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20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 FOR THE COUNTY OF SAN FRANCISCO

22 WILLIAM COFFELT, et al.,	)	Case No. 916401
	)	
23 Plaintiffs,	)	
	)	
24 v.	)	<u>SETTLEMENT AGREEMENT</u>
	)	
25 DEPARTMENT OF DEVELOPMENTAL	)	
SERVICES, et al.,	)	
	)	
26 Defendants.	)	
27	)	

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I N D E X
PROPOSED SETTLEMENT AGREEMENT

I.	PARTIES TO THE AGREEMENT	1
II.	SCOPE OF SETTLEMENT	2
III.	OBJECTIVES	11
A.	PLACEMENT	11
	1. STATE DEVELOPMENTAL CENTER RESIDENTS	11
	2. COMMUNITY TARGET GROUP	16
	3. INDIVIDUAL NAMED PLAINTIFFS	24
B.	CONSUMER ASSESSMENT/PLACEMENT PLANNING PROCESS	26
	1. TARGET POPULATION FOR ASSESSMENT AND PLANNING	26
	2. ASSESSMENT PARAMETERS	26
	3. PROCESS AND TIMELINE FOR DEVELOPING INSTRUCTIONS FOR THE ASSESSMENT/ PLANNING PROCESS	27
	4. TIMELINES FOR TRAINING PERSONNEL	28
	5. IMPLEMENTATION OF ASSESSMENT PROCESS	28
C.	CASE MANAGEMENT	30
	1. SUPPLEMENTARY CPP PROPOSAL	30
	2. ALLOCATION OF FUNDING	32
	3. IMPLEMENTATION	32

1	D.	INCREASE AVAILABILITY OF FLEXIBLE LIVING	
2		OPTIONS	32
3		1. SUPPORTED LIVING ARRANGEMENTS	33
4		2. INCREASING THE TYPE AND AVAILABILITY	
5		OF COMMUNITY LIVING ARRANGEMENTS	35
6		3. TRAINING	36
7		4. COMMUNITY PLACEMENT PLAN/TARGETED	
8		PROGRAM DEVELOPMENT FUND	38
9		5. ENHANCING FINANCING OPTIONS	39
10		6. SUPPORT IN RESIDENTIAL PLACEMENT	40
11		7. GOVERNMENTAL BARRIERS	40
12		8. POLICIES AND PROCEDURES ON UNMET NEEDS	41
13		9. DEVELOPMENT OF QUALIFIED SERVICE	
14		PROVIDERS	41
15		10. FEDERAL WAIVERS	42
16		(a) Home and Community-Based	
17		Waiver Expansion	42
18		(b) Living Options Waiver	43
19		(c) New Model Waivers	43
20		(d) Combination Waivers	44
21	E.	EMERGENCY AND CRISIS INTERVENTION SERVICES	44
22		1. Purpose	44
23		2. Implementation	45
24		(a) Crisis Service Proposal	45
25		(b) CSP Requirements	46
26		(c) Submission of Proposals by	
27		Defendant Regional Centers	48
		(d) Submission of Proposals by	
		Nondefendant Regional Centers	48

1	(e) Time Frames, Approval and Funding	49
2	(f) Implementation	50
3	F. QUALITY ASSURANCE	50
4	1. STATEWIDE QUALITY ASSURANCE SYSTEM	50
5	2. QUALITY ASSURANCE MECHANISMS FOR	
6	CLASS MEMBERS	54
7	G. MONITORING	57
8	1. PURPOSE	57
9	2. QUARTERLY REPORTS	58
10	(a) Timing	58
11	(b) Status Update	58
12	(c) Training Data	58
13	(d) Statistics/Data on Consumers	59
14	(e) Net Reduction	63
15	(f) Community Target Group	63
16	(g) Availability of Flexible	
17	Living Options	64
18	(h) Crisis Intervention and	
19	Emergency Services	66
20	(i) Quality Assurance	66
21	(j) Financial Information	67
22	(k) Notice	67
23	(l) Follow-up Meetings	68
24	3. NAMED PLAINTIFFS	68
25	4. RANDOM SAMPLE OF ASSESSMENTS	68
26	5. DEATH AND SPECIAL INCIDENT REPORTS	69
27	6. OTHER REPORTING REQUIREMENTS	69

