to report that the State continues to provide quality medical care to the youth at Scioto. Youth receive routine, preventive, and emergency medical care consistent with current, generally accepted professional standards and youth with health problems are identified, assessed, diagnosed, and treated consistent with current, generally accepted professional standards of care. Moreover, the ODYS medical policies and procedures continue to meet the American Correctional Association (“ACA”) and the National Commission on Correctional Health Care (“NCCHC”) standards for providing health care to youth housed in juvenile facilities.

According to staffing schedules, Scioto has two primary care physicians – one serves the male population and one serves the female population. The two primary care physicians provide coverage each day of the week, except Wednesday and Sunday, for a combined total of approximately 1 Full Time Equivalent (“FTE”). Consistent with our last assessment, the physicians are Pediatrics and Family Medicine Board Certified to provide primary care and OB/GYN Board Certified to provide services to female youth. While Scioto had two contract psychiatrists at the time of our last review, Scioto now only has one contract psychiatrist. See page 35.

Scioto has two obstetrics/gynecology Medical Doctors (“MD”), two obstetrics/gynecology Doctors of Osteopathy (“DO”), and one certified midwife. These five rotating staff provide obstetrics/gynecology services three hours a week. Scioto has one health information technician/phlebotomist, one dentist, one dental assistant, one dental hygienist, and one optometrist. The optometrist sees youth the second and third Friday of each month. We address dental staffing in more detail in section C.7 (“Dental Care”). Scioto’s nursing staff has remained stable since our last review. Eleven Registered Nurses (“RN”) and one Licensed Nurse Practitioner (“LPN”) staff the clinic, and one RN and one LPN serve the reception area. Scioto also has a Health Services Administrator, who is also a RN, and an administrative assistant. This staffing pattern can provide coverage with at least

three registered nurses on the first and second shifts and two nurses on the third shift, seven days a week, without including the Health Services Administrator in any direct patient care responsibilities.

Based on the average length of stay, the average daily population, the staffing schedules the State provided, and evidence of care documented in the youth medical records, the medical staffing at Scioto continues to be appropriate and adequate. Moreover, the medical staff possesses the qualifications necessary to provide the appropriate level of medical care.

Youth health records continue to demonstrate that the State is generally providing youth with adequate routine, preventative and emergency care. Consistent with our last review, youth health records reflect routine care through a thorough and consistent intake screening process, which includes initial medical, dental, and mental health assessments. While some youth reported delayed access to sick call, our review of health records indicates that medical staff are appropriately addressing and documenting youth's medical complaints. The State's sick call process is discussed more fully in section C.5 ("Access to Health Services").

Medical staff assess youth with injuries in a timely manner. One health record included documentation of adequate emergency care. Medical staff monitor and address chronic diseases appropriately and according to accepted practices. Youth continue to receive appropriate diagnostic services, preventative services, and health education. The State continues to provide comprehensive health services specific to females, including complete gynecological examinations, pelvic examinations, and family planning and pregnancy-related services.

In our Second Compliance Report, we determined that the State could not reach substantial compliance with C.1 until it reached substantial compliance with provision C.7 ("Dental Care"). As discussed in C.7, the State has provided improved documentation of its dental care practices, and is now in substantial compliance

with the Dental Care provision. Accordingly, the State is now in substantial compliance with C.1. We applaud the State's progress in this area.

Compliance Rating: Substantial Compliance

In our Second Compliance Report, we suggested that the State provide regular training to all health care staff to ensure that they are aware of the current accepted professional standards of care. The NCCHC standard Y-C-03 recommends that health care staff attend in-service programs or conferences focusing on topics related to correctional health care. The State submitted training records for 14 nurses and one phlebotomist. The training primarily consisted of courses relevant to the general correctional staff. Examples include Managing Youth Resistance, Information Technology, Cultural Competency and Planned Intervention. The State did not submit any evidence of continuing education designed for health care professionals. We continue to encourage the State to provide health care staff with continuing education, presentations and trainings on the special health needs of adolescents.

Finally, in our last report, we recommended that the State implement an adequate Continuous Quality Improvement ("CQI") process. The State reported that its quality assurance policy is awaiting final approval. Although a CQI component is not expressly included in the Consent Order's requirements, we note that it is an essential part of any medical program that aims to provide quality care. We encourage the State to finalize and implement its CQI policy. Such a policy will help the State maintain its medical program in substantial compliance with this provision.

C.2 HEALTH RECORDS

The State shall develop and implement policies, procedures, and practices to ensure that, consistent with state and Federal law, at a minimum, the juvenile courts in the State, all juvenile detention facilities, and all placement settings from which youth are committed shall timely forward to Scioto, or to the

facility of placement (if the records arrive after the youth has been placed), all pertinent youth records regarding medical and mental health care. The Facilities shall develop and implement policies, procedures, and practices to ensure that health care staff, including mental health care staff, have access to documents that are relevant to the care and treatment of the youth.

In order to assess this provision, we reviewed the relevant policies and procedures, and the health records of 12 youth. The State's policies, procedures and practices related to the transfer of records to and from other facilities and institutions continue to demonstrate a commitment to continuity of care for Scioto's youth. The policies and procedures delineate the required components of each health record and explain the records transfer process. The State's practice continues to be consistent with its policies and procedures. Specifically, youth health records are arranged according to the policy and the records contain documentation consistent with the records transfer process, information from outside consultations, and discharge summaries.

In our last report, we recommended that the State include all mental health diagnoses on the problem list. The State has improved this practice and now routinely includes mental health diagnoses on the problem list. We did review one health record where the State failed to include a major medical diagnosis on the problem list. However, we do not believe this one failure is a reflection of the State's practice as a whole.

Despite the State's compliance with certain aspects of this provision, the State has not adopted our recommendation to combine medical and psychology records. While health records include psychiatric evaluations and chronological psychiatric progress notes, records still do not include psychological records, such as case notes. Some progress notes in health records indicate that youth are participating in groups, but the progress notes provide no other details. Accordingly, the State has not yet developed and implemented policies, procedures, and practices to ensure that all health care staff at the facility have access to documents relevant to the care and treatment of the youth.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

In order to reach substantial compliance with this provision, the State must continue moving towards a system that will combine all health records, including psychology records. We recognize that the Consent Order does not mandate an electronic recordkeeping system. However, such a system would improve Scioto's ability to access critical health information by giving health record access to medical, dental, and mental health staff simultaneously. The State reports that it has collaborated with Ohio State University to explore using the "EPIC" electronic health record program that is currently used by the Ohio Department of Rehabilitation and Corrections. We commend the State for taking steps towards the adoption of an electronic system. In addition, we renew our offer to make Dr. Staples-Horne available to provide technical assistance.

