



**Office of Children  
and Family Services**

**ANDREW M. CUOMO**  
Governor

**SHEILA J. POOLE**  
Acting Commissioner

September 11, 2017

Mr. Jesse Brand, Chief Executive Officer  
Brand New Beginning Youth Center Inc.  
60 Forrest Avenue  
Shirley, New York 11967

**Re: Application for approval of amendment of certificate of incorporation**

Dear Mr. Brand:

The purpose of this letter is to inform you of the decision of the New York State Office of Children and Family Services (OCFS) regarding the application submitted by Brand New Beginnings Youth Center Inc. (Brand New Beginnings) for approval of a proposed amendment of its certificate of incorporation to add the authority of care of destitute, delinquent, abandoned, neglected or dependent children and the solicitation of contributions for those purposes.

Following the review of the application and supporting documentation submitted by Brand New Beginnings, OCFS is hereby denying Brand New Beginnings application for approval of its proposed certificate of amendment pursuant to § 804 of the Not-for-Profit Corporation Law, §460-a of the Social Services Law (SSL) and 18 NYCRR Parts 482 and 483. This determination also follows numerous meetings with the applicant and hours of technical assistance provided by OCFS to the applicant on the application process and the standards necessary for approval.

As set forth below, the application and supporting documentation submitted by Brand New Beginnings contained numerous deficiencies that reflected non-compliance with applicable statutory or regulatory standards, failed to include required information and contained deficient information.

In accordance with 18 NYCRR 483.3, this letter constitutes the final administrative determination of OCFS.

The grounds for this denial are as follows:

### **1. Personnel Policy and Practices**

- The proposed Chief Executive Officer is not a college graduate with appropriate training and experience in the care or education of children, as required by 18 NYCRR 441.3(c)(2).
- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), and 448.2(a), regarding personnel policies or practices that require a professionally trained social worker, a person with experience in child welfare, or a person holding a master's degree in a related field shall supervise a group home. The application failed to include a job description that meets the requirement for a position of Program Director with the requisite experience or master's degree to supervise children in residential care.
- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), and 441.4(b), regarding policies and manuals on personnel including a clear delineation of areas of responsibility and delegations of authority. Policies must also contain employee/supervisory activities and describe how each activity will be implemented. The application references the following positions or titles, but did not provide for a description or the delineation of areas of responsibility related to the following as required:
  - Resident Care Manager [p. 83<sup>1</sup>]
  - Unit Manager [p. 83]
  - Janitor and maintenance personnel [p. 92]
  - Recreation Therapist [pp. 83 and 93]
  - Food Services Manager and dietary staff [p. 93]
  - Chief Human Resources Officer [pp. 135 – 138].
- The application failed to include required policy information in accordance with SSL §424-a(2)(a) and 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), 448.2(c) and 448.3(c)(1) regarding policies addressing certain conditions for operation of a residential program. The application was incomplete because it failed to include a policy and/or procedure addressing the requirement to obtain and evaluate a proposed employee's prior child abuse and/or maltreatment history.
- The application failed to include required policy information in accordance with SSL §424-a(b)(i) and 18 NYCRR 448.3(c)(1)(ii)(b) relating to clearances of employees through the Statewide Central Register of Child Abuse and Maltreatment (SCR). The application section, "Hiring Practices [pp.43 – 49]," is incomplete regarding the procedure for supervision of a temporarily approved staff when SCR clearance results are pending.
- The application failed to include required policy information in accordance with 18 NYCRR 441.4(b) and 448.3(c)(6) regarding acknowledgement and review practices applicable to the New York State Justice Center for the Protection of Persons with Special Needs (the Justice Center) created or approved code of conduct upon employment and annually thereafter.

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<sup>1</sup> Page numbers cited in this letter refer to applicant's OCFS 4722 Application submission page references.

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), and 448.3(c)(2)(iii)(b) regarding personnel policies. The application described the agency’s obligation to document its reason for granting temporary approval of a prospective employee in situations of an applicant’s pending felony charge [p. 44] or subsequent arrest notification [p. 45], but did not sufficiently address the agency’s obligation to document the decision to hire such applicant under these circumstances, including why such person was determined to be appropriate and acceptable as an employee, volunteer or consultant.

