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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE PENNSYLVANIA ASSOCIATION FOR
RETARDED CHILDREN, NANCY BETH BOWMAN,
et al., on behalf of themselves and
all others similarly situated

Plaintiffs

v.

COMMONWEALTH OF PENNSYLVANIA, ROBERT
HENDERSHOT, Acting Secretary of Education
of the Commonwealth of Pennsylvania,
PHILADELPHIA SCHOOL DISTRICT, Philadelphia,
Pennsylvania, et al.

Defendants

Civil Action
No. 71-42

THE PHILADELPHIA ASSOCIATION FOR
RETARDED CITIZENS;
JOHN GARRETT ARMSTRONG,
by his mother, Patricia Armstrong;
GREGORY PROODIAN,
by his mother, Rosette Proodian;
MARK HORVAT,
by his mother, Diane Horvat;
JEANNE MC CREERY,
by her mother, Margaret McCreery;
JAMES LEROY GREEN,
by his mother, Daisy Green;
LAWRENCE DESTRALO,
by his mother, Helen Destralo;
DOROTHY SCHAEFFLER,
individually and by her mother,
Dora Schaeffler;
MICHAEL HELDUSER,
by his mother, Mary Helduser;
DONNETTA THOMPSON,
by her mother, Gloria Thompson;
WESLEY GORE,
by his mother, Carrie Gore;
on behalf of themselves and all others
similarly situated,

Petitioners for
Contempt and
Enforcement

NOTICE OF MOTION

TO: ALL COUNSEL OF RECORD

Take notice that the attached Motion for Contempt and
Enforcement and Supporting Memorandum will be filed in the
United States District Court on March 4, 1977. Notice is given

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pursuant to Local Rule 36.

Caryl Andrea Oberman

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CERTIFICATION

This is to certify that today, true and correct copies of this Motion and Supporting Memorandum were served upon all counsel listed below by certified mail, return receipt requested.

2/23/77
Date

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE PENNSYLVANIA ASSOCIATION FOR RETARDED
CHILDREN, NANCY BETH BOWMAN, et al., on
behalf of themselves and all others
similarly situated

Plaintiffs

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COMMONWEALTH OF PENNSYLVANIA,
ROBERT HENDERSHOT , Acting Secretary of
Education of the Commonwealth of Pennsylvania,
PHILADELPHIA SCHOOL DISTRICT, Philadelphia,
Pennsylvania, et al.

Defendants

THE PHILADELPHIA ASSOCIATION FOR RETARDED
CITIZENS;

JOHN GARRETT ARMSTRONG,
by his mother, Patricia Armstrong;

GREGORY PROODIAN,
by his mother, Rosette Proodian;

MARK HORVAT,
by his mother, Diane Horvat;

JEANNE MC CREERY,
by her mother, Margaret McCreery;

JAMES LEROY GREEN,
by his mother, Daisy Green;

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by his mother, Helen Destralo;

DOROTHY SCHAEFFLER,
individually and by her mother,
Dora Schaeffler;

MICHAEL HELDUSER,
by his mother, Mary Helduser;

DONNETTA THOMPSON,
by her mother, Gloria Thompson;

WESLEY GORE,
by his mother, Carrie Gore;

on behalf of themselves and all
others similarly situated,

Petitioners for Contempt
and Enforcement

MOTION OF THE PHILADELPHIA ASSOCIATION FOR
RETARDED CITIZENS, JOHN GARRETT ARMSTRONG,
et al., FOR A FINDING OF CONTEMPT AGAINST
THE SCHOOL DISTRICT OF PHILADELPHIA, FOR
ENFORCEMENT OF ORDERS, FOR SANCTIONS, AND
FOR OTHER RELIEF

The Philadelphia Association for Retarded Citizens, John Garrett Armstrong, et al., members of the plaintiff class in this action, individually or by their parents and next friends Patricia Armstrong, et al., through their counsel, Caryl Andrea Oberman, Esquire, move this Honorable Court for a finding that the School District of Philadelphia and its officers are in contempt of the Order of this Court in this action, for the enforcement of its orders, for sanctions, and for other appropriate relief. In support of this motion, petitioners file herewith the sworn affidavits of Patricia Armstrong, Rosette Proodian, Diane Horvat, Margaret McCreery, Daisy Green, Helen Destrало, Dora Schaeffler, Dorothy Schaeffler, Mary Helduser, Gloria Thompson and Carrie Gore, attached hereto as Exhibits A through K, and incorporated as if fully stated herein, and further aver as follows:

1. On May 5, 1972, this Court approved and ordered into effect an Amended Stipulation and an Amended Consent Agreement in this action.

2. This Court ordered the School District of Philadelphia, its officers, employees, agents and successors to provide no later than September 1, 1972, to every retarded person between the ages of six and twenty-one as of the date of the Order and thereafter, "access to a free public program of education and training appropriate to his learning capacities." (Order and Injunction of May 5, 1972, Paragraph(g)).

3. Paragraph 48 of the Amended Consent Agreement approved and ordered into effect by this Court required the defendants to formulate and submit to the Masters for approval a satisfactory plan to identify, locate, and evaluate all mentally retarded persons between the ages of six and twenty-one within thirty days of the date of the Order.

4. Paragraph 49 of the Amended Consent Agreement approved and ordered into effect by this Court required the defendants to identify, locate, give notice to, and provide for the evaluation of all mentally retarded persons between the ages of six and twenty-one within ninety days of the date of the Order. These evaluations were to be performed in compliance with the plan written

pursuant to Paragraph 48.

5. In compliance with Paragraph 48, Commonwealth defendants duly promulgated the Commonwealth Plan for Identification, Location and Evaluation of Mentally Retarded Children, (COMPILE), pertinent portions of which are appended hereto as Exhibit L.

6. COMPILE provides in pertinent part:

The Plan is designed in keeping with the findings of the Order: "that all mentally retarded persons are capable of benefiting from a program of education and training--" and that "It is the Commonwealth's obligation to place each mentally retarded child in a free public program of education and training appropriate to the child's capacity... Further, since the Plan uses the evaluation process to determine program, it has also been designed to re-formulate existing methods and procedures for evaluating children in Pennsylvania. From now on it is anticipated that the educational evaluation of subnormally functioning Commonwealth children will be a continuing multidisciplinary process of individualized assessment leading to prescriptive program decisions and ready access to appropriate developmental education and training programs for each child. (COMPILE, pp. 1-2.)

7. COMPILE mandates a two step evaluation process, consisting of a screening and an in-depth evaluation by a multidisciplinary team, culminating in a joint conference of the examiners to develop a "continuing diagnostic prescriptive and psycho-educational plan" to meet the needs of the student. (COMPILE, pp. 6-10, paragraph 3a-f.)

8. COMPILE mandates that each School District or Intermediate Unit "shall have primary responsibility for the initial evaluation process and shall assemble a local evaluation team..." (COMPILE, p. 10, Paragraph 3h.)

9. In violation of this Court's Order, the School District of Philadelphia continues to exclude mentally retarded children from free public programs of

education and training by offering them no programs, or programs that are inappropriate to their learning capacities. Affidavits of Patricia Armstrong, Rosette Proodian, Diane Horvat, Margaret McCreery, Daisy Green, Helen Destralo, Dora Schaeffler, Mary Helduser, Gloria Thompson, and Carrie Gore, Exhibits A-G, I-K.