1	IV.	DISMISSAL, CLASS CERTIFICATION, APPROVAL	
2		OF SETTLEMENT, NOTICE TO CLASS AND	
		CONDITIONS OF SETTLEMENT	70
3	A.	DISMISSAL OF PARTIES AND CAUSES	
4		OF ACTION	70
5	B.	CERTIFICATION OF CLASS	70
6	C.	APPROVAL OF SETTLEMENT AND	
		ENTRY OF JUDGMENT	71
7	D.	FORM AND METHOD OF NOTICE	72
8	E.	CONDITIONS OF SETTLEMENT	73
9	V.	INTERVENING CHANGES IN FACT AND/OR LAW	75
10	VI.	MODIFICATION	76
11	VII.	NONCOMPLIANCE OR VIOLATION OF	
12		THE JUDGMENT	77
13	VIII.	MEDIATION	78
14	IX.	ATTORNEYS FEES AND COSTS	80
15	X.	ADHERENCE TO TIME FRAMES AND DATES	81
16	XI.	FUNDING TO IMPLEMENT JUDGMENT	82
17	XII.	NOTIFICATION OF COMPLIANCE	82
18	XIII.	EXECUTION IN COUNTERPARTS	83

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20	ATTACHMENT "A"	NOTICE OF APPROVED SETTLEMENT
21		AND JUDGMENT
22	ATTACHMENT "B"	NOTICE OF POTENTIAL COFFELT
23		COMMUNITY TARGET GROUP
		MEMBERSHIP
24	ATTACHMENT "C"	NOTICE OF PROPOSED SETTLEMENT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

WILLIAM COFFELT, et al.,	)	Case No. 916401
	)	
Plaintiffs,	)	SETTLEMENT AGREEMENT
	)	
v.	)	
	)	
DEPARTMENT OF DEVELOPMENTAL	)	
SERVICES, et al.,	)	
	)	
Defendants.	)	

I.

PARTIES TO THE AGREEMENT

The parties to this agreement are William Coffelt by his guardians ad litem William and Roberta Coffelt, Conrado Diaz by his guardians ad litem Conrado and Elvia Diaz, Gary Eoff, Jr. by his guardians ad litem Gary, Sr. and Laurie Eoff, Damon Haberman by his guardian ad litem Adelaide Haberman, John Haskin by his guardian ad litem Marian Trentman, Jordan Jenkins by her guardian ad litem Maxine Jenkins, Zakary Kunkel by his guardian ad litem Bruce Kunkel, Christa Lawson by her guardian ad litem Dianne Lawson, Jason Pease by his guardians ad litem David and

1 Cheryl Pease, Jeff Richman, Arsia Sazegari by his guardians ad
2 litem Steve and Sima Sazegari, John Tossetti, Erin Walls by her
3 guardians ad litem Billy and Betty Walls, (hereinafter
4 collectively "Individual Plaintiffs"); the Association for
5 Retarded Citizens - California, Autism Society of California,
6 Capital People First, Oaks Unit Parent Group, the Association for
7 Persons with Severe Handicaps-California Chapter, United Cerebral
8 Palsy Association of California, Inc. (hereinafter collectively
9 "Organizational Plaintiffs"); Dennis G. Amundson, Director of
10 Developmental Services, State of California, Department of
11 Finance (hereinafter collectively "State Defendants"); and
12 San Andreas Regional Center, Golden Gate Regional Center, Inc.,
13 Regional Center of the East Bay, and North Bay Regional Center
14 (hereinafter collectively, "Regional Center Defendants").¹

15 II.

16 SCOPE OF SETTLEMENT

17 The parties are desirous of resolving their differences
18 and avoiding the uncertainties of trial and therefore enter into
19 this settlement.