## 2. Staff Training

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(11) and 448.3(c)(5) regarding the orientation, education and in-service training of new staff as follows:
  - Although the application describes Dialectical Behavior Therapy and Exploring Criminal Thinking trainings as being provided to staff by the Director of Treatment/Psychology [p.40], there was no information regarding how new staff, who may be hired after the initial program opening date, would receive training, nor does it specify the deadline for completion of such training.
  - Although training contact information is listed for Functional Family Therapy, Therapeutic Crisis Intervention, Aggression Replacement Training®, Trauma-Informed Approach and Trauma-Specific Interventions [pp. 39 – 42], the application did not describe the length, costs, or location for each training, nor does it specify the deadline for new staff to complete these trainings.
  - Although the application references the ability of staff, who have passed the Medication Administration Training [p. 81], as being able to give medication to youth, there was no information or outline of such training, nor does the application specify the deadline for new staff to complete such training.
- The application referenced “staff [who] will conduct trainings based off the connections programs [p. 138]”. However, the application did not address how staff will receive training regarding the mandatory New York State child welfare information system CONNECTIONS and did not address vital components to such training as diligence of effort, compliance with casework activities and documentation and/or requirements such as uniform case record standards set forth in 18 NYCRR Part 428 and 18 NYCRR 430.12.
- The application was incomplete because it failed to include the requirement for training of staff in the use of fire extinguishers, as required by 18 NYCRR 482.1(a)(11) and 448.3(d)(10)(ii).
- The application was incomplete because it failed to include the requirements for training in the reasonable and prudent parenting standards or the application of such standards, as required by 18 NYCRR 441.25(b) & (c).
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(11),

and 448.3(f)(6). The application specified that staff must be trained in First Aid and CPR [p. 73], but did not sufficiently address the deadline for new staff to complete these trainings. Further, the training for Multi-Systemic Therapy is outlined [p. 39] as a 5-day off-site training, costing \$850 per person was vague and implied costs would be borne by the new employees for this training. OCFS 18 NYCRR 448.3(c)(5) requires a plan for orientation of all staff with the total agency service and education through in-service training and such plan is a pertinent part of the proposed personnel program. The in-service staff training plan submitted as part of this application which suggested new employees will bear the cost of such requirement is not an adequate plan.

### **3. Clinical Models and Services to Youth and Families**

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a) and 430.12 because there were no policies proposed that addressed social services designed to achieve safe and suitable permanency for the children in care, including, but not limited to, services and support of birth parents.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.15 concerning policies and requirements relating to the provision of psychiatric, medical and social services. The models and approaches outlined in the application appeared to include, but not be limited to: Anger Abatement Program, Exploring Criminal Thinking, S.E.L.F. P.R.I.D.E., Aggression Replacement Training®, Dialectical Behavioral Therapy, Multi-Systemic Therapy, Functional Family Therapy, and Trauma-Informed Approach and Trauma-Specific Interventions [pp. 32 – 39]. However, the application did not sufficiently address how decisions will be made regarding which clinical models will be used at any given time in the treatment process. There was no information regarding how such clinical models will be used with autistic and/or schizophrenic youth.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 430.12 regarding policies and requirements that address services. The application provided insufficient written guidance and/or outline to describe how individual, family, and group therapy activities will focus on the issues that resulted in the youth's placement in foster care, and on the assessment of what youth, parents and caretakers need to achieve permanency, nor is there any information regarding how progress toward permanency will be assessed. Although the "System of Care" model in NYS is referenced [pp. 121 – 126], the application simply outlined various strategies to be used, rather than providing clear guidance to staff regarding when to use specific strategies in specific situations.

### **4. Care and Supervision**

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482(a)(11), 448.3(b)(5), and 448.3(c) regarding policies addressing

personnel and personnel practices. The application proposed that the agency would reach out to “surrounding group homes for temporary assistance”, [because] that staff employed there would also be “certified by OCFS” [p. 140], should additional personnel assistance be necessary. This policy is not appropriate or viable because OCFS does not certify employees of residential programs. This statement within the application demonstrates the applicant’s fundamental failure to understand the critical requirement to evaluate the backgrounds of any prospective employee of a residential foster care program and the role of OCFS.