10. In violation of this Court's Order and of COMPILE, the School District of Philadelphia has failed to provide multidisciplinary team evaluations for the vast majority of mentally retarded children, has failed to hire and to train persons to provide such evaluations, and has failed to establish a procedure for providing such evaluations. Affidavit of Patricia Armstrong, Exhibit A 4-5; Affidavit of Rosette Proodian, Exhibit B 3; Affidavit of Diane Horvat, Exhibit C 4; Affidavit of Margaret McCreery, Exhibit D 5; Affidavit of Daisy Green, Exhibit E 3; Affidavit of Helen Destralo, Exhibit F 13; Affidavit of Dora Schaeffler, Exhibit G 6; Affidavit of Gloria Thompson, Exhibit S 4; Affidavit of Carrie Gore, Exhibit K 4.

11. In violation of this Court's Order to provide evaluations and programs in accordance with COMPILE, the School District of Philadelphia has failed to provide individual prescriptive educational programs for children deemed to be mentally retarded and has failed to hire and to train personnel to develop such programs as part of the multidisciplinary team. The School District of Philadelphia has failed to provide or to establish a procedure for providing the multidisciplinary evaluations necessary as a precondition to effective programming. Affidavit of Patricia Armstrong, Exhibit A 6; Affidavit of Rosette Proodian, Exhibit B 4, and 6; Affidavits noted in Paragraph 10, above.

12. In violation of this Court's Order, the School District of Philadelphia has failed to provide education appropriate to the needs of mentally retarded students. The provision of adequate supportive services is essential to the provision of education appropriate to the learning capacities of mentally retarded students.

13. The School District of Philadelphia has failed to provide adequate speech, occupational and physical therapy to meet the educational needs of its mentally retarded students. Affidavit of Patricia Armstrong, Exhibit A 17; Affidavit of Diane Horvat, Exhibit C 5 and 6; Affidavit of Gloria Thompson, Exhibit J 7-8

14. The School District of Philadelphia has failed to provide access to appropriate programs of education by making access to these services dependent upon gross diagnostic categories and not upon the assessed educational needs of individual children. Affidavit of Dora Schaeffler, Exhibit G 3.

15. The School District of Philadelphia has failed to provide adequate transportation and medical services to mentally retarded children. Affidavit of Patricia Armstrong, Exhibit A 11; Affidavit of Rosette Proodian, Exhibit B 11; Affidavit of Gloria Thompson, Exhibit J 9-10; Affidavit of Carrie Gore, Exhibit K 8-9.

16. The School District of Philadelphia has failed to provide adequate vocational education services and programming to meet the educational needs of its mentally retarded students. Affidavit of Daisy Green, Exhibit E 11; Affidavit of Dora Schaeffler, Exhibit G 8-11.

17. The School District of Philadelphia has neither hired nor trained sufficient personnel to meet these educational needs, and has thereby denied to mentally retarded children access to public education appropriate to their needs.

Affidavit of Patricia Armstrong, Exhibit A 17; Affidavit of Rosette Proodian, Exhibit B 6 and 11; Affidavit of Diane Horvat, Exhibit C 7; Affidavit of Gloria Thompson, Exhibit J 10.

18. The Order of this Court made it clear that there are preferential priorities in determining the setting in which education must be provided to mentally retarded children. This Court has ordered that education of mentally retarded children be provided in the least restrictive setting possible.

19. Paragraph 7 of the Amended Consent Agreement ordered into effect by this Court provides:

It is the Commonwealth's obligation to place each mentally retarded child in a free, public program of education and training appropriate to the child's capacity, within the context of the general educational policy that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of program of education and training.

20. Paragraph 33 of the Amended Consent Agreement provides in pertinent part:

...that homebound instruction is the least preferable of the programs of education and training administered by the Department of Education and a mentally retarded child shall not be assigned to it unless it is the program most appropriate to the child's capacities...that an assignment to homebound instruction shall be reevaluated not less than every three months, and notice of the evaluation and an opportunity for a hearing thereon shall be accorded to the parent or guardian, as set out in the Order of this Court dated June 18, 1971, as amended.

21. In violation of the policy established by the Order of this Court, the School District of Philadelphia has segregated many mentally retarded students from their

non-handicapped peers and has condemned them to a restrictive educational placement, by placing them in special education "centers." More than one thousand mentally retarded children are in such centers. In Subdistrict Eight, all trainable mentally retarded children are in such centers. In Subdistrict Five, more than half of all trainable mentally retarded children and all educable children in secondary school placements are in such centers. In Subdistrict Six, more than seventy per cent of all trainable mentally retarded children are in such centers. Affidavit of Rosette Proodian, Exhibit B 6; Affidavit of Dora Schaeffler, Exhibit G 5. These assignments violate these children's right to education, their First Amendment right to freedom of association, their Fourteenth Amendment right to equal protection, and their right to freedom from discrimination under Section 504 of the Vocational Rehabilitation Act of 1975.

22. In violation of Paragraph 33 of the Amended Consent Agreement, the School District of Philadelphia has misused homebound instruction to deny mentally retarded children access to a free appropriate program of public education in the least restrictive setting. The School District of Philadelphia has assigned children to homebound instruction inappropriately, has failed to provide three month reevaluations, and has failed to give parents notice of the evaluation and to inform them of their right to a hearing. Affidavit of Helen Destralo, Exhibit F 6-8; Affidavit of Mary Helduser, Exhibit I 10-12; Affidavit of Carrie Gore, Exhibit K 6 and 9.

23. In its Order of May 5, 1972, this Court approved and ordered into effect the provisions of the Amended Stipulation in this action providing for the due process rights to be accorded to mentally retarded children and to their parents. Prominent among these are the rights to notice and to hearing.

24. Paragraph 3(j) of the Amended Stipulation provides:

The hearing shall be scheduled not sooner than fifteen (15) days nor later than thirty (30) days after the receipt of the request for a hearing from the parent or guardian, provided however that for good cause shown, reasonable extensions of these times shall be granted at the request of the parent.

25. Paragraph 3(v) of the Amended Stipulation provides:

There shall be no change in the child's educational status without prior notice and the opportunity to be heard as set forth herein, except that in extraordinary circumstances the Director of the Bureau of Special Education, upon written request to him by the district or intermediate unit setting for the reasons therefor and upon notice to the parent may approve an interim change in educational assignment prior to the hearing, in which event the hearing will be held as promptly as possible after the interim change. The Director shall act upon any such request promptly and in any event within three (3) days of its receipt.

26. The School District of Philadelphia has consistently failed to comply with the Order of this Court establishing time requirements for the scheduling and holding of due process hearings. Affidavit of Rosette Proodian, Exhibit B 4-16.

27. The School District of Philadelphia has consistently violated the rights of children and has discouraged parents from exercising those rights by imposing lengthy periods of negotiation, often as long as a year, between the time of parental request for a due process hearing and the time such hearing is scheduled and held. Affidavit of Rosette Proodian, Exhibit B 5-15; Affidavit of Gloria Thompson, Exhibit J 6.

28. By its failure to provide a mechanism for the enforcement of a hearing officer's decision in a due process hearing or of negotiated settlements in lieu of a due process hearing, the School District of Philadelphia has failed to provide a mechanism for effectuating a child's right to due process or for achieving implementation of his or her right to education.

29. In violation of this Court's Order, the School District of Philadelphia has suspended and excluded from school several mentally retarded students without obtaining prior permission from the Director of the Bureau of Special Education and without initiating due process notice or other procedures, thereby denying them their rights to education and to due process of law. Affidavit of Margaret McCreery, Exhibit D 4-6; Affidavit of Daisy Green, Exhibit B 6 and 9-10; Affidavit of Helen Destralo, Exhibit F 4-5.