20 The parties' agreement to entry of this decree is the
21 outcome of negotiations and bargaining. Plaintiffs and
22 defendants have made concessions and obtained favorable outcomes
23 that might not have been required if this case had been decided
24 by the court.

25 ////

26
27 1. For purposes of this settlement agreement the term "defendants" refers to the regional center defendants and the Department.

1 Cheryl Pease, Jeff Richman, Arsia Sazegari by his guardians ad
2 litem Steve and Sima Sazegari, John Tossetti, Erin Walls by her
3 guardians ad litem Billy and Betty Walls, (hereinafter
4 collectively "Individual Plaintiffs"); the Association for
5 Retarded Citizens - California, Autism Society of California,
6 Capital People First, Oaks Unit Parent Group, the Association for
7 Persons with Severe Handicaps-California Chapter, United Cerebral
8 Palsy Association of California, Inc. (hereinafter collectively
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
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SERVICES, et al.,	)	
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I.

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1 By this settlement, the parties are agreeing to a
2 process over five (5) fiscal years for the defendants to achieve
3 a net reduction in the state developmental center (SDC)
4 population of 2,000 consumers (hereinafter "SDC residents") and
5 placement in alternative community living arrangements of 300
6 consumers of the defendant regional centers (hereinafter
7 "community target group members"). In addition, the parties are
8 agreeing to develop and implement an assessment/placement
9 planning process, provide additional funding for case management
10 services, increase the availability of flexible living options,
11 enhance the availability of crisis intervention and emergency
12 services, and develop and implement a statewide quality assurance
13 system for residential services and supports. All parties agree
14 to make a good faith effort to obtain the goals of this
15 settlement and to obtain approval of this settlement as a
16 judgment of the court which shall be binding and enforceable upon
17 all parties to its terms and conditions. Once this settlement is
18 approved by the court, it shall herein be referred to as the
19 "Judgment."

20 Notwithstanding the above citations to the Welfare and
21 Institutions Code and other such selected citations throughout
22 this agreement, the parties acknowledge and agree that their
23 obligations and responsibilities under this agreement shall be
24 governed by all applicable provisions of the Welfare and
25 Institutions Code in effect at the time the court enters
26 Judgment. The effect of any intervening change in law shall be
27 governed by Part VI. of this agreement.

1 In agreeing to entry of this decree, the parties intend
2 to increase the availability of quality, stable, normalized,
3 integrated community living arrangements^{2/} so that persons with
4 developmental disabilities (hereinafter "consumers") can, obtain
5 treatment and habilitation services and supports in the least
6 restrictive environment; can achieve the most independent,
7 productive and normal lives possible; can have the opportunity to
8 be integrated into the mainstream life of their home communities;
9 and can, with the assistance of services and supports,
10 approximate the pattern of everyday living available to persons
11 without disabilities of the same age. See Welfare and
12 Institutions Code sections 4501 and 4502(a).^{3/} Consequently, the
13 parties place a high priority on providing opportunities for
14 children to live in their family homes, See section 4685, or
15 foster homes, and on providing opportunities for adults to live
16 in supported living arrangements, See section 4689, when those
17 are the preferred objectives in their individual program plans.
18 It is also the parties' intention that the right of individuals
19 with developmental disabilities to make choices in their own
20 lives, be respected, See section 4502(j) and 4502.1, and that the
21 services and supports determined through the individual program
22 plan process be based on the needs, preferences and life choices
23 of consumers, See sections 4646 and 4646.5.

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26 2. Encompassed within this term are the various living options available to consumers, including those identified
27 in Welfare and Institutions Code section 4648(a)(9)(A).

 3. Unless otherwise indicated, all statutory references are to the Welfare and Institutions Code.

1 Neither this agreement, nor any provision hereof, shall
2 constitute an admission by any party, nor shall this agreement,
3 nor any provision hereof, be admissible in any subsequent legal
4 or administrative proceeding initiated by any person or entity,
5 whether a party or not to this agreement, to establish or
6 evidence liability on the part of defendants, except as may be
7 relevant to enforcement of the terms hereof in a proceeding
8 between the parties hereto.