- The application was insufficient regarding policies set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a) and 448.3(b) regarding the general level of supervision for youth in a group home program. The proposed policy outlined that a youth may be placed on ‘continuous observation’, ‘15-minute checks’, or ‘closed 1:1 monitoring’ [p. 89 and 95], but failed to adequately address when or how such placements would be made.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 448.3(b)(3)(ii), 448.3(b)(5), and 448.3(c). The application referenced that there will be staff of both genders when there are youth of both genders residing in a residential home [p. 75]; when youth of both genders are out in the community [p. 86]; and where specific youth may be placed on “15-minute checks’ [p. 89]. The application was incomplete because it failed to include a policy addressing situations where the agency is unable to arrange for staff of both genders to be on duty.
- The application was insufficient regarding the requirements set forth in 18 NYCRR 482.1(a)(10), 441.4(a), and 448.3(b) regarding safety policies and the supervision of youth in a group home program. Based on the proposed population of youth to be served by the applicant, who may exhibit fire setting, sexualized behaviors, past substance use, autistic and/or schizophrenic behaviors, the staff to youth ratios, of 1:4 [p. 75, 85] and 1:12 [p. 139], were not sufficient in number for the youth who would be in the agency’s care. In addition, the application failed to address the expectations for how staff are to supervise youth while in the community.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), and 441.4(a) regarding policies addressing safety and the supervision of youth in a group home program. The application references areas in the group home to which youth may have limited or restricted access [p. 139], yet there was insufficient written guidance and/or description for staff regarding whether youth are permitted access and if so, what level of supervision by staff would be required in such areas. The application referenced that no community activities are permitted when the “unit is on Therapeutic Lock Down status [p. 84].” However, the application failed to explain what this means or how the applicant would decide that this status needed to be imposed.

## **5. Medical Services and Procedures**

- The application) failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.22, because there were no policies

proposed regarding health and medical care for youth, including the assessment of service needs, provision and/or coordination with outside providers for medical services.

## **6. AWOL Policy and Missing Youth**

- The application failed to comply with requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 431.8 regarding services to be provided following the return to the applicant's residential program of a youth who had been absence without consent which are intended to restore the child to a supportive environment. The application proposed the exchange of a youth's personal clothing for a hospital gown upon a child's return. The application did not reference any medical purpose or need for this exchange. The policy did not take into consideration the potential adverse clinical impact on the youth. The policy appeared only to be punishment for the youth being absent without consent. Such policy exposes the youth to potential ridicule from other residents and raises issues relating to the foster care child's right to privacy and an illegal search under 18 NYCRR 441.18.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 431.8 regarding policies addressing safety of missing youth. The application failed to address the following regulatory standards:
  - requirements for notifying the placing local department of social services, the Attorney for the Child, and Family Court;
  - requirements for notifying the Justice Center;
  - requirements for notifying the National Center for Missing and Exploited Children (NCMEC);
  - requirements for continuing efforts to locate the youth once he/she is missing from the program;
  - above described action of providing a name and photo of the youth to the local newspaper should instead describe the procedure for staff to provide the name and photo to law enforcement to assist with their efforts to locate a missing youth;
  - procedures for documenting all activities related to preventing a youth from leaving the program, locating a youth who is missing, and responses upon the youth's return to the program;
  - requirements for ensuring that youth are assessed for risk of trafficking;
  - procedures for ensuring that youth who return from being missing receive medical evaluation and treatment as needed;

## **7. Mandated Reporting of Suspected Abuse, Neglect, Maltreatment and Reportable Incidents**

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), 433.2, 433.3, 441.8; SSL §§413, 415, 488 and 491 regarding required personnel policies which include mandated reporting

of suspected child/vulnerable person abuse, neglect, maltreatment or reportable incidents. The application description for staff to report “credible allegations [p. 76]” to law enforcement and/or social services agency reflected a fundamental safety concern and misunderstanding of legal standards for reporting suspected child/vulnerable person abuse, maltreatment, neglect and/or reportable incidents.

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), 441.8(d), and SSL §§413 and 415 regarding requirements, policies and procedures for staff, who are mandated to report suspected abuse or maltreatment of a child in a familial setting.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(b), 433.2, 433.3, 441.8(c), SSL §§488, and 491 regarding requirements, policies and procedures for staff, who are mandated to report suspected abuse or neglect of a child/vulnerable person in a residential setting and any other situations that would constitute a reportable incident.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(1)(11), 441.4(b), 433.10 and 441.7(c) regarding the requirements, policies and procedures for reporting the death of a youth in the program to the Justice Center.