30. As a result of these violations by the School District of Philadelphia of this Court's Order and Decree, mentally retarded children have been denied their rights to due process of law, to a free appropriate

program of public education, and to receive that education in the least restrictive educational setting possible. They have suffered serious and in some cases irreparable harm. In their attempt and the attempt of their parents to enforce their rights under the Consent Agreement in this action and in the institution of this Motion, they have incurred substantial costs, expenses and attorneys' fees.

31. For all of these reasons, plaintiffs ask this Court to grant their Motion for a finding of contempt against the School District of Philadelphia, for enforcement of decrees and for sanctions, and for the following specific relief:

32. For an order requiring the School District of Philadelphia immediately to provide each member of the plaintiff class who is served or entitled to be served by the Philadelphia schools with a multidisciplinary team evaluation and to provide for each member of the plaintiff class a written prescription for his or her education and training of multidisciplinary teams in each of the eight subdistricts of the School District of Philadelphia in sufficient number to perform these evaluations and to provide these prescriptions.

33. For an order requiring the School District of Philadelphia to maintain and to implement an individualized educational program for each mentally retarded child supposed to be served by the School District of Philadelphia, based upon the prescription of the multidisciplinary team which evaluated that child.

34. Pursuant to this Court's powers under Rule 70 of the Federal Rule of Civil Procedure and to its inherent powers to enforce its decree by appropriate action, for an order appointing some person or persons other than officers or employees of the School District of Philadelphia to design and to provide the training of the multidisciplinary teams, and to establish a timetable for the hiring and training of the teams;

35. Pursuant to this Court's powers under Rule 70 of the Federal Rules of Civil Procedure and to its inherent powers to enforce its decrees by appropriate action, for an order appointing some person or persons other than officers or employees of the School District of Philadelphia, to create a plan for the provision of appropriate vocational education opportunities to every mentally retarded child supposed to be served by the School District of Philadelphia, to establish a timetable for the provision of such services and for the hiring of sufficient personnel to provide them, and to provide training for such personnel;

36. Pursuant to this Court's powers under Rule 70 of the Federal Rules of Civil Procedure and to its inherent powers to enforce its decrees by appropriate action, for an order appointing some person or persons other than officers or employees of the School District of Philadelphia to survey the need for supportive and medical services within the School District, to design a plan for providing such services and for hiring and training

sufficient supervisors, educational diagnosticians, speech therapists, physical therapists, occupational therapists and medical personnel to ensure the availability of appropriate educational opportunities to every mentally retarded child supposed to be served by the School District of Philadelphia, to establish a timetable for such hiring and training and to provide such training;

37. For an order requiring the School District of Philadelphia to retain the personnel required in the plan devised under Paragraph 5 above, to provide for the training of such personnel, and to provide the services called for by the plan, within the time frame specified by the plan;

38. Pursuant to this Court's powers under Rule 70 of the Federal Rules of Civil Procedure and to its inherent powers to enforce its decrees by appropriate action, for an order appointing some person or persons other than officers or employees of the School District of Philadelphia to design a plan and a timetable for making appropriate transportation service available to mentally retarded children supposed to receive such services from the School District of Philadelphia, and for an order requiring the School District of Philadelphia to provide the transportation services called for by the plan, within the time frame specified by the plan;

39. For an order requiring the School District of Philadelphia immediately to provide to any member of the plaintiff class who is served or entitled to be served by the School District of Philadelphia and who

has been excluded from or denied access to an appropriate educational program by the School District of Philadelphia since September 1, 1972, compensatory educational time in an appropriate program of education or training equal to twice the amount of time lost or spent in inappropriate programs through the School District of Philadelphia's failure to comply with the Order of this Court;

40. For an order requiring the School District of Philadelphia immediately to establish a procedure for ensuring compliance with hearing officers' decisions in due process hearings, to confer with the Philadelphia Association for Retarded Citizens in creating such a procedure, and to provide for parental input into such a procedure;

41. For an order requiring the School District of Philadelphia immediately to comply with the due process procedures provided in Paragraphs 3(j) through (v) of the Amended Stipulation in this action;

42. For an order assessing costs of this motion and attorneys' fees against the School District of Philadelphia; and

43. For such other relief as this Court may find necessary and proper.

Respectfully submitted,

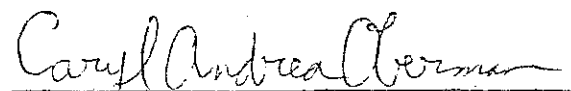

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EXHIBIT A

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Patricia Armstrong, being duly sworn, depose and say:

1. I and John Armstrong are the parents and next friends of John Garrett (Gary) Armstrong, a five and one half year old mentally retarded child currently enrolled in a class for low-functioning trainable children at the Torresdale School in District 8.

2. Gary lives with us at 556 Unruh Street in Philadelphia, Pennsylvania.

3. Gary is a hyperactive child, suffering also from mucrohydrocephalus, enlarged liver and spleen, hearing loss, chronic ear infection, stiffening of the joints and mucopolysaccharidosis.

4. In May of 1976, Gary was evaluated by a School District psychologist. Despite Gary's medical problems, there was no medical component to this evaluation, on which his school placement was based.

5. The psychologist did not speak to me until after he had composed his evaluation and recommendation. His examination was all of the "multidisciplinary team evaluation" Gary received.

6. The psychologist presented me with a due process letter recommending placement in a class for trainable retarded children. I refused to sign the

letter because of the lack of specificity in the proposed program. No more specific information was offered to me.

7. On September 3, 1976, I was informed that Gary was assigned to the Sullivan School in District 7.

8. On September 9, 1976, one day before Gary started school and several days after the official start of the school year, I was informed that Gary had been assigned to a specific classroom for low-functioning trainable retarded children at Sullivan. I had no opportunity to see the class before the 15-day due process waiver of objection period lapsed.

9. On September 22, 1976, Gary was home from school with a note from one of the teachers in his classroom which stated that he had not been permitted to eat a portion of his lunch as part of a "behavior modification" program. I had no prior notice of, and did not consent to, such a program, which could have been medically harmful to Gary.

10. On September 23, 1976, Gary drank a bottle of nail polish remover which was left open and unattended on his teacher's desk.

11. Because there was no nurse in the building at the time of the incident, Gary had to be rushed to a hospital for emergency treatment.

12. Gary was excluded from school by unsafe conditions in his classroom, including inadequate supervision, poor physical plant, electric burners and sharp objects lying about, until October 26, 1976, when he was assigned to a different low-functioning trainable mentally retarded class at Sullivan with different

program elements. I was not given a due process letter before this change.

13. Gary has never received and still does not receive any physical or occupational therapy.

14. At the present time, Gary is undergoing a multidisciplinary team evaluation, one of the few ever performed in Philadelphia. Since no such team existed, a special team had to be convened to perform this evaluation. The team recommended placement in a small class for young low-functioning trainable children for Gary, with an aide just for him and speech therapy, among other things. Since we had just moved to District 8, this class was to be in the Torresdale School.

15. The class originally offered at Torresdale had children who were nine years older than Gary in it. After strong protest on my part, the class was split and Gary was assigned to the younger half.

16. On February 1, 1977, Gary started at Torresdale School. He must travel more than an hour on the bus each way and arrives at school sick and exhausted. Our family doctor says that the long ride is dangerous to Gary's health.

17. Gary receives no speech therapy at Torresdale, despite the School District's own recommendation that he get it. The speech therapist is too busy to meet my son's needs.

Patricia Armstrong
Signature

Sworn to and subscribed
before me on *Feb 18*, 1977

Gary Bell
Notary Public

Notary Public - *MISSILE* Bucks Co.
My Commission Expires July 3, 1978

EXHIBIT B

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Rosette Proodian, being duly sworn, depose and say:

1. That I am the mother and next friend of Gregory Proodian, a seven year old mentally retarded child residing in District 8. He is currently excluded from program in the public school. He lives at 12539 Biscayne Street, Philadelphia, Pa., with myself and his father and next friend, Kevork Proodian.