9 The defendants' obligation to perform this settlement
10 agreement fully is contingent upon the Department obtaining a
11 significant increase in the amount of Federal Financial
12 Participation (FFP) as described in (1), (2), and (3) below. The
13 Department plans to increase the amount of FFP it receives by:
14 (1) billing the federal government for an increased level of
15 reimbursement through the Department's Targeted Case Management
16 (TCM) program to offset partially any increase in case management
17 costs resulting from increased units of case management services
18 specifically related to this settlement; (2) obtaining approval
19 and renewals of such approval from the Federal Health Care
20 Financing Administration (HCFA) to expand the number of regional
21 center consumers who are eligible and covered by the existing
22 Home and Community Based Waiver (HCBW) from 3,360 to 20,000, and
23 to amend the waiver to expand the array of covered services; and
24 (3) obtaining approval and renewals of such approval from HCFA
25 for new waivers, which will fund community placement of eligible
26 SDC residents anticipated to be placed during the period of this
27 agreement, which will fund services to technology dependent

1 children residing at an SDC who could be placed at home and which
2 will fund services to non-Medi-Cal eligible children who are
3 living at home and at risk of ICF-MR placements.

4 The Department anticipates that the receipt of FFP
5 generated by the waivers will permit the Department to carry out
6 the terms and conditions of the settlement agreement and that it
7 will offset any related general fund costs. However, the
8 Department is uncertain as to the annual amount of FFP generated
9 funds which may be received, as well as the expenditures that may
10 be necessary for it to carry out the terms and conditions of the
11 settlement agreement. For the purpose of limiting the annual
12 amount of funds committed for expenditure by the Department and
13 the Department of Health Services (DHS), as payor for
14 intermediate care facilities developmentally disabled-
15 habilitative and nursing (ICF-DD/H, ICF-DD/N) or equivalent
16 services for class members, it is understood and agreed among the
17 parties that the Department and DHS shall not be obligated to
18 commit annually any funds in excess of the following amounts to
19 carry out the terms and conditions of the settlement agreement:

20 Fiscal Year:

Annual Expenditures:

21 93-94	\$ 16,431,000
94-95	\$ 42,877,000
22 95-96	\$ 67,071,000
96-97	\$ 94,701,000
23 97-98	\$112,943,000

24 1. These amounts may be adjusted under the following
25 circumstances to reflect the variance in the milestones provided
26 for in Part III. A. 1. (d) and A. 2. (f) and the adjustments may

27 /////

1 intermediate care facility/developmentally disabled-nursery
2 (ICF/DD-N) as promulgated in regulations by the Department of
3 Health Services.

4 Inclusion of this provision in this agreement does not
5 obligate the defendant parties to propose, pursue or support
6 these or any other such adjustments prior to enactment.

7 The Department is obligated, as part of this
8 settlement, to undertake certain tasks specified regarding crisis
9 intervention and emergency services, and case management. The
10 parties understand and agree that the Department, within the
11 annual dedicated funds set forth above, shall not be required to
12 expend for emergency and crisis intervention services, and
13 enhanced case management services specified in Part III. C. 1.
14 (d) any more than the following annual amounts:

	Fiscal Year	Emergency and Crisis Intervention	Enhanced Case Management
15	93-94	2,329,000	5,073,000
16	94-45	8,079,000	10,148,000
17	95-96	8,945,000	10,148,000
18	96-97	8,945,000	10,148,000
19	97-98	8,945,000	10,148,000

20 The Department's receipt in any fiscal year of FFP,
21 generated by the waivers or its failure to expend annually the
22 amounts set forth in the schedules above does not obligate the
23 Department to use all the FFP received to carry out this
24 settlement agreement, or except as specified above to make
25 adjustments from year to year in the scheduled amounts. The
26 Department is only obligated to expend sufficient funds, up to
27 the annual amounts set forth above, to the extent the Department

1 if appropriate be applied to the current fiscal year or carried
2 over to the subsequent fiscal year or both as follows:

3 (a) The amounts shall be increased by up to \$45,500
4 per client for each full year placement for net reductions in the
5 developmental center population that exceed the milestones for
6 that fiscal year, pursuant to Part III. A. 1. (d).