C.3 CONFIDENTIAL HEALTH CARE

The Facilities shall provide health care and assessment in a setting that maintains health care confidentiality, by placing non-medical staff out of line of sight and hearing of the health care assessment or treatment, except in circumstances where documented safety considerations posed by a particular youth require enhanced, non-medical supervision.

In order to assess this provision, we reviewed the relevant policy and interviewed youth. Youth continue to report that all visits with medical staff are conducted confidentially. Specifically, youth reported that correctional staff is not within earshot during health care treatment and assessment. If youth are receiving an examination that requires them to undress, the door to the exam room is closed and non-medical staff are out of the line of sight.

Compliance Rating: Substantial Compliance

While the State’s practice conforms to the requirements of this provision, the current policy only requires the State to maintain an examination room that allows for the private examination of youth at the medical clinic. It does not provide any specific guidance regarding the conduct of non-medical staff. In our Second Compliance Report, we urged the State to amend Policy #403.04 to reflect the State’s actual practice and provide additional guidance to medical and non-medical staff. The State has not modified Policy #403.04. While not expressly required by this provision, we again encourage the State to amend its policy to provide additional guidance to Scioto staff.

C.4 INITIAL HEALTH ASSESSMENT

The Facilities shall ensure that initial health assessments are complete and include: use of growth and weight charts; laboratory test results placed in the youth’s health records before the youth is transferred out of reception; results of all laboratory tests, to be provided for each test within 20 days of its performance; testing of all youth for sexually transmitted diseases; and a problem list and a plan of care for each problem identified at reception.

In order to assess this provision, we reviewed the relevant policies and procedures and the health records of 12 youth. Medical staff completed initial health assessments in 100% of the youth health records reviewed. These assessments included the nurse intake screening/assessment, a physical exam, screening for tuberculosis, and gathering information related to mental health and substance abuse concerns. Registered Nurses continue to complete the intake assessments on the day of intake and the Primary Care Physician typically completes physical examinations within one week of admission. All of the records we reviewed included growth and weight charts. Laboratory tests are completed on all youth at intake and test results were returned well within the 20 days required by the provision. When applicable, medical staff conducted gynecological exams in a timely manner. In all of the health records we reviewed, youth were tested for sexually transmitted diseases (“STDs”) at intake and received vision and hearing screenings.

Compliance Rating: Substantial Compliance

In our Second Compliance Report, we urged the State to consider amending its policy controlling medical services related to STDs and pregnancy. Specifically, the policy does not authorize minors to release STD and pregnancy-related information to parents or others although minors are legally authorized to release such information. We also recommended that the State amend Policy #403.11 “Health Care Physical Examination-Intake” to reflect the facility’s practice of conducting hearing and vision screenings. The State has not amended these policies since our last review. We recognize that these changes are not required by this provision. However, we continue to recommend these changes as technical assistance.

C.5 ACCESS TO HEALTH SERVICES

The Facilities shall ensure that youth can request to be seen by medical staff confidentially and independent from JCOs and custodial staff.

In order to assess this provision, we reviewed the relevant policies and procedures, the health records of 12 youth, and interviewed youth. Scioto’s policy and procedures remain the same since our last assessment. Our review of health records indicated that medical staff documented many more assessments of youth in the progress notes than there were sick call forms. Of the 12 health records we reviewed, two did not contain any sick call request forms and one record had only one handwritten request. Either youth are approaching nurses directly with medical complaints instead of completing a sick call form or medical staff are not placing the sick call request forms in the health record. For example, a progress note documented a case where a youth complained of a toe injury while the nurse was on the unit. The RN on the unit evaluated the youth and the youth received further care in the clinic later that day and the following day.

Dr. Staples-Horne’s review of health records indicated that, when appropriate, nursing staff refer youth to the physician. The physicians saw youth

and documented these visits in all of the records she reviewed. In one case, the physician completed a minor surgical procedure to incise and drain a boil. One youth complained of ear pain one day and the nurse saw the youth the next day, gave the youth Tylenol and referred the youth to the physician. The following day, the physician diagnosed and treated the youth.

While the dates on the sick call request forms Dr. Staples-Horne reviewed indicated that medical staff see youth in timely manner – usually the following day, numerous youth reported that they experienced delays with the sick call system. Specifically, youth alleged that they had waited three or more days to have a sick call request filled. Other youth alleged that their sick call requests went ignored. For example, one youth alleged that after playing in the gym, she suffered toe pain and submitted two sick call requests that were not answered. She then verbally asked three times to go to the medical unit and was not sent. Finally, two weeks after the youth filed the original sick call request, a nurse saw the youth, performed x-rays, and determined that the youth had a fractured toe. The youth was given pain medication, but should never have been forced to walk on a fractured toe for weeks. We notified the State of these concerns in a March 11, 2011 letter.

In our Second Compliance Report, we determined that the State had reached substantial compliance with this provision. However, we are concerned that youth reported experiencing significant delays when seeking medical care through the sick call system. We strongly urge the State to implement quality assurance mechanisms to address youth's concerns expressed during our February 2011 tour.

Compliance Rating: Partial Compliance

The State must ensure that youth have unimpeded access to medical care. As stated above, we encourage the State to implement quality assurance measures. In addition, in our last compliance report, we made several recommendations that would improve youth's access to health care services at Scioto. We recommended

that the State change its sick call Standing Order #403.07 from “Standing Order” to “Nursing Protocols” in accordance with the NCCHC’s Standard Y-E-11. We further recommended that the State ensure that sick call health assessments are completed by RNs and not LPNs and specify this change in its policies. The State has not implemented these changes. We continue to urge the State to implement these changes to ensure that youth have unfettered access to quality care. Finally, we recommended that the State review its policies and procedures at least annually, and update them as needed. While the State updated its sick call procedures in March of 2010, the State had not reviewed these procedures for the previous three or four years. We encourage the State to consider reviewing this procedure soon since more than a year has elapsed since the State’s last review.

C.6 MEDICATION MANAGEMENT

The Facilities shall not discontinue a chronically ill youth’s usual medication for non-medical reasons, including that the medication is not on the Facilities’ formulary.

In order to assess this provision, we reviewed relevant policies and the health records of 12 youth. Based on our review, it appears that Scioto continues to provide medication to chronically ill youth in its custody. The prescriber’s orders for medications and medication administration records continue to be complete and present in all youth health records. Nurses are administering and documenting medications as ordered. Progress notes adequately document treatment refusals made by youth. Scioto continues to document hot weather precautions for youth who are taking medications that predispose them to heat sensitivity and Abnormal Involuntary Movement Scale (“AIMS”) for youth on psychotropic medications.

