April 5, 2015

Santi Rogers, Director
California Department of
Developmental Services
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Director Rogers:

The following is in response to a February 24, 2015 letter that was allegedly written by the Kern Regional Center (KRC) Board of Directors, signed by Board President, Susan Lara, and addressed to California's Department of Developmental Services (DDS) Director, Mr. Santi Rogers (dated February 24, 2015).

Many of the staff of Kern Regional Center are very troubled by the content of this letter, not only because of its openly defiant tone, but also because of the considerable number of inaccuracies, false conclusions, and fictionalized re-interpretations of Kern Regional Center's history contained within the letter. Many of the staff of Kern Regional Center believe that it is important at this time to formally go on record that we do not agree with the conclusions and assertions contained in the Board's letter. In fact, many staff of Kern Regional Center firmly believe that the Department of Developmental Center's investigative findings (as outlined in the Department of developmental Services' letter of January 30, 2015) very accurately describe the severe problems that have come to exist at Kern Regional Center under the administration of the current CEO, Duane Law.

First, we wish to point out that, although the Board's letter of February 24, 2015 is signed by Kern Regional Center Board President, Susan Lara, the letter actually appears to have been written in the very distinct and identifiable prosodic style of Mr. Law himself. While this is not surprising (as many suspect that Mr. Law has had a hand in writing other documents and speeches for the Board President as well) it does suggest that there continues to be an improper degree of enmeshment, between Mr. Law and both the Board and its President. While it is widely believed by many that the letter was actually written by the CEO and not by any member of the Board, the Board nonetheless approved the letter, thereby endorsing and accepting fully the responsibility for its content.

Kern Regional Center staff also take issue with Ms. Lara and Mr. Law repeatedly referring to themselves as "KRC." Although Ms. Lara and Mr. Law may hold key administrative positions, their behavior, personal and administrative philosophies and their current defiant and dismissive tone toward the investigative findings of the Department of Developmental Services are not supported by most KRC stakeholders.

In the letter of February 24, 2015 the Board alleges there was "no attempt made to select a representative cross-section of KRC staff members to interview," they are "unaware of any questionnaire or qualitative control tool provided to the KRC staff members who were interviewed," and that "staff morale (by accounts of long-term staff) has been extremely low for years prior to the current administration." These statements indicate that the highly skilled DDS investigation team cherry-picked a small group of disgruntled long-term staff to interview, and there was no due diligence because rather than using a simple survey, they conducted an extensive forensic investigation, which requires in-depth individual interviews. The letter mentions that these interviews were held "behind closed doors," which indicates a feeling that DDS and/or KRC staff are somehow deviant or ill-intended, when in fact, the Assessment findings were undoubtedly the result of multiple whistleblower complaints from a variety of sources, and as such are supposed to be confidential, to the largest extent possible.

In the Board's letter of February 24, 2015, the claim is made that the extremely low (and further plummeting) morale at Kern Regional Center is a product of "historic practices" of the prior Kern Regional Center administration. This claim is neither new nor particularly surprising, as this is a well-worn assertion that has been made over and over again by our current CEO, Duane Law and Board President, Susan Lara. However, this claim is simply not true. In fact, the extremely low morale (which, at this time, continues to decay) is directly related to the practices and behavior of the current administration.

The Board repeatedly mentions that DDS did not extend the courtesy of allowing it sufficient time to review the findings before they were released to the public. The staff feels this was likely due to the gravity of the concerns, and was done in the spirit of transparency – something that the current Kern Regional Center leadership lacks so severely that it deeply impacts morale and trust within the organization. Some staff wonder if the Board is simply annoyed because they would have preferred more time to consult with attorneys in order to formulate a response that deflects any responsibility or liability from the current leadership (as their response letter appears to attempt to do). Essentially, the Board just seems angry and embarrassed, and rightfully so, due to its lack of proper oversight and stewardship of this regional center.