2. Gregory is a mentally retarded child functioning in the high trainable to low educable range of mental retardation. He has a significant amount of emotional disturbance and some speech problems. He is also hyperactive.

3. The School District has never provided Gregory with a multidisciplinary team evaluation.

4. On the basis of a psychological evaluation done by a School District psychologist on September 22, 1975, placement for Gregory in a "class for young trainables" was recommended. Because this recommendations was not specific enough, my husband and I put off signing the due process notice and asked for more information on the proposed class. On July 29, 1976, not having gotten any more specific information about the program to be offered our son, we requested a due process hearing.

5. On September 14, 1976, the School District of Philadelphia asked for our definition of an appropriate program for Gregory. On September 17, 1976, we sent our definition of such a program to the School District.

6. The School District then offered Gregory an unspecified class for young trainable children at the Torresdale School in District 8, with supportive services only "if available", despite Gregory's needs. The Torresdale School is a center for young trainable children in District 8. We refused to accept this vague program offered in a setting which would segregate our son and exclude him from all contact with non-handicapped children.

7. On September 30, 1976, two full months after our request for a due process hearing, the School District sent a request for a hearing officer to Harrisburg. Even this much delayed action was taken only after our constant pressure and urging.

8. The hearing was finally scheduled for October 28, 1976, three months after it was requested.

9. On October 25, 1976, our attorney went to a settlement conference called by the School District to negotiate a placement for Gregory. An agreement was negotiated. On the strength of this agreement, we, on October 27, 1976, withdrew our request for a hearing.

10. On November 2, 1976, a letter containing the consent agreement was sent to the School District by our counsel. On November 7, 1976, our counsel was

informed by the School District that the agreement was a fair embodiment of the agreement reached at the conference and that Gregory could start school on November 9 or 10, 1976. On November 9, 1976, our counsel was informed that Gregory could not start school because of problems.

11. Gregory was at that time receiving medication at noon on the order of his neurologist. There was no one in the School District authorized to give this medication, which is taken by mouth, to Gregory. Because of the lack of sufficient medical personnel in the schools, Gregory's medication schedule had to be changed.

12. Despite this change in medication schedule, the School District sent a letter to our counsel saying that the consent agreement reached in Gregory's case was unacceptable and would have to be renegotiated.

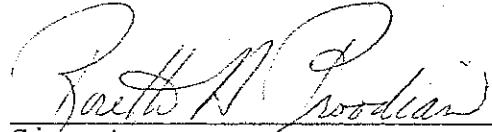
13. After nearly a month of frustrating negotiation, the School District requested a revision of the original agreement for educational program, which our counsel sent them on December 9, 1976. On December 14, 1976, the School District rejected the revision and again offered the same program which we had rejected in March of 1976.

14. Also on December 14, 1976, we requested the reinstatement of our due process hearing, which was scheduled to be held on December 22, 1976, almost five full months after the original request for the hearing.

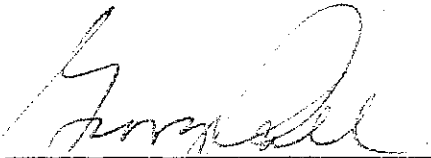
15. The due process hearing was again cancelled over our objection and at the sole request of the School District of Philadelphia. It was rescheduled

for January 6, 1977. The hearing was finally held then and concluded on January 18, 1977, almost 6 months after it was requested and a year and a half after the School District had the responsibility for providing appropriate education for our son. We received a favorable hearing officer's decision, which we hope we will be able to enforce.

16. Our son has been denied his right to free, public, appropriate education for almost two years. His right to due process has been delayed by the School District until it was almost meaningless. My husband, my son and I have gone through a long, hellish ordeal to get my son his rights.


Signature

Sworn to and subscribed
before me on Feb 16, 1977


Notary Public

Notary Public
My Comm. Expires 12/31/78

EXHIBIT C

AFFIDAVIT _____

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Diane Horvat, being duly sworn, depose and say:

1. I am the mother and next friend of Mark Horvat, a seven year old mentally retarded child currently enrolled in the Taggart School in District 3. Mark lives with me at 424 South Street in Philadelphia.

2. Mark is a brain damaged child who is prone to epileptic seizures. His motor development has been slow, and his power of speech is extremely limited. Mark is only partially ambulatory and underwent orthopedic knee surgery in August, 1974.

3. Mark was evaluated by the School District of Philadelphia in October, 1974, but was not placed in the Taggart School until April, 1975. He was reevaluated in May, 1976. He was seen only by a psychologist.

4. The School District has never provided Mark with a multidisciplinary evaluation, even though he has substantial medical problems.

5. Prior to September, 1976, at Taggart School Mark was not provided with appropriate self-help training and received no speech therapy.

6. Since September, 1976, and despite his obvious needs, Mark has received only minimal physical therapy, no speech therapy and no occupational therapy from Taggart School. He has received only limited training in feeding, toileting, cognitive development, sensory stimulation, or improvement of language reception.

7. Mark's doctor recommended that he be given phenobarbital three times daily, one dosage to occur during the middle of the school day. Mark's teacher, however, refused to give the medication. Due to the school's failure to provide someone to give Mark's medication, the dosage had to be changed.

8. Because of the lack of supportive services, Mark's educational program is not meeting his needs. He is not making the progress he could make in a program designed to deal with him as an individual.

Diane E. Horvat
Signature

Sworn to and subscribed
before me on Feb 16, 1977

[Signature]
Notary Public

Sworn to and subscribed before me
this 16 day of Feb, 1977

GEORGE FOLL
Notary Public - Election Dist. 3, Co.
My Commission Expires July 3, 1978.

EXHIBIT D

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Margaret McCreery, being duly sworn, do depose and say:

1. I and my husband, John, are the parents and next friends of Jeanne McCreery, a fifteen year old mentally retarded child currently enrolled at Woodhaven Center. She resides with us in District 8, at 11867 Sewell Road, Philadelphia, Pennsylvania.

2. Jeanne functions in the trainable range of mental retardation. She is hyperactive, epileptic, and has problems with speech and coordination.

3. From September of 1973 until March of 1975, Jeanne attended school in the residential program at Ebensburg State School and Hospital. We brought her home for frequent vacations and during those vacations she received some educational services at the Torresdale School. In March of 1975, we brought her home on an extended leave of absence from Ebensburg. She attended Spruance School as an auditor. In September of 1975, she began attending Spruance as a regular student.

4. On March 11, 1976, we received a letter from the principal of Spruance School requesting us to keep Jeanne home from school until a more suitable plan could be developed for her education. Jeanne was excluded from school for an initial period of 30 days. That period was extended to 60 days. During this time, no due process notice was sent to us and no due process hearing was scheduled or held regarding Jeanne's exclusion from school.

5. On March 8, 1976, immediately before the exclusion, Jeanne was evaluated for the first time by a psychiatrist for the School District. The psychiatrist said there was no place for Jeanne in public school. No psychological evaluation was done when Jeanne was excluded from school. Despite its mandate to do so, the School District has never provided Jeanne with a multidisciplinary team evaluation.

6. During her exclusion from school for two months, Jeanne was offered no alternative program by the School District. At the end of her two month exclusion, Jeanne was placed at Woodhaven Center.

7. Jeanne needs a very structured program. The School District excluded her and gave her no program at all. She has made progress in her new placement. She could have been making it during the two months of her life that were wasted by the School District.