7 (b) The amounts may be increased by the amount of
8 start-up funds (\$6,000 per client) that were not expended as a
9 result of the Department, defendant regional centers or both, not
10 achieving the fiscal year milestones pursuant to Part III. A. 1.
11 (d) and A. 2. (f), unless the Department determines that the
12 increase in the amounts is unnecessary to meet the placement
13 goals identified in Part III. A. 1. and 2. If the Department
14 makes such a determination it shall notify plaintiffs' counsel in
15 writing.

16 2. These amounts shall be adjusted during any fiscal
17 year covered by the period of this agreement to reflect the
18 fiscal impact of the following adjustments, if any, specified in
19 the Budget Act, and then only if the amounts are insufficient for
20 the defendants to meet their obligations under this agreement:

21 (a) Rate adjustments to community care facilities made
22 pursuant to section 4681.1.

23 (b) Rate adjustments to community based day programs
24 made pursuant to sections 4691 and 4691.5.

25 (c) Salary adjustments for state employees.

26 (d) Rate adjustments for intermediate care
27 facility/developmentally disabled-habilitative (ICF/DD-H) and

1 determines is necessary to enable defendants to meet their
2 obligations set forth herein. The remainder of FFP, if any,
3 shall be available for whatever purposes for which these funds
4 are appropriated through the budgetary process.

5 Defendants shall have no obligation to use general
6 funds to supplant or in any way offset or restore any shortfall
7 in FFP. Nor as a result of this settlement agreement, shall
8 there be any net general fund costs to the Department or DHS, as
9 payor for ICF-DD/H, ICF-DD/N, or equivalent services for class
10 members, that are not covered by the FFP generated by the
11 waivers. The general fund cost share shall be estimated annually
12 in the May revision.

13 The Department agrees to maintain an annual level of
14 effort and funding for the community placement plan (CPP) at
15 \$7,333,000, the program development fund (PDF) at \$1,760,000 and
16 regional resource development programs (RRDP) at \$2,000,000, to
17 the extent funds are appropriated for such purposes in the Budget
18 Act.

19 Upon filing of the Judgment approving the terms and
20 conditions of the settlement, the defendants are obligated to
21 commence performance. If all waiver proposals, amendments and
22 renewals are not approved in full by HCFA and the amount of FFP
23 received is, at any time, not at least equal to the annual
24 expenditures required up to the amounts specified in the
25 schedules above to satisfy the obligations under this agreement,
26 the Department may in its discretion either: (1) reduce and
27 prioritize the level of its performance proportionally in a

1 manner which maximizes the potential for successful
2 implementation of the settlement agreement, based upon the level
3 of FFP received following consultation with counsel for
4 plaintiffs and defendant regional centers; or (2) terminate
5 performance under the settlement agreement, or both.

6 In the event that the Department exercises its
7 discretion, and chooses to reduce and prioritize its performance
8 based upon the level of FFP received, the remaining parties shall
9 have the right to terminate the agreement. The defendant
10 regional centers may exercise this right only if a majority of
11 the four defendant regional centers seek to exercise this option.

12 Should the Department choose to reduce and prioritize
13 performance as indicated above, it shall notify the other parties
14 through their respective counsel in writing. Should plaintiffs
15 or the defendant regional centers wish to terminate the agreement
16 as specified, the requesting party shall notify the Department in
17 writing within thirty (30) days of the date of the Department's
18 written notice.