With regards to the vacant Director of Client Services position, the Board asserts that on November 4, 2014, "the interview panel determined to reopen the position and interviews were held on February 19, 2015. KRC Administration had an interim appointment plan prepared to implement but was advised to place that plan 'on-hold' by the DDS Consultants in December 2014." We were informed by one of the Consultants that this is untrue, and that their recommendation was to hire someone permanently as soon as possible. Rather than take this advice, KRC leadership decided to neither appoint an interim, nor hire a permanent Director of Client Services, but rather to leave the position vacant, and completely taint the interview process. Additional interviews were held on March 26, 2015. The position remains vacant almost 7 months after losing our most recent Director of Client Services, Susan Hernandez. We still cannot emphasize enough how crucial Ms. Hernandez was to this agency, and what an enormous loss it was to KRC. It also once again becomes necessary to point out that the last Director of Client Services, Susan Hernandez, did *not* retire. It is well known to staff that she resigned. To claim that she retired appears to be an attempt by the CEO to reframe Ms. Hernandez's exit from his administration in a more positive light.

With regards to comments made about the Chief Financial Officer (CFO) and the "numerous reports of significant strife within the accounting department," this situation has only worsened since the DDS investigation was conducted. We have recently lost our Accounting Program Manager, which has undoubtedly escalated the strife within that department, as workloads have increased for the staff in that department.

Regarding the Community Services Department deficits, the Board asserts "the Community Services Director position was vacant for 10+ years," which is only partially true. The present Program Manager of the Community Services Department, John Noriega, had handled the responsibilities of that position for many years since the departure of Bette Cohen (the former Director of Community Services). KRC staff fully realizes that there were some vendor contracts that were approved under Mr. Noriega's watch that may not have been held to the high standards they should have, but most of us do not place the blame on Mr. Noriega. Rather, this *is,* perhaps, one "historic practice" that may be solely attributed to the former administration. As we understand it, the CEO has the authority to override every other KRC employee. We believe Mr. Noriega is fully capable of overseeing the Community Services Department, but did not have the necessary administrative support, or likely had been directed to approve certain contracts, regardless of his own concerns about them.

While the Board's letter appears to suggest that the absence of a Director of Community Services position in the agency is somehow constitutes a form of administrative neglect, it curiously fails to mention there has also been no Director of Clinical Services fo r the same amount of time. This is notable, as many staff members believe that the Director of Clinical Services position is actually of greater value to KRC than the Director of Community Services position (as the Director of Community Services position appears to be simply duplicating many of the duties and responsibilities that have historically been assigned to Mr. Noriega). In fact, it is the opinion of a number of longstanding employees that having both Mr. Noriega and the current Director of Community Services performing parallel functions is simply an unnecessary redundancy. We have confidence that Noriega can remedy whatever needs to be addressed by our Community Services Department; provided that he receives proper administrative support. Furthermore, claims that the current Director of Community Services is currently burdened with an overwhelmingly long, if not untenable, list of responsibilities are questionable, at best. The rather 'bloated' list of duties that the Director of Community Services is listed as performing and those that she is actually performing is disparate. For example, this Director of Community Services claims to oversee Fair Hearings; however, she does not assign, schedule, attend, or conduct Fair Hearings. Currently, an administrative assistant schedules all of the hearings, and Program Managers conduct all of the fair hearings. This duty appears to be in title alone.

The Board mentions the departure of the former Human Resources Manager, and the use of WorkLogic HR. It should be pointed out that a conflict of interest may exist between our Board President and WorkLogic. WorkLogic has provided some sponsorship to League of Dreams, an organization for which our Board President also serves as a Board member. Because League of Dreams is not a KRC vendor, there is no tangible conflict of interest for the Board President to disclose. However, it should be noted that League of Dreams is directly involved with our main/only available provider for Physical Therapy, Occupational Therapy, and Speech Therapy (Terrio Therapy/Terrio Kids). Tim Terrio, the CEO for Terrio Physical Therapy & Fitness, is also the Founder and Chairman of the Board for League of Dreams. We have serious concerns about the Board President's continued use of her position on the KRC Board to further her personal interests and to facilitate business relationships between KRC and friends and financial supporters of the other agencies with which she is affiliated.