In our last assessment, we recommended that the State modify its current policy to reflect Scioto’s practice for securing medications not listed on the formulary. Specifically, if a particular medication is not available on the formulary, Scioto obtains the medication from a local pharmacy. The State has not yet modified its current policy. While we believe this practice is beneficial and should

be documented in the State's policy, we recognize that the State has met the requirements of this provision.

Compliance Rating: Substantial Compliance

C.7 DENTAL CARE

The Facilities shall ensure that:

- a. Dental restorative needs are listed on a dental treatment plan for the youth, tracked by the dental program, and treated on a timely basis consistent with generally accepted professional standards of care;*
- b. Prosthetic dental services are provided based on need, as determined by the treating dentist, with appropriate consideration for the replacement or repair of missing front teeth, according to generally accepted professional standards of care;*
- c. Youth experiencing dental pain are not denied adequate pain medication;*
- d. Health records contain adequate documentation of all outside dental consults, including the clinical examination, treatment plan, procedures performed, orders for management after the procedures, and any follow-up appointment or plan; and*
- e. Dental staffing is adequate to meet the restorative dental needs of the Facilities' populations.*

In order to assess this provision, we reviewed the relevant policies and procedures, data provided by the State, and the dental records of 12 youth. In our Second Compliance report we determined that the State had not reached substantial compliance because the State's dental record-keeping was inadequate and did not consistently include documentation of dental examinations and treatment. We also expressed our concern that the follow up dates for restorative procedures – specifically, fillings – may be set too far out in the future to ensure completion prior to youth's release. Finally, we could not determine whether dental staffing was adequate to meet the restorative dental needs of the Facility's population.

The State has now provided adequate information to support a determination that it has reached substantial compliance with this provision. The State provided

statistical data for dental services completed and dental staffing schedules. The dental hygienist works up to 16 hours per week and averages one to two dental prophylaxes per hour. The dentist and dental assistant work up to 30 hours per week and complete an average of 97 examinations and 34 restorations per month. Dental staffing appears to be adequate. However, our review revealed that there was a downward trend in the number of youth dental staff examined between September and December 2010 compared to the previous months of 2010. We do not have data to determine the cause of this shift and whether the trend has continued into 2011.

Our review of health records revealed that each youth received three to four dental x-rays each. Appropriately, dental staff conducted far more restorations than extractions. Dental staff documented that they provided youth with sealants and dental appliances (night guards) and made appropriate referrals. Scioto's provision of night guards is an example of prosthetic dental services. Youth experiencing dental pain were seen by the nurse and given pain medication until seen by the dentist, usually the following day. One youth submitted more than one sick call request complaining of dental pain. However, the nurse documented in the progress note that the youth had admitted that she had seen the dentist, but refused to get fillings because she was afraid of needles.

Based on the data submitted by the State, the State has reached substantial compliance with this provision. We applaud the State for providing quality dental care to Scioto youth.

Compliance Rating: Substantial Compliance

While the State has reached substantial compliance with this provision, we encourage the State to continue to track the number of youth examined by dental staff and to investigate potential causes of the downward trend that began to occur between September and December 2010.

C.8 MANAGEMENT OF CHRONIC ILLNESSES

The Facilities shall ensure that:

- a. Chronic disease policies, protocols, and practices are appropriate for chronically ill adolescents;*
- b. Youth with chronic asthma are continued on their established medicines on admission unless the youth's condition warrants a change in treatment; and*
- c. Youth who frequently use rescue inhalers are appropriately monitored and treated by physicians to minimize preventable asthma hospitalization resulting from acute respiratory crisis that follows an inadequately treated exacerbation of chronic asthma.*

In order to assess this provision, we reviewed the relevant policies and procedures and the health records of 12 youth. The youth whose records we reviewed have the following chronic illnesses: hypertension, seizure disorder, hypothyroidism, renal disease, asthma, hepatitis C, latent tuberculosis, and a cardiac condition. We also reviewed the health records of two pregnant females. The State continues to provide quality medical care to youth with chronic illnesses. One pregnant youth's care was particularly challenging due to her additional diagnoses of hypertension, renal disease, and asthma. Scioto provided prenatal care consistent with the accepted standard of care. Medical staff provided a youth with hepatitis C with extensive education regarding her disease, liver ultrasound studies, appropriate laboratory tests, and immunizations.

Of the files we reviewed, four youth's records indicated a history of asthma. Three of these youth have mild asthma. One of these three youth did experience an exercise induced asthma attack, and medical staff appropriately changed this youth's medication order to allow the youth to use the inhaler prior to exercise. The fourth youth had severe persistent asthma, required multiple medications and had a history of numerous hospitalizations. Medical staff managed the care of this youth well and provided the youth with routine visits to an outside allergist for Xolair medication injections.

The State provides excellent continuity of care for youth with chronic diseases. Medical staff include medical records from community providers in youth's health records as well as care plans when youth are nearing release back into the community. The State remains in substantial compliance with this provision.

Compliance Rating: Substantial Compliance

C.9 ACCESS TO SPECIALTY CARE

Absent clinically justified rationale, the Facilities shall not withhold access to specialist services recommended by a treating physician and shall ensure that: prior approval of specialty medical consultations is made by a physician trained and qualified in pediatrics and adolescent medicine; and assessment criteria for the necessity of specialty consultations are based on pediatric and adolescent medicine.

In order to assess this provision, we reviewed the relevant policies and procedures and the health records of 12 youth. Scioto continues to provide youth with adequate access to specialty care. The facility physician is trained and certified in pediatrics and adolescent medicine and appropriately referred youth to outside consultations with Nephrology, Cardiology, Neurology and Obstetrics specialists. Youth received optometry care and the State routinely purchased glasses when youth failed the vision screening. The State provided other diagnostic studies, including x-rays, ultrasounds, and EKGs where appropriate. Pregnant females received appropriate prenatal care as documented by the completion of the American College of Obstetrics and Gynecology ("ACOG") recommendations for ante partum care.

Compliance Rating: Substantial Compliance

C.10 IMMUNIZATIONS

The State shall make reasonable efforts to obtain immunization records for all youth who are detained at the facilities for more than one (1) month. The State shall ensure that medical staff update immunizations for such youth in

accordance with nationally recognized guidelines and state school admission requirements. The physicians who determine that the vaccination of a youth is medically inappropriate shall properly record such determination in the youth's medical record.

In order to assess this provision, we reviewed the relevant policy and procedure and the health records of 12 youth. Consistent with our last review, youth continue to receive appropriate immunizations in accordance with the Center for Disease Control and Prevention's and the Advisory Committee on Immunization Practices' recommendations, including HPV and influenza vaccines. Eleven of the 12 health records we reviewed included immunization records. Of the 11 youth files with health records, one youth was not brought current on her immunizations while at Scioto, but her immunization records from a previous facility or school were present in her health record. The one youth who had no immunization records in her health record had recently entered the facility. Scioto continues to update immunizations for youth who are detained for more than one month. The State continues to be in substantial compliance with this provision.