19 In the event that there is insufficient FFP for the
20 Department to meet its annual obligations under this agreement,
21 the Department shall file a certification to that effect with the
22 court. If the FFP is insufficient and a party terminates this
23 agreement as indicated, this Judgment shall no longer be binding
24 upon the parties. The party electing to terminate shall move the
25 court to vacate the Judgment.

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1 This, and all future census figures will be based on the total
2 SDC residents as reported through weekly census counts. If the
3 plan begins or ends during a holiday period, when an atypical
4 number of residents are off campus visiting family, the beginning
5 and ending census will be appropriately adjusted. Plaintiffs'
6 counsel shall be informed of the census as soon as it is
7 available.

8 (b) Defendants intend to achieve the net reduction of
9 2,000 by: 1) placing SDC residents into appropriate community
10 living arrangements pursuant to their IDP/IHPs; and 2) preventing
11 admissions to SDCs of consumers residing in the community who,
12 absent RRDP intervention and the provision of appropriate
13 services and/or supports needed to maintain them in the
14 community, would have been admitted.

15 (c) The SDC residents initially eligible for placement
16 under paragraph a) shall include those current residents who have
17 been identified for community placement for Fiscal Year 1993-94
18 by the RRDP, based on their IHP/IPP. Immediately following full
19 execution of a written settlement agreement and prior to court
20 approval, the Department shall identify those current residents
21 who meet this criteria. Plaintiffs counsel shall be informed of
22 the number of residents initially eligible by the responsible
23 regional center and developmental center.

24 (d) The schedule for the total net reduction in SDC
25 population of 2,000 shall be based on the following milestones.

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1 FY Year 1993-94 200
2 FY Year 1994-95 400
3 FY Year 1995-96 500
4 FY Year 1996-97 600
5 FY Year 1997-98 300 or the number necessary
6 to complete the total of 2000.

7 The Department may achieve less than the milestones in
8 any of the first four fiscal years by up to 20%. If this occurs
9 the Department may either: (1) increase the milestone for the
10 next fiscal year by the number not placed in the previous year;
11 or (2) spread the number not placed proportionally over the
12 remaining fiscal years of the settlement agreement. The
13 Department shall promptly notify plaintiffs' counsel of any
14 variance in the milestones and specify the method/option to be
15 used in the next fiscal year. This does not preclude the
16 Department from exceeding the milestones in any given fiscal
17 year, should they choose to do so. Should this occur the
18 milestones will be reduced in subsequent fiscal years in the
19 manner described above.

20 (e) Those residents identified in paragraph (c) as
21 initially eligible for placement may change either because the
22 individual or, where appropriate, his/her parent, guardian, or
23 conservator has decided that the individual should remain in the
24 developmental center, and has taken the appropriate legal or
25 administrative action, if any, necessary to effectuate that
26 decision or, because the resident is no longer identified for
27 community placement in his or her IHP/IPP, as a result of the
assessment planning process specified in Part III. B. of this
agreement or prior to full development and implementation of the

1 process in Part III. B. pursuant to applicable law and
2 regulation. Additional SDC Residents may become eligible for
3 placement pursuant to Part III. A. 1., when they are identified
4 for community placement in their IHP/IPP through the assessment
5 planning process or prior to full implementation of Part III. B.,
6 pursuant to applicable law and regulation.

7 (f) Pursuant to this settlement agreement, the number
8 of SDC residents eligible for placement in any given fiscal year
9 may be greater than the number of actual placements which occur
10 and some eligible residents may not be placed in that year or
11 within five (5) fiscal years. However, the Department is only
12 obligated, during the period of this agreement, to achieve the
13 net reduction specified in paragraph (a).

14 (g) In order to achieve the net reduction of 2,000
15 specified in paragraph (a), defendants will develop or obtain
16 community living arrangements and, if necessary, other services,
17 and/or supports identified in the IHP/IPP, for males and females
18 with a variety of disabling conditions, including persons who are
19 severely disabled, medically involved, behaviorally challenged
20 and/or dually diagnosed. Eligible SDC residents will not be
21 excluded from placement based solely on the severity or nature of
22 their disability.