Margaret W. Dr. Creech
Signature

Sworn to and subscribed
before me on Feb. 17, 1977

George P. L.
Notary Public

GEORGE P. L.
Notary Public, State of Ohio, Bucks Co.
My Comm. Ex. Expires July 3, 1978

EXHIBIT E

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Daisy Green, being duly sworn, do depose and say:

1. I am the mother and next friend of James Leroy, a sixteen year old retarded child who goes to West Philadelphia High School in District 1. He lives with me at 5522 Irving Street.

2. James is hyperactive, and emotionally disturbed, and he functions in the educable range of retardation.

3. All through school, James has been in classes for the educable mentally retarded. He has never gotten a multidisciplinary team evaluation from the School District.

4. All of his psychological evaluations said James was educable mentally retarded until January of 1976. A School District psychological done then said he was emotionally disturbed.

5. After the 1976 evaluation, James was taken out of West Philadelphia High School where he had been since 1974 (except for a short time when he was at the Child Guidance Center at Children's Hospital) and placed at Columbia School, a private school for the emotionally disturbed. After he had been at Columbia for 6 weeks (February, 1976 through March, 1976) he was rejected by that school, which felt its program was not right for him.

6. Both Columbia School and I notified West Philadelphia High School that James was without any educational program and was out of school. West Philadelphia High School refused to take him back into school until September of 1976. James was kept out of an educational program by the School District for 4 months of the 1975-1976 school year.

7. James is now in an educable mentally retarded class at West Philadelphia High School with no programming or services to treat his emotional disturbance. He receives no psychological counseling.

8. In June of 1976, I asked for a conference on James's placement in a certified letter to the Superintendent of the School District of Philadelphia. This letter was never answered.

9. Since he entered junior high school in 1971, James has frequently been suspended from school. He has been suspended for about 6 weeks out of every school year.

10. No due process notices were sent or hearings scheduled on these suspensions. Nobody ever told me that permission for the suspensions was ever gotten from the Secretary of Education in Harrisburg.

11. The School District psychological said that James needs vocational education. James does not get and has never gotten vocational education.

12. The School District psychological said that James needs placement in a class for retarded educable and emotionally disturbed children. He has not been put in a class like that.

Mr. Irving Green
Signature

Sworn to and subscribed
before me on Oct 17, 1977

James H. [Signature]
Notary Public

My Comm. Ex. Expires July 3, 1978

EXHIBIT F

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Helen Destralo, being duly sworn, do depose and say:

1. I am the mother and next friend of Lawrence (Larry) Destralo, an eighteen year old mentally retarded child who is currently receiving homebound instruction. He lives with me at 1716 South 10th Street in Philadelphia, Pennsylvania, in School District 3.

2. Larry was originally classified as educable. He is now classified as trainable. He is verbal, can walk and can take care of his personal needs. He has some problems with speaking clearly and needs speech therapy.

3. In 1968, Lawrence entered Washington School, where he remained for two weeks. He did not reenter the public school system until 1973, when he was assigned to the Washington School. In 1974 he was transferred to a class for non-verbal trainable children at the Bartlett School.

4. While at Bartlett, Larry was suspended several times for short periods of time. No due process notice was sent to me and no hearing was ever scheduled to determine whether Larry's placement at Bartlett was appropriate for him.

5. After several weeks of this, I refused to send Larry back to the inappropriate program at Bartlett School. No alternative school placement was offered until 1976.

6. In March of 1976, Larry began a program of homebound instruction, including 5 hours of instruction and 2 hours of speech therapy per week.

7. At all times, Larry has been physically able to attend a program in the public schools.

8. Larry never received a 3 month evaluation of his placement in homebound instruction. I was never informed of any such evaluation, and was never told of Larry's right to a due process hearing.

9. In June of 1976, I requested a reevaluation of Larry, who had not been evaluated since 1974. No action was taken by the School District.

10. On November 6, 1976, I again requested a multidisciplinary reevaluation of Larry, including psychological, psychiatric, neurological and speech evaluations.

11. In November of 1976, Larry was reevaluated by a School District psychologist. She recommended residential placement at Woodhaven Center, a State School and Hospital, or Devereaux School, an expensive private institution.

12. Very minimal attempts have been made by the School District to secure a placement for Larry in any school, public or private. He remains inappropriately on homebound instruction, cut off from contact with other children his own age.

13. Larry has never received a multidisciplinary team evaluation from the School District.

Henry K. Kistner
Signature

Sworn to and subscribed
before me on Sept 11, 1977

George A. Lee
Notary Public

Notary Public for the State of Texas
My Commission Expires July 3, 1978

EXHIBIT G

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Dora Schaeffler, being duly sworn, depose and say:

1. I am the mother and next friend of Dorothy Schaeffler, an eighteen year old mentally retarded person currently enrolled in a class for educable mentally retarded children at the Jacobs School in District 8. She lives with me and my husband, Paul Schaeffler, at 8644 Ferndale Street, Philadelphia, Pennsylvania.

2. Dorothy has Down's Syndrome and is classified as educable mentally retarded. She needs speech therapy.

3. Dorothy was evaluated by the School District in the spring of 1966 and placed in a class for the trainable mentally retarded in Torresdale School. In 1969, she was reevaluated and placed in a class for the educable mentally retarded. At the time of her reclassification, the School District stopped providing even the inadequate speech therapy it had provided to her before.

4. In September of 1971, Dorothy entered the Jacobs School in a class for the educable mentally retarded. In 1972, she was reevaluated, but the School District did not acknowledge this evaluation until I closely questioned them. She was next evaluated in June, 1976. Although I requested it, I was refused the opportunity to talk with the psychologist before the evaluation.

5. The Jacobs School is a special education center. My daughter is segregated there and has no

opportunity to have contact with young people who are not handicapped.

6. The School District never provided Dorothy with a multidisciplinary evaluation.

7. From 1970 until November, 1976, the School District did not provide Dorothy with speech therapy.

8. After his June, 1976 evaluation of Dorothy, the School District psychologist recommended a pre-vocational/vocational program for her. She has never been trained to travel independently. The School District has not provided her with the program recommended for her by their own psychologist, or made any attempt to do so.

9. My husband and I have contacted various school district personnel regarding the lack of appropriate vocational training for our daughter.

10. In the fall of 1976, a mobile School District van tested Dorothy at Jacobs for attitude, aptitude and tolerance. She excelled in the clerical training aptitude tests.

11. There does not exist anywhere in the city nor has any effort been made to provide, a program of clerical training for mentally retarded students like Dorothy, condemning her at best to a program of training that fails to make use of her aptitude and potential, and at worst to no program at all.

Dora M. Schaeffler
Signature *Mrs. P.*

Sworn to and subscribed
before me on *12/1/77*, 1977

George Foll
Notary Public

GEORGE FOLL
Notary Public, Member - Ill. Not. Assn.
My Comm. Expires July 3, 1978

EXHIBIT H

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Dorothy Schaeffler, being duly sworn, depose and say:

1. I am the daughter of Dora and Paul Schaeffler,
and live with them at 8644 Ferndale Street in Philadelphia.
2. My mother read me the affidavit she signed.
3. All the statements made by her in that
affidavit are true and I agree with them.

Dorothy Schaeffler
Signature

Sworn to and subscribed
before me on 22 Feb, 1977

George Foll
Notary Public

GEORGE FOLL
Notary Public, Philadelphia, Pa.
My Comm. Exp. 12/31/78

EXHIBIT I

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Mary Helduser, being duly sworn, do depose and say:

1. I and my husband, William Helduser, are the parents and next friends of Michael Helduser, a twelve year old child who was thought to be mentally retarded and who resides in District 7. He currently attends the Child Guidance Clinic of Children's Hospital. He lives with us at 5329 Cottage Street in Philadelphia.