## **8. Records and Reports**

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 428.10(b) and SSL §§372 and 460-c(4) regarding access to agency records. The application provides for the transfer of foster care records only based on “the approval of parent/guardian or the judge [p. 80]” which is inconsistent with the statutory and regulatory rights of OCFS and local departments of social services. The application failed to address that record access must also be compliant and consistent with any requirements that may be set forth in a purchase of service agreement with a local department of social services.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 428.5, 428.6 and 466.3 regarding record keeping policies. Notwithstanding the application contained some information about progress notes [pp. 78 – 79] and variance reports [p. 88], the application was incomplete regarding how case documentation addresses safety, permanency and well-being outcomes for youth in the program. Furthermore, the application’s reference, “staff will conduct trainings based off the connections programs as well as obtain any forums to complete in any event necessary as specified by OCFS [p. 138], reflected a lack of understanding of the requirements for documentation in the CONNECTIONS system as the mandatory system of record for foster care placements.
- The application was insufficient in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 428.10(a) regarding general records and reports policies, confidentiality protections consistent with SSL §372. The application’s description of the Parent Portal system did not sufficiently address the security of this

system. The application identified youth specific information that will be contained in the portal. This information is highly sensitive and confidential. The application did not outline how this information would be stored and secured.

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(11) and 441.4(a). The application referenced the maintenance of an activity log for the program [p. 138] and a daily log [p.139]. However, there was insufficient written guidance and/or description regarding expectations for the frequency of staff recording, requirements for staff review or frequency of such review, and whether supervisory staff would be required to regularly review such information.

### **9. Behavior Management Policy; Crisis Prevention and De-escalation**

- The application failed to comply with the requirements set forth in 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.17 regarding the discipline policy because it included 'planned ignoring' as a type of non-physical intervention during a crisis situation [p. 114]. This is not an approved form of non-physical intervention authorized by OCFS.
- The application failed to comply with the requirements set forth in 18 NYCRR 441.9(b) regarding the applicant's policy on discipline of youth. The application referenced the use of "peer isolation, room restriction [p. 77]" and "Quiet Room [p. 86]"; room isolation. Room isolation and comparable arrangements as punishment are prohibited by 18 NYCRR 441.9(b).

### **10. Admissions**

- The application failed to include required policy information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.14(a) regarding policies for admissions criteria. The application was incomplete regarding admission criteria and procedures as follows:
  - The application [p. 71] referenced the possibility of serving youth with "significant intellectual limitations, autism, or schizophrenia." However, there was no information regarding how the agency will adequately assess these needs, diagnoses or behaviors in relation to the program.
  - There was no information regarding how the agency will adequately assess youth with sex or human trafficking histories during the admission process.
  - There was no information regarding how the agency will adequately assess youth with fire setting behaviors during the admission process.
  - There was no information clearly stating that the primary referral source to the agency would be local departments of social services.
- The application failed to include required policy information in accordance with 18 NYCRR 482.1(a)(10), 441.4(a), and 441.13(a). The application was incomplete because it failed to include a policy regarding appropriate assessment of a youth's educational needs in conjunction with the local school district.
- The application was insufficient regarding requirements of 18 NYCRR



482.1(a)(10), 482.1(a)(11), and 448.2(b). The application's outlined admission policy process [p. 2] did not reflect how the determination for admissions would be made by the person designated to supervise the program or by an interdisciplinary team. The application instead referred to such determination being made by the "psychiatric consultant or psychologist". The application did not describe either of these staff positions to include responsibilities for supervising the program.