Compliance Rating: Substantial Compliance

We continue to urge the State to update the relevant immunization policy and procedure. The State's policy and standard operating procedure were last revised January 3, 2006. Accordingly, they do not reflect the current practice of providing all recommended vaccinations.

IV. GRIEVANCES

D.1 GRIEVANCES

The State shall develop and implement policies, procedures and practices to ensure that the facility has an adequate grievance system including: no formal or informal preconditions to the completion and submission of a grievance; review of grievances by the chief inspector; timely initiation and resolution of grievances; appropriate corrective action; and written notification provided to the youth of the final resolution of the grievance. (See Consent Order III.D.1)

In order to assess this provision, we reviewed the State's self-assessment, documents requested prior to tour, 106 grievances submitted between November 1, 2010 to February 1, 2011, and interviewed youth. In her report, Dr. Dedel notes that all grievances reviewed during the relevant time period were handled in a timely manner, youth received notification, and that the CIO requested additional follow up regarding 15% of the grievances. (See Dedel Third PFH Report at 16). Further, consistent with language in the provision, the policy has no preconditions for filing a grievance, youth receive notification of the grievance resolutions, grievances are picked up each weekday, and all grievances are reviewed by the Chief Inspector's Office.

Based on our February 2011 interviews with youth¹², we are concerned, however, that there is a *de facto* precondition or limitation to completing and submitting grievances alleging staff mistreatment. The *de facto* precondition exists for two reasons: (1) some YS staff routinely inform youth¹³ that Scioto prohibits youth from grieving any action by staff and (2) Scioto's explanation to youth about grievances is incomplete or inadequate (discussed in D.2 below.) Combined, the intentional misinformation by some YS staff and the incomplete explanation about how the facility handles grievances (including staff mistreatment) create a perception to youth that the grievances about staff mistreatment are not accepted

¹² During our February 22-24, 2011, 19 of the 25 youth interviewed voiced a deep mistrust of the grievance system. Youth alleged that YS staff told them that Scioto prohibits youth from grieving about staff mistreatment, or grieving the consequences and punishments received from staff. The number and consistency of these allegations are problematic, and place Scioto at odds with even its own Youth Handbook (discussed below in F.2), which only prohibits youth from filing a grievance against the sentence they received from the Court. Due to this confusion and inconsistency, through a letter dated March 11, 2011, the United States suggested the State provide a "refresher training" for all youth and staff about the grievance system.

¹³ Some youth interviewed alleged that some YS staff tell youth that they (the youth) can "file a grievance, but nothing will happen," in effect stating that the facility will ignore the grievance.

or investigated. Further compounding the perception is that when a youth does file a grievance against a staff member, the facility's procedures re-route such grievances from the grievance officer to the CIO. Independently, the re-routing of such serious grievances to CIO is not the issue. Instead, the problem lies in that youth receive no update from the grievance officer, the one individual who youth know handles grievances, or the CIO about the grievance. In other words, while the CIO may be diligently investigating the mistreatment grievance, the youth do not know this and never receive a notification about the resolution. This reinforces the youth's perception that the facility does not permit or handle grievances against staff.

Compliance Rating: Partial Compliance

Recommendations for reaching Substantial Compliance:

The State must clarify its education of youth about the grievance process, rules, procedures, and roles of individuals. To implement such change, the State should revise its youth handbook and orientation presentation to youth to unequivocally explain to them how: (1) grievances are accepted, (2) handled, (3) processed, and (4) investigated. Further, youth should be able to discern from the handbook what their rights are regarding grievances (notification and time frames). In particular, youth must be educated about how a complaint/grievance/allegation about any staff mistreatment will be treated by Scioto and the CIO's office and that, despite a youth's unwillingness to cooperate, the investigation about staff mistreatment will proceed.

Separately, all staff should be advised about: (1) the consequences for intentionally misinforming youth about their rights, especially grievances, (2) the consequences for observing and failing to report staff mistreatment, (3) how staff mistreatment grievances will be handled, and (4) how youth will be informed about the investigation of a grievance that involves staff mistreatment.

D.2 GRIEVANCE EXPLAINED TO YOUTH

A clear explanation of the grievance process shall be provided to each youth upon admission to the facilities during orientation and to their parents or guardians, and the youth's understanding of the process shall be at least verbally verified. (See Consent Order III.D.2)

In our assessment of this provision, we reviewed the State's self-assessment, the relevant policy, the revised October 2010 Youth Handbook, and interviewed youth. The relevant ODYS policy requires that, upon admission to Scioto, staff shall provide youth with a copy of the Youth Handbook, instruct the youth on the grievance system, and ensure the youth sign a letter of understanding regarding the process. All but one youth interviewed reported having received a copy of the Handbook and all could describe the mechanics of the youth grievance process. Dr. Dedel notes in her report that the Scioto audit for youth admitted from November 1, 2010 to January 31, 2011 demonstrated that 100% of the youth received a complete orientation to Scioto, which included information about how to access the grievance system. We agree that the State provides youth an orientation upon their admission to Scioto. However, we are concerned that the grievance process is not fully explained to youth during that time. As addressed above in section D.1, it appears that youth do not receive a full explanation about how all grievances are handled. Specifically, the State fails to explain to youth that the CIO investigates grievances about staff misconduct. Further, it does not appear that youth understand that the CIO automatically investigates all grievances. Such information is vital, as it will educate youth that Scioto takes all grievances seriously.

Compliance Rating: Partial Compliance

Recommendations for reaching Substantial Compliance: See recommendations under D.1

D.3 GRIEVANCE PROCESS

Without any staff involvement, youth shall easily be able to obtain grievance forms and submit grievances. (See Consent Order III.D.3)

In order to assess this provision, we reviewed the State's self-assessment, interviewed youth, and visited the living areas of youth. Consistent with our various on-site compliance tours in 2010, we found grievance forms and locked boxes located throughout Scioto. We also found that the grievance forms are readily accessible to youth without any staff involvement. Youth interviewed acknowledged knowing how to obtain a grievance form and how to submit that form. The State has maintained its substantial compliance rating with this provision.

