

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

7-10-85
11:30 AM

ANNA MARIA WESTON, by her)
guardian Barbra Weston,)
et al.,)
)
Plaintiffs,)
)
v.)
)
WYOMING STATE TRAINING SCHOOL,)
et al.,)
)
Defendants.)

CIVIL ACTION NO. C90-0004

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APPENDIX A

Appendix A:

PROCEDURES FOR ADDING AND DELETING CLASS MEMBERS

Class Member by court order means all individuals with mental retardation currently at the Wyoming State Training School, or who are currently or in the future may be at risk of placement at the Wyoming State Training School, including youths from birth to 21 years, adults and senior citizens.

Mental retardation means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period as set forth in W.S. 25-5-102(a)(vii).

Persons with standing means the following individuals or entities: 1) individuals with mental retardation, 2) class members, 3) State of Wyoming, 4) Protection and Advocacy System, Inc., 5) parents of minors with mental retardation, and 6) legal guardians of individuals with mental retardation.

CRITERIA FOR CLASS MEMBERSHIP

A person is at risk of placement if, on July 9, 1990, the person

- a. would have been eligible for admission to WSTS pursuant to W.S. 25-5-115 (a)(iii); and

- b. is mentally retarded, and not currently being served, as determined by the evaluation team.

PROCEDURES FOR ADDING CLASS MEMBERS

1. Persons with standing seeking admission to the class shall make written application to the State Department of Health, accompanied by an authorization for the release of all necessary information.

2. The application shall describe in detail the lack of services for the individual claiming eligibility, and what supports and services the applicant is requesting.

3. Within ten working days of receiving the application and authorization for release of information, the Department of Health, and the Department of Education for children ages 3-21, shall make an initial determination if the person qualifies as a class member.

4. To determine the eligibility of an applicant, a formal evaluation may be necessary. The department(s) shall provide written notice, within the ten working-day period, to the person requesting eligibility and to P & A of a decision whether or not to conduct a formal evaluation. Each evaluation shall be conducted by individuals selected by the requesting departments. The evaluation teams will be composed of impartial or neutral third-parties who make recommendations on the basis of facts presented.

The applicant or P & A has the right to an independent formal evaluation at the State of Wyoming's expense if the applicant or P & A disagree with an evaluation obtained by the departments. The departments may initiate a review by the CAB pursuant to the Consent Decree to show that its evaluation is appropriate. If the final CAB decision after the review process is that the State's evaluation is appropriate, the applicant or P & A still has the right to an independent formal evaluation, but not at the State's expense.

If the applicant or P & A obtains an independent formal evaluation at private expense, the results of the evaluation:

- (a) must be considered by the departments, in any decision made with respect to the eligibility of class membership, and
- (b) may be presented as evidence at a hearing regarding the applicant.

If the CAB or a hearing officer requests an independent formal evaluation as part of the review process, the cost of the evaluation must be at the State's expense.

5. The formal evaluation shall be completed within thirty (30) days of the decision to conduct one, with its results provided to the Department(s) and P & A within five (5) working days of its completion.

6. Either party may appeal the results of the class membership determination through the review process established in the Consent Decree.

THE EVALUATION TEAM

1. The Evaluation Team shall be composed of individuals having expertise that is age and disability appropriate to that of the applicant. The Evaluation Team shall be capable of evaluating the applicant in the areas specified below. There is no specific number of persons who must serve on the team, but neither a single individual nor a single instrument may be the basis of the evaluation.

2. The Evaluation Team may include, but is not limited to:

Vocational Evaluator

Residential or Living Skills Specialist

Early Childhood Specialist

Special Educators

Physical or Occupational Therapists

Psychologist

Speech Therapist

Social Worker

Case Manager

THE EVALUATION

1. The formal evaluation shall be based upon a wide variety of sources of information, including information provided by the family, the school district and local supports and services. Formal and informal evaluation techniques shall be used.

2. The evaluation shall include, but is not limited to:

- a. appropriately norm referenced measures of the person's general intellectual capabilities,
- b. a delineation of the individual's skill, knowledge, available resources, relationships, interests and the potential for growth,
- c. appropriate measures of the person's adaptive behaviors, and
- d. a social summary indicating
 - (1) the availability of community and family supports,
 - (2) medical history establishing the etiology of the diagnosis and the age at which the diagnosis was first made, if known,
 - (3) prior service history, indicating the location and duration of previous services,
 - (4) services the person is presently receiving and the agency or agencies providing those services,

- (5) a work history, for those over the age of sixteen, indicating sheltered and competitive employment experiences, and
- e. observations of the person in social and vocational settings, and
- f. the Evaluation Team's findings including an assessment and determination of the present supports and services, and the risks of placement at Wyoming State Training School.

3. The Department of Health, or the Department of Education for children ages 3-21, shall review the evaluation and any additional information, and will render a written decision to the applicant within ten (10) working days of the receipt of the written formal evaluation. The written decision shall include a statement of eligibility or ineligibility for class membership. The ineligibility letter shall also include the procedure for the review process. The Department(s) shall also inform P & A System, Inc. of the decision within the same time period as notice to the applicant.

4. Persons determined not to be class members will be directed to an appropriate services provider. The Department of Health shall assign class members an independent case manager to initiate the individual program plan process in accordance with the Consent Decree.

PROCEDURES FOR DELETING CLASS MEMBERS

1. Class members may be deleted if they
 - a. move and establish residency in another state,
 - b. die.
2. The State shall give notice to P & A and the CAB of individuals to be deleted from the list of class members.
3. The CAB will review and approve, or disapprove, the same prior to submission to the court.

ASSURANCES

The State of Wyoming hereby confirms its commitment to the principles and covenants appearing in Article II of the Consent Decree. The State of Wyoming agrees that all individuals with mental retardation residing in the state, who are requesting services, shall receive services as delineated by the IPP. Eligibility for class membership shall in no way distinguish supports and services received by class members and non-class members, except for the independent case management system.

Non-class members will not be included in the determination of the State's compliance with the terms of the Consent Decree.

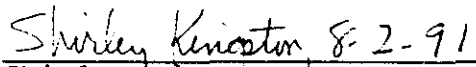
REVIEW

The parties may jointly review on or about January 1, 1992, the criteria for class membership and the procedures for adding and deleting class members, to assure that those established herein are fair, reasonable, and workable.

 8-2-91

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APPROVED AS TO FORM

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