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.14(a) as the following policy areas included in the application raised serious concerns about the applicant's fundamental understanding and experience with the proposed population of children being served:
  - References in the application to being a trauma-informed program are contradicted by the application's inclusion of the terms "patient" and "inmate", and there was otherwise little information within the application that demonstrates how the program is implementing a trauma informed model of care.
  - Reference to "significant medical concerns" under admission exclusionary criteria [p. 1], appeared to contradict the Initial Screening Form [p. 5] request for "progress summary reports indicating medical necessity for group home treatment."
  - The application's requirement of "a current ICD-10 diagnosis for referred youth" [p. 2] appeared to be an inappropriate expectation from local departments of social services referral sources; this is a group home, not a hospital. ICD is the International Classification of Diseases and is designed to promote international comparability in the collection, processing, classification, and presentation of mortality statistics.
  - The application's request for "Adoption Subsidy/Locality [p. 5]" is not an appropriate question for the agency to ask of a local department of social services.
  - The Initial Screening Form [pp. 5 – 21] inappropriately referred to "patient" throughout the form; these are youth being placed in a group home and not a hospital.
  - Multiple job descriptions (April 2016) inappropriately refer to responsibility of maintaining confidentiality of "inmate information"; these are youth being placed in a child care facility and not a correctional facility.
  - The application references referral sources such as "acute care inpatient facilities [p. 58]", and there are questions about the appropriateness of such a referral source based on the type of program being proposed.
- The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.14(a) regarding admission criteria and policies as follows:
  - It was unclear from the application's described admission process [p. 2] when the Adolescent Questionnaire and Parent Questionnaire forms would be completed.
  - There was insufficient information regarding the appropriateness of

questions contained within the Adolescent Questionnaire [p. 24], that are specific to sexual activity and history, and if such questions are in compliance with any Health Insurance Portability and Accountability (HIPAA) standards.

- The application referred to screening by the clinical team of a youth after admission for suicide risk, and to the possibility of a youth being referred to “involuntary commitment to a more secure hospital setting [p. 90].” This appeared to contradict the application’s exclusion of any youth whose cutting behaviors required “outside medical attention within the past 30 days [p. 1].”

## **11. Searches, Right to Receive Mail and Smoking**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.18(d). The information provided in the application on the issue of searches of resident property or person did not adequately address the standards set forth in 18 NYCRR 441.18(d). The application was incomplete because it failed to include policies that address the search of youth belongings to maintain safety [pp. 62, 87 and 88] including the following:
  - what may constitute reasonable cause for a search in accordance with 18 NYCRR 441.18(d)(1);
  - situations in which a person search of the youth may be warranted, specific procedures for executing a person search, and that strip searches are prohibited, as mandated by 18 NYCRR 441.18(d)(2);
  - situations in which a general, unannounced search of the facility may be warranted and requirement for OCFS approval for such facility-wide searches in accordance with 18 NYCRR 441.18(d)(3); and
  - procedures for documenting reason for, and result of, every search conducted in the program in accordance with 18 NYCRR 441.18(d)(5).
- The application failed to include the required policy information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), and 441.18(a) relating to the right of youth to receive mail and the ability of the agency to search for contraband. The application was incomplete regarding the procedures for determining when incoming and outgoing mail would be pre-opened and pre-screened by staff.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 441.18, and 441.23 regarding youth smoking and contraband. The application was incomplete regarding how staff are expected to respond if a youth is found to be smoking cigarettes, including, but not limited to, consequences for such activity and how this might impact their daily programming, levels or phases.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), and 441.4(a) regarding safety and children’s rights policies. The application referenced that any contraband found in a search will be “noted on the chart [p. 87]” and confiscated contraband items will be “secured in a locked room [p. 88]” and a daily inventory will be completed of such items.

However, there was insufficient written guidance and/or description for staff regarding contacting law enforcement when contraband includes weapons or illegal substances.

## **12. Suicidal or Self-Injurious Behaviors**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 441.16(b), and 441.19 regarding policies addressing safety. The application was incomplete regarding the following:
  - procedures for developing a safety contract with the youth;
  - procedures for, and instruments to be used in, assessments of a youth's suicidal or self-injurious statements or gestures;
  - procedures for situations where emergency medical, psychological or psychiatric evaluation and/or treatment may be necessary; and
  - procedures for determining the necessary level of staff supervision of a youth, where the youth may be evaluated by, and subsequently discharged from, hospital or mobile crisis.

## **13. Abuse/Neglect and Safety Plans**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(11), 433.5(c) and (d). The section, "Abuse and neglect pp. 129 – 132]," was incomplete regarding how the agency will develop plans to secure the safety of any youth involved in a report of abuse or neglect. It was also unclear who, at the agency, would be the primary contact throughout an OCFS or Justice Center investigation.
- The application failed to include the required information in accordance with 18 NYCRR 482.1(a)(11), and 433.6. The section, "Abuse and neglect [pp. 129 – 132]," is incomplete regarding how the agency will develop any plans of prevention and/or remediation in response to findings from an OCFS or Justice Center investigation, or how such plans would be monitored by the agency.