The Board notes that the new HR Manager "started in the role on February 17, 2015 and has received high marks from the staff and DDS Consultants," in a letter that was dated February 24, 2015. Essentially, they gave her rave reviews after five working days. In truth, it is widely believed that she mishandled at least one recent personnel situation during her brief time at KRC. Given this, it is suspected that a poll of staff today would reveal different results than that asserted by the Board in their letter.

When addressing the internal culture and staff morale, the Board repeatedly points out that long-term staff has experienced low morale "for years prior to the current administration." This not only lays blame on the previous administration (if not the long-term employees themselves), but also offers no explanation of why the Board has knowledge of this, but has done nothing to address or improve the situation. The Board attributes low morale to "extremely high caseloads based on budget restrictions and absence of any Cost of Living Adjustment from the state in eight years," but also states that "KRC staff is compensated and have benefits at the highest levels of Regional Centers throughout the state," and (underlined in bold) spells out the salary schedule (that has been negotiated with the union), in a way that portrays staff merely as greedy ungrateful whiners. There are several problems with these somewhat contradictory statements. The CEO has actually shown us data to demonstrate that caseloads have actually not increased since his arrival at the regional center. He is actually correct about that. Our caseloads have been in the mid-80s for several years. *Workload* has certainly increased, and positions are left vacant for too long once vacated, but caseload numbers themselves have not dramatically increased during the past few years. Essentially, the inconsistency in the above statements made by our Board demonstrates that KRC staff is not merely concerned with money, that caseload numbers alone and budgetary restrictions are not the driving force behind the low morale. It is of note that the CEO has repeatedly asserted that even in the absence of a "cost of living increase" (the last such increase occurring in 2001) KRC staff salaries have still kept pace with the rate of inflation through "step increases" and periodic "longevity steps." However, this assertion is not supported through simple mathematics. Currently, it is typical for employees to exhaust their eligibility for "step increases" after 8 years of employment. From that point forward they are only eligible for a 2.5 % longevity increase every 3 years. The average rate of inflation during the 14 years that have transpired since the last cost of living increase has been 2.3%. In light of this fact, those who have been receiving "longevity steps" of 2.5 % every three years have certainly not been financially keeping up with the rate of inflation.

The Board provided examples of the leadership's attempts to improve morale, including, "additional 'Rejuvenation Days,' staff unit lunches, tail-gate Superbowl events, etc. at the expense of the organization," and that "KRC administration has restored all 2011 concessions (furlough days, wage freeze, mileage reimbursement reductions, education leave, and tuition reimbursement)." This is only partially true. Staff unit lunches were frozen at the same time as the other 2011 concessions, all of which were negotiated for a specific timeframe, and would have been restored at the end of the fiscal year, regardless of any action by the CEO or the Board. The resurrection of the staff-driven Superbowl tailgate event was a desperate last minute attempt to respond to the DDS Assessment of poor morale. This event was not funded by KRC. Indeed, one of the DDS consultants participated in the Superbowel tailgate party and can attest that, like everybody else who participated in this event (which was held during the agency's lunch hour), each participant was required to pay for their own meal. Although we appreciate Rejuvenation Days very much, they have basically turned into "protected time," where we are not expected to answer calls or respond to emails, but a time when we can catch up on report-writing. There is mention that "KRC also pays 100% of all insurance for all employees, spouses/partners and dependents." This is true, and we do greatly appreciate this. One could argue that with all of the apparently heightened stress here in comparison to other regional centers, it is plausible that we have higher medical costs than employees of other regional centers. Various nation-wide studies have found that this specific geographic location (the Central Valley) creates substantial health risks, and exposes people to diseases and illnesses that are rarely found in other areas (i.e., Valley Fever, chronic asthma and other respiratory illnesses, etc.). Many staff members have either had these illnesses themselves, or have spouses or dependents that have experienced them. Before threatening to change the current compensation package, KRC should consider what impact that would have on staffing, and what the end result would be to our clients, if in fact, it values staff retention.