Compliance Rating: Substantial Compliance

V. SPECIAL EDUCATION

E.1 PROVISION OF SPECIAL EDUCATION

The State shall, at all times, provide all youth confined at the Facilities with adequate special education in compliance with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. §§ 1400-1482 (West 2000 & Supp. 2006), and regulations promulgated there under, and this Stipulation. (See Consent Order III.E.1)

In our assessment of this provision, we reviewed the State's self-assessment and interviewed youth and staff. Consistent with our visit in October 2010, it is evident that the State takes seriously its responsibility to provide all qualified youth confined at Scioto an adequate special education. Accordingly, we determined that, for the most part, the State has a sufficient foundation for an effective special education program at Scioto. In our Second Compliance Report, we detailed our shared concerns with Dr. Dedel about: (1) whether the State is providing youth in disciplinary isolation regular, dependable access to class assignments and instruction, and (2) the extent to which the ABC (in-school suspension program) is implemented effectively. We note that this Court recently ruled in the SH v Stickrath matter that the State is required to develop policies and procedures for

Alternative Education Opportunities (“AEO”) for youth in seclusion. In general, the State now provides educational services to youth as soon as possible after the onset of seclusion, contrary to the 10-day wait time applied previously. We look forward to assessing this aspect in the future.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

We note that provision E.1 requires compliance with the IDEA, the related regulations and the provisions E.2-E.11 of the U.S. v Ohio Consent Order (oversight, special education upon intake, parent and guardian involvement, staffing, screening for special education, individual educational plans, vocational education, forwarding screening and assessment information, training and quality assurance and transition services). Substantial compliance with E.1, “Provision of Special Education,” therefore partially depends upon the State reaching substantial compliance with provisions E.2 through E.11. Fortunately, not including E.1, the State is now in substantial compliance with eight of the remaining ten provisions, in partial compliance with the one remaining provision, E.7 (Individual Educational Plans), and in beginning compliance with one remaining provision, E.8 (Vocational Education). Below, we provide the State with specific recommendations with regard to provisions E.7 and E.8. We encourage the State to consider these recommendations and those made by Dr. Dedel throughout her Second SPED Report.

E.2 OVERSIGHT

The State shall provide adequate oversight of special education at the Facilities. (See Consent Order III.E.2)

In our assessment of this provision, we reviewed the State’s self-assessment and interviewed staff. Consistent with our October 2010 compliance tour, we found that the documentation provided by the State regarding its SPED policies and

procedures support finding that ODYS continues to provide sufficient oversight over the SPED program at Scioto. Specifically, the State has demonstrated that it has an oversight strategy that operates at both the external and internal level. As described by Dr. Dedel in her First SPED Report, both levels of oversight are impressive and underscore the State's dedication to achieving compliance with this provision. In Dr. Dedel's Second SPED Report, she details the regular communication and guidance the Special Education Director provides Scioto education staff. (See Dedel Second SPED Report at 5). The State has thus maintained substantial compliance with this provision. In our February 2011 compliance report, we rated the State as being in substantial compliance with this provision. We commend the State for maintaining this rating.

Compliance Rating: Substantial Compliance

E.3 SPECIAL EDUCATION UPON INTAKE

The State shall ensure that all students who qualify for special education services receive such services within a reasonable time following intake at the Facilities. (See Consent Order III.E.3)

In our assessment of this provision, we reviewed the State's self-assessment and interviewed youth and staff. Based on our review, we found that all 215 youth (100%) admitted from November 1, 2010 to February 1, 2011 were enrolled and attending school within 72 hours of their admission. Through its self-assessment, the State provided a detailed description of its efforts and process to ensure that all students who qualify for SPED receive such services upon admission. Consistent with our October 2010 tour, Dr. Dedel determined that the students' class schedules were properly constructed and reflected the services prescribed by the Individual Educational Plans ("IEPs") available at the time of the youths' admission to Scioto. (See Dedel Second SPED Report at 6). In our February 2011 Compliance Report, we rated the State as being in substantial compliance with this provision. We commend the State for maintaining its substantial compliance rating with this provision.

Compliance Rating: Substantial Compliance

E.4 PARENT AND GUARDIAN INVOLVEMENT

The State shall develop and implement policies, procedures, and practices to appropriately notify and involve parents or guardians in the provision of special education services, wherever possible. (See Consent Order III.E.4)

In our assessment of this provision, we reviewed the State's self-assessment and special education files, and interviewed youth and staff. Consistent with our findings in October 2010, we found that the State involves parents or guardians in the educational planning of Scioto youth. In October, we found documentation of attempts to contact parents or guardians via mail and telephone, with ample documentation about the response or lack of response by parents or guardians. We agree with Dr. Dedel's concern regarding the low compliance across the last three IEP progress reports. (This is discussed under provision E.7 below.) (See Dedel Second SPED Report at 7). In our February 2011 Compliance Report, we rated the State as being in substantial compliance with this provision. We commend the State for maintaining substantial compliance with this provision.

Compliance Rating: Substantial Compliance

E.5 STAFFING

The State shall develop and implement an education staffing plan to ensure adequate staff to comply with the terms of this Stipulation. (See Consent Order III.E.5)

In our assessment of this provision, we reviewed the State's self-assessment and we interviewed staff. Based on our review, we found that the State continues to use an adequate formula to ensure that it meets the 1:12 teacher-to-student ratio required by the Ohio Department of Education. Through the staffing plan, the State ensures that all students have full access to the education program at Scioto. We commend the State for its continued efforts to improve staffing under this provision. We note that during our November on-site tour, the speech language

pathologist and transition skills teacher positions remained open. As Dr. Dedel notes in her March 2011 Report, the State resolved this issue by contracting with an individual who already provides speech language pathology services at another facility. At the time of our February 2011 tour, the State had approved hiring an individual transition skills teacher. We commend the State on maintaining substantial compliance with this provision.

Compliance Rating: Substantial compliance

E.6 SCREENING FOR SPECIAL EDUCATION NEEDS

The State shall provide prompt and adequate screening of youth for special education needs and shall identify youth who, upon admission to the Ohio Department of Youth Services, were receiving special education in their home school districts or who may be eligible to receive special education services but have not been so identified in the past.

The State shall ensure that those staff conducting the screening, assessment and evaluation processes are qualified to do so. (See Consent Order III.E.6)

In our assessment of this provision, we reviewed the State's self-assessment and interviewed staff. Consistent with our finding in our Second Compliance Report, we found the State's special education intake process to be appropriate and detailed. Specifically, the intake process requires youth to be interviewed and youth records to be immediately requested from the youth's prior schools. For those youth not currently eligible for special education upon entrance to Scioto, the State also has a detailed method to determine whether a referral is appropriate. During the November 1, 2010 to February 1, 2011 period, Scioto admitted a total of 215 students. Eighty-six students (40%) of the 215 were identified as needing special education services. During that time, 2 students in "regular" school were referred to the Intervention Assistance Team to identify a way to address academic difficulties and determine whether the youth is eligible for special education. We commend the State for maintaining substantial compliance with this provision.