## **14. Incident Reporting and Management**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 433.7 regarding safety, medical and record policies. The application references certain injuries that would require documentation on an Injury Form, supervisory staff responsibilities for reviewing all incident reports, and monthly agency reviews of reports regarding preventive measures around "first aid injuries [p. 130]." However, the application was incomplete regarding the development and ongoing implementation of an incident management program to encompass all types of incidents reportable to the Justice Center's VPCR.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(11) and 433.8 and SSL §490. The application was incomplete

because it failed to include a policy regarding the requirements to appoint and convene an Incident Review Committee.

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.7 regarding safety and record policies. The application did not address what incidents, other than AWOLs and altercations, should be documented by agency staff.

#### **15. Behavior Management Policy; Crisis Prevention and De-escalation**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.17 regarding policies addressing safety, training and discipline. The application was incomplete regarding the restraint policy requirements of:
  - Description of what types of intervention are permitted and prohibited; and
  - If physical interventions are not permitted, whether contacting law enforcement and/or mobile crisis is an option for staff during a crisis situation.

#### **16. Treatment Philosophy**

- The application failed to include the required information in accordance with 18 NYCRR 482.1(a)(11), 441.14 and 441.15. The application referenced the possibility of serving youth with “significant intellectual limitations, autism, or schizophrenia [p. 71].” Based on the program description of levels/phases described [pp. 65 – 70], and the behavior management processes described [pp. 77 – 78; 95 – 121], the application was incomplete regarding how these youths’ needs and diagnoses would be adequately served.
- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 428.6(c), 428.9, 430.12(c) and 441.4(a) regarding policies addressing children’s rights. The section, “Resident’s Rights and Responsibilities [pp. 62 – 64],” was incomplete by failing to adequately address a youth’s rights to: visit with birth parents, placement with siblings who may also require foster care placement, be provided with contact information for a youth’s local district caseworker and/or attorney, confidentiality of youth’s information, and involvement (where age-appropriate) in case planning.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(11), 441.4(a) and 441.14. The application did not sufficiently outline how youth will be assessed and decisions will be made regarding eligibility to progress to the next level [pp. 65 – 70; 76 – 77]. There was insufficient guidance for how staff assess youth to determine whether they earn the requisite points, leaving the process to be very subjective from one staff implementation to another. The use of “Category 1 – 4” terminology was further confusing because this is the same terminology used by the Justice Center regarding substantiated findings in abuse and neglect cases.

## **17. Discharge Planning**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 430.8(a)(4), and 430.12(d) regarding discharge criteria and procedure policies. The application was incomplete regarding the criteria, policies and procedures for discharge planning efforts prior to a youth's 18<sup>th</sup> birthday, where such youth may still require continued placement in foster care, including collaboration with the local departments of social services.
- The application further failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 430.12(k) & (l) regarding the requirements to provide the youth with vital documents including but not limited to, consumer reports, birth certificates, social security card, health insurance information, copies of the youth's medical records, and driver's license (if applicable).

## **18. Community Involvement and Work Experiences for Youth**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(11), 441.4(a) and 441.10(a). Despite some information about youth participation in household chores [p. 92], volunteer activities [p. 140], and work activities [p. 140], the application was incomplete in addressing requirements for assessing youth readiness to participate in such activities.
- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(11), 441.4(a) and 441.10 as it did not adequately address youth participation in volunteer and work activities [p. 140]. There was insufficient written guidance and/or description regarding:
  - how the "buddy system" and "roll call" for community volunteer activities would be implemented [p. 140],
  - how assessments and referrals would be coordinated within the group home or the community provider/employer, or
  - how procedures for responding when safety issues arise during a volunteer or employment activity, within the program or community, would ensure the agency follows up with local district or other providers as needed.

## **19. Education**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 441.13, and 448.3(g)(11) regarding education policies. The application was incomplete regarding required collaboration with the local department of social services and the school to obtain background educational records and vital documents necessary for registration and for the assessment of educational or vocational services. For example, the application stated that the school psychologist will meet with the youth [p. 57], but there was no information to support how this arrangement would be made with school personnel, or whether such arrangement is a standard procedure for this

school district.