KRC management has discussed ideas for workload reduction; however, without a Director of Client Services who (already) understands the concepts and processes discussed, who can facilitate the necessary communication with other departments to make the changes happen, it is impossible to move forward on most of the proposed ideas for workload reduction. Typically, the responses we get involve contacting other regional centers to see how they do things, or they are shot down if they involve the Accounting Department doing anything differently. The end result of workload reduction efforts has mostly been increased time in management meetings, and little impact on the workload of our staff.

"By accounts from multiple long term employees, KRC staff have apparently had this feeling and expressed absence of trust for years prior to the new administration. Prior to and upon the current CEO's arrival, the Board was informed of significant trust issues and the CEO was informed of substantial allegations of distrust throughout the transition." Again, this is an admission that the Board knew of problems, but there had been no effort to develop an open line of communication with KRC's stakeholders until the DDS Assessment findings were released. Upon their release, the Board finally opened an email account. To speak to the distrust issues, the staff has been repeatedly told by the current administration that it had "been taken" by the previous administration, particularly with regards to our pension (int erestingly, mantra has also been adopted by the only recently hired Human Resources Manager). Yes, distrust in the previous administration existed (towards the end of the former CEO & CFO retirement); however, the distrust the staff has in the current administration is IN THE CURRENT ADMINISTRATION AND BOARD. The only common denominator in the new administrations is the Board President.

Although a new whistleblower policy may be put in place, its value is questionable unless the Board President and the KRC Board chooses to take complaints seriously and deal with them effectively.

In the letter of February 24, 2015 it is stated that "four" NLRB unfair labor practices (ULPs) have been filed against Mr. Law. However, in truth, there have been two ULPs and they are in regards to the formation of an alternative Pension Committee and changing from a 3(21) to a 3(38) plan. Mr. Law has always been free to express concerns and provide information about the pension to the members of the Pension Committee and SEIU at any time. Unfortunately, it appears that he has simply elected not to do so.

Many KRC staff members are offended by the statement that "the current administration knows of no example of a stated retaliation or any action, statement, or behavior that has not been investigated and, when appropriate, addressed as a personnel matter. KRC administration has responded respectfully and consistently to all staff concerns and perspectives brought to our attention regardless of the nature of those allegations." This is just patently false. There has been much retaliation here at KRC for staff complaints. There have been incidents of denial or delay of promotion of well-qualified individuals who have disagreed with executive management staff of purposed legally sanctioned means of addressing problems in the workplace or simply when some staff are perceived as somehow disloyal. There have been fully witnessed incidents in which the CEO has, in a no so subtle veiled threat, verbally reminded management staff that they are "at will" employees. There is a history of this administration not accepting any responsibility (liability) for wrongdoing on a number of occasions.

In closing, many of the staff at Kern Regional Center are very concerned by the defiant and unrepentant posture reflected in the letter of February 24, 2015 to you. There appears to be no acknowledgement of many of the serious problems that have come to exist at out agency during the past 3 years. The letter offers a wealth of deflection of responsibility, rationalizations (some of which are based in fiction rather than fact) and shameless touting of accomplishments – only a small number of which can actually be attributed to this administration. Given the above, staff has serious concerns about the commitment of the present CEO, Board President and the Board to pursuing the changes necessary to improving the health of KRC.

We once again wish to thank you and other members of the Department of Developmental Center team for your continued support and your efforts to address the multitude of (administrative) problems that have come to exist at Kern Regional Center during the past three years. We also appreciate your time in considering this rebuttal to the Board's / CEO's letter of February 24, 2015.

Sincerely,

Maria Salinas
Kern Regional Center