Compliance Rating: Substantial Compliance

E.7 INDIVIDUAL EDUCATION PLANS

The State shall develop an IEP as defined in 34 C.F.R §300.320 for each youth who qualifies for an IEP. Following development of the IEP, the State shall implement the IEP as soon as possible. As part of satisfying this requirement, the State shall conduct required annual reviews of IEPs, adequately document the provision of special education services, and comply with requirements regarding participation by the professional staff, parents, and student in the IEP process. The State shall, if necessary, develop, review or revise IEPs for qualified special education students.

In developing or modifying the IEP, the State shall ensure that: the IEP reflects the individualized educational needs of the youth and that services are provided accordingly; each IEP includes documentation of the team's consideration of the youth's need for related services and transition planning, and identifies the party responsible for providing such transition services; the students' educational progress is monitored; teachers are trained on how to monitor progress toward IEP goals and objectives; and teachers understand and use functional behavioral assessment and behavior intervention programs in IEP planning and implementation. (See Consent Order III.E.7)

In our assessment of this provision, we interviewed staff and reviewed the State's self-assessment. In our Second Compliance Report, we explained that the ODYS IEP procedures were sufficiently detailed, and were followed in most areas. Further, most IEPs were of adequate quality. However, as further discussed by Dr. Dedel, the quality of the annual IEP goals and the progress reports to parents¹⁴ are still of concern. (See Dedel Second SPED Report at 10-11). We are encouraged that the State has taken on corrective action, such as: (1) training and development for special education staff in the areas of measurable goal writing and monitoring student progress, (2) requiring all progress reports to be scanned, and (3) having education staff review draft IEP language before the IEP meeting to improve the quality of the IEP goals. We look forward to assessing this provision during our next compliance tour. We are hopeful that these changes improve IEP development and implementation.

¹⁴ According to Dr. Dedel's Second SPED Report, the State reported low compliance levels with sending progress reports. Specifically, the State's compliance level for October 2010 was 30% and only 9% in January 2011.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

We suggest the State continue its current revisions of IEP goals to ensure that they are clear, appropriate, and assist in monitoring the youth's progress. Further, we agree with Dr. Dedel's suggestion that the State conduct a more in-depth review of the 10 sample student reviewed for the State's self-assessment. Dr. Dedel suggests determining why less than 50% of the 26 goals were not met for these youth. (See Dedel Second SPED Report at 11).

E.8 VOCATIONAL EDUCATION

The State shall provide appropriate vocational services that are required transition services for disabled youth under the IDEA. (See Consent Order III.E.8)

In our assessment of this provision, we reviewed the State's self-assessment and interviewed youth and staff. Consistent with our finding in October 2010, the State provides one vocational class, Administrative Office Technology, as its vocational services to youth. Apparently, obstacles to expanding the course offerings include financial constraints, and youths' short lengths of stays. During our October 2010 tour, the State informed us that the ODYS Superintendent was aware of the lack of vocational options and was researching alternatives, such as short-term vocational courses that involve some level of certification. During our most recent tour in February 2011, however, the State informed us that those plans had been cancelled. We are concerned and disappointed at the State's lack of improvement. Considering the very likely increase in population and longer lengths of stay for that population, due to the closing of the ORV, we encourage the State to add vocational education as soon as feasible. Based on this review, the State is in beginning compliance with this provision.

Compliance Rating: Beginning Compliance

Recommendation(s) to reach substantial compliance:

We believe that Dr. Dedel’s comment from her First SPED Report that “the dearth of meaningful career-oriented options for students at Scioto is problematic” remains appropriate. (See Dedel First SPED Report at 22). Again, we recommend that the State reach out to local resources to enrich its program while it takes other steps to bolster its vocational course offerings. As the State reinvigorates its vocational services, it may wish to have vocational educators from other facilities visit, if only for introductory classes. The State may wish to inquire if nearby community colleges have online courses that the Scioto youth could audit. Additionally, since Scioto has a well-established volunteer program, the State may wish to inquire into whether any volunteers could provide presentations about their own jobs — for example, small business owners — and what education or training they needed, again if only to introduce youth to possible career options. We look forward to re-assessing this provision during our next compliance tour.

E.9 FORWARDING SCREENING AND ASSESSMENT INFORMATION UPON TRANSFER

The State shall ensure that, when a youth is discharged from the Facilities before the interventions or educational evaluations required in Section III.E.6 above are complete, the Facilities shall forward to the superintendent of the youth’s receiving school district all information regarding screening and evaluations completed to date, noting what evaluations are yet to be performed. (See Consent Order III.E.9)

In our assessment of this provision, we reviewed the State’s self-assessment and interviewed staff. Based on our review, we verified that, consistent with ODYS policy, staff regularly forward educational records to receiving schools when a youth is transitioned out of the ODYS system. During our February 2011 tour, we learned that during the period from November 1, 2010, to February 1, 2011, six youth were referred for testing or re-evaluation to determine eligibility for special education. While the six youth were referred out of Scioto prior to the completion of testing, the State reported that it had successfully forwarded the students’ records to the

receiving school districts. We commend the State on maintaining substantial compliance with this provision.

Compliance Rating: Substantial Compliance

E.10 TRAINING AND QUALITY ASSURANCE

The State shall design and implement annual training requirements for special education staff. (See Consent Order III.E.10)

In our assessment of this provision, we reviewed the State's self-assessment and interviewed staff. Consistent with our finding in our Second Compliance Report, the State's comprehensive training program offers to teachers valuable opportunities to further develop skills and effectively incorporate new techniques into their teaching. We commend the State for providing relevant training to its education staff and for working with an educational consultant to provide additional skill-building opportunities. We were impressed that, in response to Dr. Dedel's concern about training in behavior management techniques, ODYS invited a consultant to provide two training sessions on the use of SBBMS. (See Dedel Second SPED Report at 4).

We commend the State for maintaining its substantial compliance rating.

Compliance Rating: Substantial Compliance

E.11 TRANSITION SERVICES

The State shall comply with any IDEA requirements for providing transition assistance. The State shall provide transition assistance to students by providing counseling and concrete information regarding appropriate community resources, and how to pursue post-secondary options, re-enroll in school or complete the GED. (See Consent Order III.E.11)

In our assessment of this provision, we reviewed the State's self-assessment and we interviewed staff. Based on our review, it appears that the State continues to have a solid foundation in place to provide transition services to Scioto youth.

During the time period from November 1, 2010, to February 1, 2011, 13 youth were released from Scioto and 92% (12 of the 13) reportedly worked with the transition coordinator. Scioto has a “Transition Skills” course designed to encourage youth to join the workforce and ensure they have access to necessary documentation in order to apply for employment. Scioto also has a position, “Transition Coordinator,” which tasks an individual with assisting youth to interact with outside resources to smooth the youth’s re-entry back into the community. As of the date of our February 2011 compliance tour, the second transition skills instructor was not filled. It is our understanding that the State had already identified an individual and anticipates filling the position in the near future. Based on this assertion and the high rate of compliance, we consider the State to be in substantial compliance.