2. Michael is a severely emotionally disturbed child, functioning within the retarded range. He has been diagnosed as psychotic, retarded, brain damaged, hyperactive, and autistic, among other diseases.

3. Michael attended Delta School, a private school, until the second week of November, 1974. In January of 1975, we contacted the School District to tell the people in authority that Michael was out of school and in need of placement. We were referred to our Mental Health/Mental Retardation Unit to find a private placement for Michael.

4. In September, 1975, Michael was evaluated by a psychiatrist for the School District. The psychiatrist sent Michael back to his Base Service Unit, and said that it was their responsibility to find a placement for him.

5. We never received notice that Michael was certified to the Department of Public Welfare, and as far

as we know such certification never took place.

6. Although his need for placement was known to the School District since November of 1974, Michael was out of school from November of 1974 until November of 1976. The School District offered him no services at all during that period.

7. The School District of Philadelphia did not provide Michael with a multidisciplinary team evaluation until January of 1977, when one was performed by the Child Guidance Clinic of Children's Hospital, a contractor with the School District.

8. This evaluation recommended private residential placement for Michael, where he can get a lot of structure and individual attention.

9. On February 18, 1977, Michael will be dropped from the Child Guidance Clinic program. We did not receive official notice of this from the School District until today, February 17, 1977.

10. The School District is offering Michael five hours a week of homebound instruction as a program until the long process of getting him into residential school is completed.

11. Michael goes out to school now, and is perfectly able to do so. He does not need homebound instruction, which is the farthest thing from the constant structure he does need and which will cut him off again from contact with children his own age.

12. We intend to challenge Michael's assignment to homebound instruction in a due process hearing. However, this will take time, and until the decision of the hearing officer is made, Michael will be excluded from school because of the School District's failure to find an appropriate program for him before allowing him to be dumped from his present program.

Mary Haldane

Signature

Mary Haldane

Sworn to and subscribed
before me on Feb 2, 1977

[Signature]
Notary Public

Notary Public
My Commission Expires July 3, 1978

EXHIBIT J

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Gloria Thompson, being duly sworn, do depose and say:

1. I and my husband, Hebrew Thompson, are the parents and next friends of Donnetta Thompson, a ten year old mentally retarded child currently attending the Blaine School in District 4. She lives with us at 1933 West Willard Street, Philadelphia, Pennsylvania.

2. Donnetta is a microcephalic child with cerebral palsy affecting all of her limbs and some spasticity in her legs. She has dysfunction of her legs, hips and thighs. She is functioning in the low trainable range of mental retardation. She can take care of her personal needs, except for dressing herself, and is verbal, but has trouble articulating clearly.

3. Donnetta began public school in the fall of 1973. She gets no occupational or speech therapy through the School District.

4. Despite her clear medical problems, the School District has never provided Donnetta with a multi-disciplinary team evaluation. We have never been given the opportunity to have input into any of her psychological evaluations.

5. In the fall of 1972, we requested a hearing to challenge the proposed educational placement for Donnetta. No such hearing was ever held and Donnetta was not placed in school until one year later.

6. We were worn down by the School District's refusal to schedule a hearing, and finally accepted a placement for retarded trainable persons because nothing else was offered and our attempts to get due process for our daughter were thwarted.

7. Despite the recommendation of the School District's own psychologist, Donnetta has never received speech or language therapy. Also, she is receiving insufficient physical therapy.

8. Donnetta's family physician has found in his most recent examination of her that her joints are deteriorating through lack of use and lack of sufficient physical therapy. The School District has been informed of this, but refuses to provide the appropriate therapies for our daughter.

9. On February 4, 1977, I informed the School District that Donnetta would have to begin using a wheelchair. On February 11, I took Donnetta to school with the wheelchair and examined the facilities. A ramp was provided, and I was informed that a bus would pick our daughter up beginning on Monday, February 14. The bus did not come on Monday and has not come since.

10. I was told that no bus could be provided since there are no available lift busses and loading and unloading the wheelchair on the regular bus was not in anyone's job description. As a result of the failure of the School District to provide appropriate transportation, Donnetta has been excluded from school since February 14.

Notary Public
My Commission Expires July 3, 1978

Louis Thompson
Signature

Sworn to and subscribed
before me on 12/11, 1977

Notary Public

EXHIBIT K

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA
CITY OF PHILADELPHIA

I, Carrie Gore, being duly sworn, do depose and say:

1. I am the mother and next friend of Wesley Gore, a six year old mentally retarded child who lives with me at 2524 North Thirtieth Street in Philadelphia. Our home is situated in the area served by Sundistrict Four.

2. Wesley is a multiply handicapped child functioning in the profound range of retardation. He cannot speak or walk, but he can understand when you talk to him, and he responds to lights, noise and colors. Wesley must be tube-fed.

3. Wesley is now attending a full-day, five day a week program at Hahnemann Day Care Center. He travels to the center by bus and receives programming and patterning there. But Wesley is over the age limit for services at the Center, and needs a placement in the public schools.

4. The School District did a psychological examination on Wesley in August of 1975. I never received a copy of that evaluation, and I never had the chance to discuss it with the psychologist. Despite his medical problems and his need for physical and occupational therapy, Wesley has never had a multidisciplinary team evaluation from the School District.

5. Wesley responds to the presence of other children. He enjoys being with children his own age, and needs the stimulation and companionship that comes from associating with others.

6. In spite of the fact that Wesley goes out to the Center every day now, and that his doctor feels that this is fine for him, the School District claims that he cannot be placed in a school program and has offered him homebound placement.

7. Even this offer of homebound instruction came only after I had requested the forms from the School District for applying for a due process hearing to find out why they were offering my son nothing. I asked for the due process forms on December 10, 1976. I heard nothing until February 18, 1977, when I received a letter from the School District offering my son homebound instruction for five hours a week. I am in the process of again requesting a due process hearing from the School District.

8. Wesley takes medication during the course of the school day. This is given to him at the Center by his teacher or by the nurse. He also needs to be tube fed once during the course of the school day, which his teacher or the nurse also does. There needs to be somebody at the public school who can do this for Wesley. If a day care center can do it, there is no reason why the School District cannot.

9. My son is handicapped, but he is still a human being. It is not dangerous for him to go to public school if he can get the services he needs there. The School District must give him the medical services he needs, so that he can have the chance to be with children his own age and to learn in school like everybody else.

Carrie J. Lane
Signature

Sworn to and subscribed
before me on March 10, 1977

George Foll
Notary Public

GEORGE FOLL

Notary Public for the State of Illinois
Commission Expires January 1, 1978

EXHIBIT L

COMPILE

Commonwealth Plan for
Identification, Location and
Evaluation of
Mentally
Retarded Children

Pennsylvania Departments of Education and Public Welfare
1972

Commonwealth of Pennsylvania
Milton J. Shapp, Governor

Department of Education
John C. Pittenger, Secretary

Office of Basic Education
Donald M. Carroll Jr., Commissioner
Harry K. Gerlach, Deputy Commissioner

Bureau of Special Education
William F. Ohrtman, Director

Office of Right to Education
Joseph N. Lantzer, Director

Department of Public Welfare
Helene Wohlgemuth, Secretary
William B. Beach Jr., M.D.
Deputy Secretary for Mental Health
and Mental Retardation

Office of Mental Retardation
Edward R. Goldman, Director

PREFACE

"This is a noble and humanitarian end in which the Commonwealth of Pennsylvania has chosen to join. Today, with the following Order, this group of citizens will have new hope in their quest for a life of dignity and self-sufficiency."