- The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.13 regarding education policies. The application stated that all contact with the school will be “handled by BNBYS administrative personnel [pp. 58].” However, there was insufficient written guidance and/or description for staff regarding whether communication between the school and program would occur on a daily basis, whether such communication would include any behavioral concerns, the frequency of such communication, or how the agency would ensure that program administrators are communicating with direct line staff so that they are aware of the youth’s educational progress and status. Without this information, it was unclear how the applicant, together with the local school district, would ensure that a youth receives the necessary educational or vocation services.

## **20. Emergency Evacuation Policy and Procedure**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a) and 441.16 regarding safety and fire policies and emergency evacuation procedures. The application was incomplete because it failed to include the Fire Code of New York State requirement regarding the installation of carbon monoxide detectors/alarms and safety procedures for response to such alarms.

## **21. Nutrition and Meal Planning**

- The application failed to include required information in accordance with 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 441.9(a), and 448.3(g)(1 – 6) and; (8) regarding nutrition and diet policies. The application was incomplete regarding efforts to obtain youth input in meal planning, diligent efforts to offer adequate food portions to youth, development and maintenance of group home menus, and prohibition against denying food as a punishment

## **22. Reasonable and Prudent Parenting Standard**

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a) and 441.25 and OCFS release 15-OCFS-
- ADM-21, regarding social service policies and staff training concerning the reasonable and prudent parent standard. There was insufficient written guidance and/or description regarding how the reasonable and prudent parenting standard would be defined, how such standard would be applied and the process by which decisions would be made for each youth’s requested activity or experience.

## **23. Youth Contact / Visiting with Families**

- The application was insufficient regarding requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 430.12(d), and 431.10(e) concerning

program descriptions involving resident visitation by family members. The application referenced visiting hours for youth in the program [p. 59] and that “one staff member” will monitor a family visit [p. 140]. However, there was insufficient guidance and/or description regarding efforts to ensure the youth was visiting with birth parents and siblings, especially those who are placed in foster care in another setting, at minimum on a bi-weekly basis or as authorized by court order. Where visits with birth parents or siblings, who are also in foster care, may not be of sufficient frequency, there was no information regarding alternate efforts to maintain contact.

- The application was insufficient regarding requirements of 18 NYCRR 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), 430.12(d), 431.10(e), and 431.14 as it did not address policies that include the following areas:
  - How the agency will handle supervised contact, where required;
  - How staff supervising such family contact will be trained;
  - How the agency will coordinate with local departments of social services, in accordance with any court orders, any decisions around planning, limiting and/or terminating visits;
  - What the role of staff would be when supervising family contact;
  - What, if any, preparation or debriefing occurs with youth and families around contact and visits; and
  - How the agency will respond if an incident should occur during a visit.

#### **24. Nondiscriminatory Treatment**

- The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 441.24(a) around children’s rights and safety policies. The application referenced nondiscriminatory language in the section, “Resident’s Rights and Responsibilities [pp. 62 – 64]” and on the prospective employee application form [p. 146]. However, the application did not sufficiently prohibit staff and youth from engaging in or condoning harassment or discrimination as prohibited by 18 NYCRR 441.24(a).

#### **25. Clothing**

- The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(10), 482.1(a)(11), 441.4(a), and 448.3(g)(9) concerning clothing policies. The application referenced a list of clothing and personal items to be brought with youth upon admission [p. 61]. However, there was insufficient guidance and/or description regarding how the applicant would ensure, in collaboration with the local department of social services, that all youth would be provided with adequate clothing.

#### **26. Medication Administration and Management**

- The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(10), , 482.1(a)(11), 441.4(a) and 441.22 concerning medical care and

medication administration. The application did not contain appropriate written guidance and/or description regarding the following:

- Procedures for response (other than documentation) for a missed medication, refused medication or other medication error;
- Procedures for written consent from a physician to administer Over-the-Counter (OTC) medications; and
- Frequency of inventory and tracking of medications

## **27. Agency Forms**

The application was insufficient regarding the requirements of 18 NYCRR 482.1(a)(11) impacting OCFS review of all agency forms. The following forms were not included or insufficient:

- Staff Training – The application referenced “credentialing forms” to be used by the agency to document staff completion of certain trainings prior to employment, and other forms to be used during orientation [p. 73], however, no such forms were submitted to OCFS for review.
- Personnel Policies and Procedures –
  - Grievance – The application referenced a complaint form to be used by a youth and/or family member [p. 81] however, no such form has been submitted to OCFS for review.
  - Safety Assessment / Justification for Hire – The application references an expectation to document temporary approval of a staff with an existing conviction and/or a pending felony charge [p. 44], however, no such forms were submitted to OCFS for review.
- Care and Supervision of Youth – The application referenced hourly checks of youth, and monitoring sheets to be completed daily [p. 75], however, no such forms were submitted to OCFS for review.
- Smoking, Contraband and Searches – The application referenced documenting contraband items found in a search [p. 87], however, no such forms were submitted to OCFS for review.
- AWOL and Missing Youth – The application included the Brand New Beginnings AWOL Form [p. 52]. However, the form did not prompt staff to record information such as the location of the youth at the time of AWOL, notifications completed when youth goes missing and when youth returns to the program; it was unclear whether a supervisor would be required to review such forms and if so, where/how such review would be documented.
- Suicidal or Self-Injurious Behaviors – The application referenced the following forms, which were not been submitted to OCFS for review:
  - Tracking Forms [p. 89]; and
  - Assessments of youth who exhibit suicidal or self-injurious behaviors [p. 80]
- Records and Reports – The application referenced the following forms, which were not been submitted to OCFS for review:
  - Dialectical Behavioral Therapy (DBT) Style Diary Work Sheets [p. 38]
  - Self-Defeating Behavior Report Sheet [p. 38]



- Goal Sheets [p. 38]
- Accomplishment Work Sheets [p. 38]
- Initial assessment [p. 62]
- Point Sheets [p. 77]
- Goal-Intervention-Outcome (GIO) progress notes form [p. 78]
- Group Psychotherapy Notes [p. 79]
- Weekly Progress Notes [p. 79]
- Roll Call sheets [p. 80]
- Variance Reports [p. 88]
- An Injury Form included [p. 50] was missing space to include any additional instructions for the youth's care, and description of resulting limits to sports, recreation and/or restraints. It was unclear whether this form is separate from an incident report form.
- Altercation Form is included [p. 51] but it was unclear how much detail is expected regarding what happened before, during and after the incident. Without any instructions, it is unclear if staff are expected to record their responses to the situation, whether follow up occurred afterwards, including, but not limited to, assessment for injuries, mediation, referral to clinical staff, debrief with the youth. It was unclear whether staff and/or supervisory review is expected and where such review would be recorded on the form.

## 28. Other Issues

The application reflected several additional inconsistencies:

- The application referenced meeting with parents of a youth prior to admission, to “explain charges and fees [p. 59]” and a “pre-certification of residential treatment...to confirm insurance coverage and method of payment [p. 50].” It was unclear with whom such discussions would occur, and such practice and policy raised questions about appropriateness of program discussions being held with birth families as part of the admission process. This also reflected a lack of fundamental understanding that the primary referral source of foster children to a voluntary authorized agency is the local department of social services.
- The application contained conflicting terminology/references regarding the ‘justice center’ [p. 129], ‘department of justice’ [p. 130], and ‘NYS justice center’ [p. 130]. Children in foster care are covered as vulnerable persons under the jurisdiction of the Justice Center for the Protection of Persons with Special Needs.
- The application’s grievance process inappropriately referred the function of a 3-person appeals committee as being to determine, “whether or not the College followed its policy” [p. 137]. The applicant applied to operate a residential program for destitute, delinquent, abandoned, neglected and dependent children and is not a college setting. This reference was neither applicable nor appropriate.
- The application’s requirement for a ‘designated foster parent’ to actively participate in treatment, where a biological parent or extended family member is

unavailable [p. 3], is impermissible, as it is not supported by statutory or regulatory authority.

As stated above, this is OCFS's final determination in regards to your application.

Sincerely,

A handwritten signature in black ink, appearing to read "John Lockwood". The signature is fluid and cursive, with a large initial "J" and "L".

John N. Lockwood, Esq.  
Director, Albany Regional Office  
Division of Child Welfare and Community Services

cc: Lisa Gharthey-Ogundimu, Esq., Associate Commissioner, Division of Child Welfare and Community Services  
Lori Lehner, Division of Child Welfare and Community Services, Regional Operations  
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