Compliance Rating: Substantial Compliance

VI. PROGRAMMING

F.1 STRUCTURED PROGRAMMING

The State shall provide adequate structured rehabilitative services, including an appropriate mix of physical, recreational or leisure activities during non-school hours and days. The State shall develop and implement structured programming from the end of the school day until youth go to bed, and on weekends. For youth housed in closed-cell environments, programming shall be designed to ensure that youth are not confined in locked cells except: (a) from after programming to wake up; (b) as necessary where youth poses an immediate risk of harm to self or others; (c) following an adequate disciplinary hearing, pursuant to an appropriate disciplinary sanction. The programming shall be designed to modify behaviors, provide rehabilitation to the types of youth committed at the facility, address general health and mental health needs, and be coordinated with the youth’s individual behavioral and treatment plans. The State shall use teachers, school administrators, correctional officers, caseworkers, school counselors, cottage staff, and any other qualified assistance to develop and implement structured programming. The State shall provide youth with access to programming activities that are required for parole eligibility. (See Consent Order III.F.1).

In order to assess this provision, we reviewed the State’s self-assessment, and interviewed staff and youth. Consistent with our Second Compliance Report, the

State continues to have a significant programmatic framework to reduce idleness and provide structured opportunities for most youth. The State intends to create a programming tracking system, called “Youth Activity Tracking” (“YAT”), which will track individual level programming and may be a mechanism to detect trends in attendance, hold YS staff and unit managers accountable, and assist in determining whether all youth receive equal access to programming and SBBMS positive reinforcements. We commend the State for its continued success and improvements in its programming efforts and we look forward to learning more about the YAT once implemented.

Despite the State’s variety of programming and high level of volunteer activity, during our February 2011 tour we again received youth complaints that not all youth have full access to all programming opportunities or benefit from the full range of rewards under the SBBMS program. We received similar complaints from different housing units. In particular, youth alleged that they receive insufficient notice from YS staff about available programming. While the facility has a set calendar of programming events posted on the unit, it is unclear how youth actually sign up for events. In an effort to curb youth frustration and/or concerns, we suggest the State formalize the process in order to make it more transparent. In any event, every effort should be made to include interested youth in programming, while not compromising youth or staff safety in transporting youth to activities.

Other complaints we received during our February 2011 tour included allegations from reception youth that not all programming opportunities are available to them. The same youth also claimed that they do not receive the full benefit of the SBBMS program. Specifically, the youth reported that the only rewards offered to them are either an extra envelope for writing a letter home, a board game to play (which are often broken or missing pieces), or a later bedtime. Lastly, still other youth on other units complained about YS staff overusing early

bed time (“EBT”), itself a form of seclusion, to avoid interacting with certain youth or to show their disfavor for youth. These youth alleged that the EBT is used for even small transgressions or applied to all youth on a unit even when the misconduct involved only one or two youth. These allegations, if true, are concerning because they tend to support other claims that some YS staff impose punishments without cause against disfavored youth. We note that documentation we reviewed also support this belief. Specifically, one set of interdisciplinary team minutes we reviewed expressly confirm that “units have ‘heavily used the consequence of no free time’...early to bed is also being used too often.” (See Glindmeyer Second Mental Health Report at 11). We strongly suggest that the State track the use of EBT based on youth who received EBT, unit, staff person who imposed the EBT, time of the EBT, and alleged misconduct that led to the EBT. These data should be assessed as part of the facility’s larger quality assurance activities. Dr. Dedel notes in her most recent report that assignments that merely consume time without any substantive message are not effective behavior management tools. (See Dedel Third PFH Report at 19).

Lastly, based on Dr. Dedel’s review of 20 Re-Entry plans, we found that most non-treatment related parole eligibility requirements from the Release Authority were generic, such as following rules, developing social skills, decision making, attending school, and engaging in pro-social leisure time. We found that most of these parole eligibility requirements were met by the State’s programming or educational opportunities. (See Dedel Third PFH Report at 19). The remaining parole eligibility requirements, namely those that were treatment-related, are discussed under provisions B.5 (Adequate Mental Health Care and Treatment), and provision B.8 (Integrated Treatment Plans,) which address group and individual therapy opportunities and interdisciplinary treatment teams. In summary, the State’s group and individual therapies are still in the early stages of development and implementation. While some mental health staff demonstrate a strong dedication and creativity in providing such therapies and treatment, the State’s

progress is delayed due to its lack of sufficient mental health staff and the fact that YS staff are not yet fully integrated into the treatment process. Accordingly, the State has met the non-treatment related parole eligibility requirements only.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

The State should: (1) ensure all youth have access to, and are offered, programming, consistent with safety precautions, (2) examine the use of sanctions such as EBT to determine relevancy and appropriateness to misconduct by youth, and (3) ensure the SBBMS program is fully implemented, especially the use of character coupons, throughout Scioto.

F.2 ORIENTATION

Admissions Intake and Orientation. The State shall develop and implement policies, procedures and practices to establish a consistent, orderly admissions intake system, conducive to gathering necessary information about youth, disseminating information to staff providing services and care for youth, and maintaining youth safety. The orientation shall also clearly set forth the rules youth must follow at the facility, explain how to access medical and mental health care and the grievance system, and provide other information pertinent to the youth's participation in the facility's programs. (See Consent Order III.F.2(a))

Notice to Youth of Facility Rules and Incentives/Consequences for Compliance. The State shall explain the structured programming to all youth during an orientation session that shall set forth the facility rules, the positive incentives for compliance and good behavior and the sanctions for rule violations. The State shall provide the facility rules in writing. (See Consent Order III.F.2(b))

Introductory Handbook, Orientation and Reporting Abuse. Each youth entering the facilities shall be given an orientation that shall include simple directions for reporting abuse and assuring youth of his/her right to be protected from retaliation for reporting allegations of abuse. (See Consent Order III.F.2(c))

In our assessment of this provision, we interviewed youth and reviewed policies and procedures and the youth handbook, last revised in October 2010.

Admission Intake and Orientation

The youth intake and orientation process at Scioto provides youth with an adequate overview of institutional rules, the process for accessing mental health and medical care, and the available opportunities in treatment, recreation, and educational programs. However, as described under provisions D.1 and D.2, the orientation regarding the grievance process is incomplete and should be revised to provide all relevant information to incoming and already admitted youth.