These are the last two sentences of the final opinion of the United States District Court for eastern Pennsylvania in the PARC Case. They were written on May 5, 1972. The following document, Commonwealth Plan to Identify, Locate and Evaluate (COMPILE) mentally retarded children, outlines the first phase of the Commonwealth's effort to help bring about this humanitarian end.

The second phase will be outlined in a document which will be forthcoming. This document will be called Commonwealth Plan to Educate and Train (COMPET) mentally retarded children.

COMMONWEALTH PLAN FOR IDENTIFICATION,
LOCATION AND EVALUATION OF MENTALLY RETARDED CHILDREN

The Commonwealth of Pennsylvania through the coordinated effort of the Pennsylvania Department of Education and the Pennsylvania Department of Public Welfare submits the following Commonwealth Plan in accord with Paragraph 48 of the Order, Injunction and Consent Agreement of October 7, 1971, Civil Action No. 71-42, PARC vs. the Commonwealth of Pennsylvania.

48. Within thirty days of the date of this Order, Commonwealth defendants shall formulate and shall submit to the Masters for their approval a satisfactory plan to identify, locate, evaluate and give notice to all the persons described in the foregoing paragraph, and to identify all persons described in Paragraph 45, which plan shall include, but not be limited to, a search of the records of the local school districts, of the intermediate units, of County MH/MR units, of the State Schools and Hospitals, including the waiting lists for admission thereto, and of interim care facilities, and, to the extent necessary, publication in newspapers and the use of radio and television in a manner calculated to reach the persons described in the foregoing paragraph. A copy of the proposed plan shall be delivered to counsel for plaintiffs who shall be accorded a right to be heard thereon.

The Plan is designed in keeping with the findings of the Order: "that all mentally retarded persons are capable of benefiting from a program of education and training --" and that "It is the Commonwealth's obligation to place each mentally retarded child in a free public program of education and training appropriate to the child's capacity within the context of the general educational policy that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class and placement in a special public school class is preferable to placement in any other type of program of education and training." (Paragraphs 4 and 7, Consent Agreement)

In accord with the foregoing, the Plan also considers the required identification, location and evaluation of all school age children who are mentally retarded or thought to be mentally retarded and who are currently not in school to be for the purpose of developing and implementing free public programs adequate and appropriate to meet the prescribed education and training needs of these children no later than September 1, 1972, as stipulated in Paragraph 50 of the Order.

50. By April 1, 1972, Commonwealth defendants shall formulate and submit to the Masters for their approval a plan, to be effectuated by September 1, 1972, to commence or recommence a free public program of education and training for all mentally retarded persons described

in Paragraph 48 above, and aged between four and twenty-one years as of the date of this Order, and for all mentally retarded persons of such ages hereafter. The plan shall specify the range of programs of education and training, their kind and number, necessary to provide an appropriate program of education and training to all mentally retarded children, where they shall be conducted, arrangements for their financing, and, if additional teachers are found to be necessary, the plan shall specify recruitment, hiring, and training arrangements. The plan shall specify such additional standards and procedures, including but not limited to those specified in Paragraph 39 above, as may be consistent with this Order and necessary to its effectuation. A copy of the proposed plan will be delivered to counsel for plaintiffs who shall be accorded a right to be heard thereon.

Further, since the Plan uses the evaluation process to determine program, it has also been designed to re-formulate existing methods and procedures for evaluating children in Pennsylvania. From now on it is anticipated that the educational evaluation of subnormally functioning Commonwealth children will be a continuing multidisciplinary process of individualized assessment leading to prescriptive program decisions and ready access to appropriate developmental education and training programs for each child.

Finally, the Plan addresses itself to the structuring of administrative task forces capable of coordinating the necessary multiagency and multidisciplinary human resources of the Commonwealth into a consolidated thrust to solve problems of identification, location, evaluation and program development for mentally retarded children. The Departments of Education and Public Welfare have been assigned joint responsibility to comply with stipulations that require multi-agency and broad private sector involvement. Neither the Department of Education nor the Department of Public Welfare has departmental resources adequate to the proper accomplishment of the responsibilities imposed by this Order.

Accordingly the Plan provides for the establishment of: (1) a State Task Force consisting of the Director of the Bureau of Special Education, the Commissioner of Mental Retardation, a duly appointed representative of the Governor's Office, a duly appointed representative of Consumer/Citizens; and (2) Local Task Forces consisting of the appropriate Intermediate Unit Director, representative School District Superintendents, the appropriate County Mental Health and Mental Retardation Administrator (s), representative Consumer/Citizens, and any other person or persons necessary to accomplish the purposes of the Local Task Force as listed in the Plan. It is anticipated that these Task Forces, State and local, will be capable to marshal all relevant private and public resources into effective support of the Plan and also, as necessary, define procedures for integrating the separate and various agency lines of responsibility and authority into optimum service to the purpose of the Plan. (Appendix 1)

THE PLAN

A mentally retarded child shall include, without limitation, any child who is mentally retarded within the definition of 'mental retardation' as set out in

- e. An intensive two-month Statewide Public Education campaign will be conducted to provide maximum support to identification and location of mentally retarded children. Main thrust of the campaign will be a Citizen Alert and Appeal to Help Find a Child. In addition to implementation aimed at the mass news media of Pennsylvania, the Public Education campaign will utilize the power of the Governor's office to reach every citizen with the appeal through several unique means. The detailed Public Education Campaign plan is attached here as Appendix 4. It will be carried out jointly by the Office of Public Information and Publications of the Department of Education and the Bureau of Public Education of the Department of Public Welfare.
- f. A 24-hour toll free telephone service for purposes of reporting children not in school will be established, publicized and maintained for the duration of the identification and location process.
- g. The local task force, i.e., the appropriate Intermediate Unit Director, representative School District Superintendents, the appropriate County Mental Health and Mental Retardation Administrator (s), representative Consumer/Citizens, and any other person or persons necessary to accomplish the purposes of the Local Task Force as listed in the Plan, will be convened by the appropriate Intermediate Unit Executive Director no later than January 10, 1972 to serve the respective School Districts of the I. U. The Executive Director shall forward bi-weekly reports to the State Task Force. By March 7, 1972, the local Task Force shall submit the completed data of the initial survey of location, identification and evaluation as stipulated in paragraph 48, of the Consent Agreement. See Appendix 5 for recommended procedures for establishing local task force.
- h. The Masters designated by the court shall act to determine whether the court order has been fulfilled in the identification and evaluation.

3. Evaluation Process:

- a. No child shall be placed in a special program or in a class other than a regular class unless a current and sufficient evaluation has first been carried out in accordance with this Plan whereby individual examinations by a person certified by the Department of Education as a public school psychologist and also by any other expert which the type of handicap and the child's condition may necessitate shall be made. (Section 1371 (2) of the Code). This evaluation will be followed by a joint conference of the examiners and a determination made whether or not the child is mentally retarded.

b. The evaluation process shall consist of two steps:

(1) a process of screening.

(a) The screening shall consist of a review of all records and information available regarding the child and shall be for the purpose of determining which children are mentally retarded; which are not mentally retarded; and those whose status is questionable and who require further evaluation. The information gathered from a personal conference with parent (s) and/or guardian (s) is essential to the screening process.

(2) a process of assessment or in-depth evaluation.

(a) The assessment or in-depth evaluation shall consist of the following psycho-educational and other core components as provided for in Section 1371 (2) of the School Code.