23 (h) Placements in community living arrangements and if
24 necessary, development of other services and supports, will be in
25 the least restrictive environment appropriate to meet the
26 residents' needs as specified in their IPP/IHP and in accordance
27 ////

1 with each resident's rights pursuant to sections 4502, 4502.1,
2 and 4503.

3 "It is the intent of the Legislature to ensure that the
4 individual program plan and provision of services and supports by
5 the regional center system is centered on the individual and the
6 family of the individual with developmental disabilities and
7 takes into account the needs and preferences of the individual
8 and the family, where appropriate, as well as promoting community
9 integration, independent, productive, and normal lives, and
10 stable and healthy environments. It is the further intent of the
11 Legislature to ensure that the provision of services to consumers
12 and their families be effective in meeting the goals stated in
13 the individual program plan, reflect the preferences and choices
14 of the consumer, and reflect the cost-effective use of public
15 resources" section 4646(a). Placements made after development
16 and implementation of the assessment/planning process described
17 in Part III. B. will be in accordance with this process.
18 Placements made prior to full implementation of Part III B.
19 shall be made pursuant to applicable law and regulation.

20 (i) It is the intent of the parties that the defendant
21 regional centers increase their community placement efforts to
22 enable eligible SDC residents, registered with the defendant
23 regional centers, to reside in appropriate community settings,
24 and to achieve the objectives specified in paragraph a) above.
25 Accordingly, defendant regional centers shall develop and submit
26 to the Department in conjunction with their annual community
27 placement plan (CPP) comprehensive plans for reducing reliance on

1 SDCs for providing residential services. Upon receipt the
2 Department shall forward a copy of the plan to plaintiffs'
3 counsel for review and comment. Within fifteen (15) days of
4 receipt of the plan, plaintiffs' counsel shall review the plan
5 and forward any comments to the Department. Within fifteen (15)
6 days thereafter, the Department shall consider the comments of
7 plaintiffs' counsel and approve or deny all or a portion of the
8 comprehensive plan. The Department will approve the plan and
9 allocate the resources necessary to carry out those elements of
10 the plan which the Department determines can be successfully
11 implemented and will allow the defendant regional centers to meet
12 their placement goals, thereby enabling the Department to meet
13 its placement milestones for that fiscal year. Copies of the
14 approved plans and allocations will be provided to plaintiffs'
15 counsel.

16 **2. Community Target Group**

17 (a) Defendant regional center community consumers
18 eligible for an alternative community living arrangement pursuant
19 to this agreement shall include all consumers for whom:

20 (1) the need for an alternative community living
21 arrangement has been identified in the consumer's IPP; and

22 (2) the consumer or where appropriate, his or her
23 parent, guardian or conservator has requested the regional center
24 to actively proceed with placement; and

25 (3) the consumer's interdisciplinary (ID) Team has
26 determined that the consumer has one or more of the following
27 characteristics:

1 (a) Very physically involved, (e.g., cannot transfer
2 unassisted);
3 (b) Medically fragile adult or child;
4 (c) Non-ambulatory with behavior challenges;
5 (d) Brain injured with physical and/or behavioral
6 management issues;
7 (e) Severe behavioral challenges, (e.g., pica);
8 (f) History of sex offenses;
9 (g) Serious behavioral challenges but seemingly
10 capable of functioning independently;
11 (h) Presents an elopement risk;
12 (i) Dually diagnosed; and
13 (4) After having done a search for thirty (30) days of
14 the geographic area in which the consumer chooses to
15 live there is no appropriate living arrangement identified and
16 available within the time frame specified by the ID Team.

17 The community consumers who meet the criteria specified
18 in paragraph (a) (1) through (4) shall be referred to as the
19 "community target group." The defendant regional centers shall
20 provide the written "Notice of Approved Settlement and Judgment,"
21 Attachment A, to all members of the community target group. The
22 defendant regional center shall provide the written "Notice of
23 Potential Coffelt Community Target Group Membership," Attachment
24 B, to those consumers who meet the criteria specified in
25 paragraph (a)(1), (2) and (4), if the regional center determines
26 that the consumer does not have one or more of the
27 characteristics specified in paragraph (a)(3).