Similarly, the handbook and orientation do not adequately explain youths' rights regarding religious practices. As quoted above, F. 2 requires the State to develop an orientation that clearly sets forth the rules youth must follow at the facility and provides other information pertinent to the youth's participation in the facility's programs. It also requires that the facility provide rules in writing and an introductory handbook. The handbook claims to "contain information [youth] will need to know during [their] stay at ODYS." (page 6 of youth handbook). While the handbook informs youth that they have the right not to be discriminated against because of religion, the section covering "Religious Services" may not fully comply with the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc ("RLUIPA"). RLUIPA protects the religious exercise of persons confined to institutions, including youth confined in juvenile correctional facilities.¹⁵ RLUIPA prohibits the State from substantially burdening the religious exercise of youth in juvenile correctional facilities, even if the burden results from a rule of general applicability.¹⁶ Regulations amounting to a substantial burden will only be

¹⁵ See <http://www.justice.gov/crt/about/spl/rluipa.php> (last visited January 12, 2011).

¹⁶ For example, while the youth handbook states that youth who wear "[p]ersonal clothing not authorized by the state" will be subject to discipline (page 21), RLUIPA

permitted if the State demonstrates that the regulation furthers a “compelling government interest” and is the least restrictive means available to further that interest. We encourage the State to seek clarification from the United States if it should have any questions about RLUIPA.

Notice to Youth of Facility Rules and Incentives/Consequences for Compliance.

Based on our review of the youth handbook and interviews with youth, it appears that, upon intake, youth receive notice about Scioto facility rules and incentives/consequences for compliance. Specifically, youth were able to articulate the SBBMS system.

Introductory Handbook, Orientation and Reporting Abuse.

In our Second Compliance Report, we recommended that the State revise its handbook to be consistent with its religious accommodations procedure, SOP 507.02.06, which requires a youth to fill out and return a “Request for Accommodation of Religious Belief or Practice” form if he or she wishes to have an accommodation for a religious rite, practice, or observance. However, the youth handbook fails to mention this form in the section which discusses religious services. The handbook is thus incomplete and should be revised to describe the procedure for seeking a religious accommodation consistent with the SOP. One youth we interviewed alleged that she was prohibited from wearing religious garb that posed little safety risk, grieved about the infringement, but was never informed of her right to seek a religious accommodation. Ultimately, staff returned the youth’s garb to the religious advisor and allegedly told the youth that if she were allowed to wear the garb, all other youth would have to be allowed to wear baseball caps.

Compliance Rating: Partial Compliance

may require that a Jewish youth be permitted to wear a yarmulke or a Muslim youth be permitted to wear a hijab in observance of his or her religious practices.

Recommendation(s) to reach substantial compliance:

As discussed in more detail in our Second Compliance Report, the State should revise its handbook to be consistent with the State's religious accommodations policy, ensure that all relevant personnel are familiar with RLUIPA's requirements, and ensure that the chaplain is familiar with the requirements of RLUIPA.

VII. DOCUMENTATION

G.1 PROGRESS NOTES

The Facilities shall promulgate and implement a policy requiring that all health professionals be required to create and use progress notes to document, on a regular basis, interactions and each assessment of youth with mental/behavioral health or substance abuse needs. In particular, progress notes shall:

- a. In the assessment, address the efficacy of interventions, currently presenting problems, and the available options to address those problems; and*
- b. Provide thorough documentation of all crisis interventions or, if not thoroughly documented in the progress notes, provide a reference to alert staff to another document in the youth's file containing the details of the crisis intervention. (See Consent Order III.G.1).*

In order to assess this provision, we reviewed the State's policies, procedures, and practices regarding progress notes. We recognize that the provisions under G, "Documentation," do not fall squarely under any of the other sections, but rather touch on mental health, medical care, and education. For this reason, we asked our medical and mental health experts to comment on these provisions. In our Second Compliance Report, we recommended the State provide a discussion in its self-assessment of how it meets the criteria of provisions G.1 and G.2. The State did not provide any such self-assessment.

In preparation for our compliance tour in November 2010, the State provided a draft policy, entitled "Behavioral Health Documentation Guidelines," relevant to

our assessment of mental health progress notes. While the policy appears to adequately meet the requirements of provision G.1, in our Second Compliance Report, we noted that it was unclear whether this policy had been implemented. A review of youth records in November 2011 revealed that mental/behavioral health progress notes were generally of fair quality. During our most recent compliance tour in February 2011, we found that progress notes in the youth records revealed some improvement in the documentation of group interaction. We agree, however, with Dr. Glindmeyer's observation that, in the context of integrated treatment plans, the progress notes reviewed did not consistently relate to treatment goals and/or document the response or lack thereof to prescribed interventions. (See Glindmeyer Second Mental Health Report at 13). In fact, during the verbal self-assessment on-site, the mental health administrative staff recognized that the progress notes that related to integrated treatment teams were in the beginning stages of implementation. (See Glindmeyer Second Mental Health Report at 13-14). Consistent with our Second Compliance Report, while we found that the youth records contained numerous progress notes, the progress notes did not consistently address the youth's specific treatment goals as outlined in treatment planning documents.

The relevant medical forms, policies and SOPs remain the same since our last review. The policies and SOPs appropriately address content organization and format, confidentiality requirements, and health care professionals' access to records. Physicians and nurses appropriately document progress notes in chronological order in youth health records. The Medical Release and Transfer Summaries Policy require health staff to complete a Medical Transfer Summary and a Medical Release Summary for youth who are discharged or transferred out of the facility. Both forms contain lines to document required or scheduled medical and dental referrals. The Medical Release form also designates whether psychiatry follow-up is required immediately or within another timeframe, and whether a

parent should be advised. Medical staff adequately document health information on the above-mentioned documents according to policy.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

The State should implement quality assurance measures, a peer review process, and clinical supervision to improve the consistency and quality of mental/behavioral health progress notes.

G.2 ACCESSIBILITY OF RELEVANT INFORMATION

The Facilities shall ensure that youth records are organized in a manner providing treatment teams prompt access to relevant, complete, and accurate documentation regarding the youth's status. (See Consent Order III.G.2)

While health records include psychiatric evaluations and chronological psychiatric progress notes, records still do not include psychological records, such as case notes. As stated in Section C.2. ("Health Records"), the State must continue moving towards a system that will combine all health records, including psychology records.

Compliance Rating: Partial Compliance

Recommendation(s) to reach substantial compliance:

Until the State combines these records, treatment teams will not have prompt access to relevant, complete, and accurate documentation regarding the youth's status.

THIRD COMPLIANCE REPORT

As per section VII.E of the Consent Order, the U.S. v Ohio Stipulation terminates three years from its effective date, June 5, 2008. The State has not yet reached substantial compliance with all 53 provisions in the agreement.

Accordingly, the United States and the State of Ohio are currently negotiating a possible extension of the U.S. v Ohio agreement.

Respectfully submitted this 9th day of May, 2011.

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