- ((1)) An assessment of the child's current educational status. Assessment shall include, but not be limited to, school readiness or current achievement, teacher's report of observed behavior and abilities, and the child's specific functioning levels within such broader aspects of educational development as self-help, motor development, communication, social adjustment and academic achievement or occupational skills. Within these dimensions of educational development consideration shall be given to the relationship of such factors as coordination, activity level and expressive and receptive language capacities (Appendix 6).
- ((2)) As indicated, an assessment by a physician to determine the child's need for correction or amelioration of systemic defects or of chronic physical conditions that might be associated with impairment of one or more of the following: (1) maturation, (2) learning and (3) social adjustment.
- ((3)) An in-depth evaluation by a certified school psychologist which is broad enough to include, but not limited to, the following assessment criteria:

Areas of evaluation

- motor development
- perceptual-motor development

- conceptual development
- communication skills development
- cognitive development
- intellectual development and functioning
- self-care
- self-help
- social interaction
- independence

The most valid and reliable instruments generally recognized by the profession in making determinations about levels of function in all levels of development shall be used (Appendix 7). During the implementation of this Plan and the development and implementation of the Plan as stipulated in Paragraph 50 of the Order, a systematic effort will be made to search out, test and make available to the Public School Psychologist all new and innovative instruments and procedures which might enhance the effectiveness of this evaluation process. These new innovative instruments and procedures shall be made available to the Public School Psychologists through specially designed inservice programs either at the regional or state levels. The evaluation shall cover the child's potentials for functioning in a regular classroom and the probable advantages and disadvantages of alternative recommendations.

- ((4)) An assessment of pertinent family history and home situation factors: with prior parental consent, a home visit by a home and school visitor, school health nurse, a public health nurse, a guidance or adjustment counselor or a social worker will be made. This assessment shall include estimates of adaptive behavior at home, in the neighborhood and in local peer groups.
- ((5)) To the evaluation as detailed above shall be added such studies in further professional or technical speciality areas or in such further depth or detail as the examiners may judge necessary in regard to learning problems associated with language, speech and hearing, vision, psychiatric, neurologic or other possible significant disorders. Findings of such additional studies shall be incorporated into the conference report.

((6)) Where multi-handicapping conditions present themselves in the evaluation, mental retardation shall be viewed as the primary handicapping condition. Placement and educational programming for such children must take into account all handicapping conditions.

((7)) The evaluation process shall, in addition to the initial identification, screening and in-depth assessment by the certified school psychologist of the Intermediate Unit or district involved, shall utilize further in-depth evaluation by any other expert available in accord with the findings of the evaluation team (3-h).

((8)) Based on the data obtained from the evaluation process a continuing diagnostic prescriptive and psycho-educational plan shall be implemented to meet the needs of the students.

- c. The minimal content of each professional assessment and of the joint conference shall be as specified and reported on forms jointly developed by the Pennsylvania Department of Education, Bureau of Special Education, Department of Public Welfare, Office of Mental Retardation and the Department of Health, Division of Maternal and Child Health. Completion of such forms shall be for the purpose of insuring collection of adequate individual data and of comparative data for administrative research purposes and said information shall be centrally stored as part of the Commonwealth's Management Information System. In no case shall the content or categorical entries on forms replace professional conclusions of examiners and the education and training program recommendations of the joint conference.
- d. In no case shall the conference certify a child to the Department of Public Welfare for education and training without material and substantial evidence that every effort has been exhausted and no appropriate alternative public school program is possible.
- e. Members of the evaluation team shall meet in conference with the appropriate County MH and MR Administrator or his designate to jointly plan alternative education and training programs for children whose recommended placement may be other than a public or approved private school.
- f. As soon as possible there shall be a meeting between the child's parents and/or guardians and a designated representative of the evaluation team for the purpose of explaining the findings and to enlist parental cooperation. When placement other than a public or approved private school is recommended for the child, an

appropriate representative of the County MH and MR Program Office shall also be present. Alternative education and training plans shall be shared with the parents, explained to them and an appropriate educational plan elected. A written summary of the evaluation and conference recommendations shall be available to the parents upon request.

- g. Parents and/or guardians shall be notified of the services available to them through the County MH and MR Program Office and informed of their right to have this office:
 - 1. incorporate the education and training plan into a total plan of life management services for the child;
 - 2. help them secure for the child additional services not included in his education and training program;
 - 3. arrange for assistance and consultative services to the home, to the school, and to the child's teacher as necessary for the child's progress toward the highest possible educational placement; and
 - 4. serve as coordinator of all services for the child.
- h. Each School District or Intermediate Unit shall have primary responsibility for the initial evaluation process and shall assemble a local evaluation team and be required to demonstrate that it has the capacity to carry out the evaluation responsibilities described above. If the School District or Intermediate Unit does not have sufficient staff to meet the requirements of the evaluation process of this Plan, it shall be given ready access to the resources of the County MH and MR Program, the County Board of Assistance Office, the County Child Welfare Office, the Department of Health Public Health Nursing Staff, the Division of Maternal and Child Health Services, Bureau of Vocational Rehabilitation personnel and any other appropriate State government human service resource. Private agencies may also be used to supply some or all evaluation requirements.
- i. The evaluation report shall constitute the effective basis for the arrangement of an educational plan for the child. The report forwarded to the appropriate Intermediate Unit Executive Director will be reviewed for any further recommendations and program planning. The educational plan as adopted by the public school or the County MH and MR Program shall be forwarded by the Intermediate Unit Executive Director to the Department of Education, Bureau of Special Education for State Task Force information, review and program planning purposes as stipulated in Paragraph 50 of the amended Order, Injunction and Consent Agreement of February 14, 1972. All evaluation reports for each child, including examination date, conference findings and final recommendations shall be forwarded to the appropriate School District Superintendent, Intermediate Unit Executive Director, and County MH and MR Administrator.

APPENDIX 7

EVALUATION

Pages 10 to 18 of the Commonwealth's Plan presents an overview of the evaluation process and briefly outlines a broadbased approach to assessment involving information secured from a variety of sources. This appendix provides a rough guideline for the evaluation procedure. This guideline should not be viewed as being all inclusive or comprehensive nor should it be construed to limit in any way the range of instruments, techniques or information sources utilized as part of the evaluation. Professional judgment and the individual competence of those persons participating in the evaluation process remain the prime determiners of the content of the evaluation.

General Considerations

1. The evaluation process should include all sources of information which contribute to a thorough understanding of the child. Overdependence upon a limited number of assessment techniques or informational sources should be avoided.
2. Input from parents constitutes a singularly important phase of the evaluation process.
3. An evaluation of the child's formal learning environment is essential as is the paralleling information relative to the child's informal living environment, i.e. the home and community.
4. Primary emphasis in the evaluation should be given to accurate descriptions of behavior rather than to explanations of causality.

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5. Careful consideration should be given to the attenuating conditions arising from cultural and educational disadvantage, bilingual home conditions and other social, economic and cultural factors effecting the child. These conditions should be taken into account both in the choice of the assessment techniques to be used and in the implications ascribed to the findings.*
6. Masking and depressing conditions often associated with multiple handicaps or with such conditions as aphasia, autism or emotional disturbance must be considered in terms of the relative influence they exert in relation to the primary handicap of mental retardation.
7. Evaluation techniques and the subsequent report and recommendations should be based on a diagnostic-remedial model. Emphasis should be placed on the implications for educational programming and on the inclusion of a prescriptive task-analysis approach.
8. Results of the appraisal should be credible, understandable and translatable into realistic remedial practices.
9. Findings and recommendations derived from the instruments employed should take into account the limitations of those instruments and should be based upon those areas of measurement which the instrument was designed to assess.

* APA - Guidelines for Testing Minority Group Students