



MR-MD-003-005

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY DEPUTY

UNITED STATES OF AMERICA *

Plaintiff *

v. *

Civil Action No. M-85-227

STATE OF MARYLAND, et al. *

Defendants *

* * * * *

STIPULATION

The United States, Plaintiff, and the State of Maryland, the Maryland Department of Health and Mental Hygiene, and various named State officials (hereinafter collectively referred to as the State of Maryland), Defendants, through their attorneys, state the following:

I. STATEMENT OF FACTS

1. Under a Consent Decree entered in this action on January 17, 1985, the State of Maryland is required to take certain remedial measures in order to assure the constitutionality of conditions at the Rosewood Center, Owings Mills, Maryland, a residential facility for developmentally disabled persons. The Consent Decree required the State of Maryland to provide appropriate plans and implement them by June 30, 1985.

2. On October 1, 1985, the United States filed certain objections to parts of the plans submitted by the State of Maryland.

3. On October 18, 1985, the State filed a response to the objections.

4. On December 19, 1985, the State sent to the United States a Plan designed to supplement the State's response to the objection.

II. AGREEMENT

In order to avoid protracted court proceedings on the Plaintiff's Objections and the Defendant's Response to the Objections the parties hereby stipulate and agree to the following:

A. In entering into this Stipulation, State officials do not admit to any non-compliance with the Consent Decree nor may this Stipulation be used as evidence of liability in any other civil proceeding. This Stipulation, which shall be legally binding and judicially enforceable is, however, intended to resolve Plaintiff's concerns set forth in the Objections and shall be read in light of that purpose.

B. The State of Maryland agrees to implement the Plan submitted to the United States on December 19, 1985, Exhibit A, attached, within the time periods set forth in this Stipulation. The Plan is intended to provide a method of accelerating and achieving full implementation of the Consent Decree and State plans submitted thereunder. The State will implement the Plan as set forth below:

1. The State will reorganize the management structure of Rosewood Center in the manner set forth at Section II of the Report at pp. 2-4 by May 1, 1986.

2. The State will utilize consultants, as appropriate, to develop necessary training programs.

3. In accordance with the State's obligation to provide adequate staffing levels and programming under Section IV, Paragraph 1, of the Consent Decree and Section II of Plan II, the State will reduce the population of Rosewood to 725 residents in accordance with the attached schedule (Exhibit B) by July 1, 1986. Pursuant to the State's obligation under Section VI, Paragraph 3 of the Consent Decree and Section III of Plan II, the State will provide full-day programs to all Rosewood residents requiring them by July 1, 1986.

4. The State will institute a program with the John F. Kennedy Institute to train Rosewood personnel in the care and training of developmentally disabled persons, hereinafter referred to as Rosewood Staff Development Program which training will commence by March 17, 1986. Phase Two, Training Objectives I and II (Building Effective Teams and Developing Relevant Skills), has commenced and will be completed no later than November 1, 1986.

Phases Three and Four, Training Objectives IV and V (Identifying Future Trends in Residential Services and Reinforcing Behavior) will begin at that time and continue through the remaining months of the program.

5. By May 7, 1986, the State will provide the United States with a full description of the staff who will conduct the Rosewood Staff Development Program, including names and descriptions of their professional background and training. In addition, the State will also provide the United States with a description of how this staff is proposed to be deployed to conduct the Program including the number of hours of service each staff member will be providing and the proposed location of the services to be provided.

6. By May 7, 1986, the State will develop a comprehensive, written description of the method for training direct care staff by mid-level staff at Rosewood under the Rosewood Staff Developmental Program.

7. By May 7, 1986, the State will also provide a description of program components under the Staff Development Program applicable to personnel on all shifts at Rosewood.

8. The State agrees that all policies and regulations governing the operation of Rosewood, particularly those regarding the use of restraints, the use of drugs, the conduct of day programs, and the prevention of abuse and neglect, which are set forth in Plan II filed by the State under the Consent Decree, shall apply to the conduct and operation of the Rosewood Staff Development Program.

9. The State agrees that all training conducted off the Rosewood site shall be consistent with Rosewood's policies and principles for day programming set forth in Plan II.

C. The State agrees to comply with the Paragraph 1(e) requirements for direct care staff levels based upon the findings of Rosewood's resident re-assessment programs described in Section II of Plan II. The State further agrees that professional personnel at Rosewood described in Section IV, Paragraph 1(a) through (d) shall not be included in any direct care staff reassignment made in order to achieve the direct care staffing levels required under Paragraph 1(e). There are Licensed Practical Nurses employed by the State as direct care staff, who are not counted in determining the ratios required by Section IV, paragraph 1(d). These Licensed Practical Nurses shall be counted in determining the direct care staff ratios required by Section IV, paragraph 1(e).

III. CONSTRUCTION, IMPLEMENTATION AND ENFORCEMENT

A. If the State of Maryland, or any agent or representative thereof, determines that a modification, change, or deferral of the Plan of Correction is necessary, the State of Maryland shall notify the Court and the United States of any such proposed change. Upon notice of a proposal by the State, the parties shall consult in a good faith effort to attempt to resolve any differences. If the parties fail to reach an agreement, the proposal shall be

submitted to the Court, which shall determine whether such proposal is acceptable under the Consent Decree based upon the principles and objectives set forth in Sections III and V therein.

B. Because the State of Maryland has submitted a Plan designed to achieve full compliance with the Consent Decree and has agreed to implement such Plan as set forth herein, the United States shall not presently seek any contempt order or equitable relief.

C. The terms of this Stipulation shall not be construed as modifying the Consent Decree or any State plans adopted thereunder. Furthermore, the terms of this Stipulation shall not be construed as a waiver of any obligation of any party under the terms of the Consent Decree nor as a waiver of any rights of the United States to seek appropriate relief for failure to implement provisions of the Consent Decree, or plans submitted pursuant thereto.

D. Upon the execution of this Stipulation and its approval by the Court, it shall have the full force and effect of an order of court, and its terms shall be enforceable as such.

E. The terms of this Stipulation shall remain in full force and effect until the termination of the Consent Decree.

Dated: June 4, 1986

Respectfully submitted:

FOR THE STATE OF MARYLAND

Stephen H. Sachs
Maryland Attorney General

FOR THE UNITED STATES

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

Ellen A. Callegary
Ellen A. Callegary
Special Assistant to the
Attorney General

Joseph P. McCurdy, Jr.
Joseph P. McCurdy, Jr.
Assistant Attorney General

Larry J. Goldberg
Arthur E. Peabody Jr.
Benjamin P. Schoen
John J. Curry, Jr.
Larry J. Goldberg
Attorneys
Special Litigation Section
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

SO ORDERED this _____ day of _____, 1986.

UNITED STATES DISTRICT JUDGE