1 (b) The defendant regional centers will maintain the
2 level of effort consistent with their historical trend of
3 providing residential services and the services provided to
4 members of the community target group under this agreement shall
5 be in addition to this maintenance of effort. In addition the
6 Department and defendant regional centers shall make a good faith
7 effort to obtain agreement with the State Council on
8 Developmental Disabilities and the Area Boards to continue the
9 current level of PDF funding allocated for residential services
10 as part of the maintenance of effort.

11 (c) The defendant regional center community consumers
12 initially eligible for placement under paragraph (a) shall
13 include consumers who meet the community target group criteria
14 specified in paragraph (a) using the consumer's IPP or the
15 regional center's existing unmet needs survey. Immediately
16 following full execution of a written settlement agreement and
17 prior to court approval the defendant regional centers shall
18 identify those consumers who meet these criteria. Plaintiffs'
19 counsel shall be informed of the number of consumers initially
20 eligible by each regional center.

21 (d) Those community target group members identified in
22 paragraph (c) as initially eligible for placement may change
23 either because the individual, or where appropriate, his/her
24 parent, guardian or conservator, has decided that the consumer no
25 longer wants an alternative community living arrangement or
26 because the consumer is no longer recommended for an alternative
27 community living arrangement in his/her IPP, as a result of the

1 assessment/planning process specified in Part III. B. of this
2 agreement or prior to full development and implementation of the
3 process specified in Part III. B. pursuant to applicable law and
4 regulation. Additional community consumers may become community
5 target group members eligible for placement pursuant to Part III.
6 A. 2. when they meet the criteria in paragraph (a) above, through
7 the assessment/planning process or prior to full implementation
8 of Part III. B., pursuant to applicable law and regulation.

9 (e) The maximum number of eligible community target
10 group members for whom all defendant regional centers are
11 obligated to develop or obtain an alternative community living
12 arrangement during the five (5) fiscal years included in this
13 settlement shall be 300; unless the actual number of eligible
14 members over the five (5) fiscal year period is less than 300,
15 then the defendant regional centers are only obligated to develop
16 or obtain alternative community living arrangements for the
17 actual number of eligible members. No eligible community target
18 group member shall be counted more than once towards satisfying
19 this obligation.

20 (f) The schedule for developing or obtaining
21 alternative community living arrangements for the 300 eligible
22 community target group members shall be based on the following
23 milestones:

24	FY	Year 1993-94	30
	FY	Year 1994-95	45
25	FY	Year 1995-96	60
	FY	Year 1996-97	90
26	FY	Year 1997-98	75 or the number
		necessary to complete the total.	

27

1 (g) During each of the five (5) fiscal years the
2 maximum number of eligible community target group members for
3 whom each defendant regional center is obligated to develop or
4 obtain an alternative community living arrangement shall be
5 determined as follows:

6 (1) If the total of eligible members from the four
7 defendant regional centers is equal to or less than the milestone
8 for any given fiscal year, then each defendant regional center is
9 obligated to develop or obtain an alternate community living
10 arrangement for the actual number of eligible members;

11 (2) If the total of eligible members from the four
12 defendant regional centers is more than the milestone for any
13 given fiscal year, then each defendant regional center is
14 obligated to develop or obtain an alternative community living
15 arrangement for a proportionate number of its eligible members,
16 based on the milestone. A regional center's proportionate share
17 for a fiscal year is the ratio of the number of that regional
18 center's consumers who meet the community target group criteria
19 that fiscal year, to the total number of persons meeting the
20 community target group criteria for all four defendant regional
21 centers (excluding those carried forward from the prior year
22 pursuant to paragraph (h)), multiplied times the milestone for
23 that fiscal year. The number of regional center consumers
24 meeting the community target group criteria shall be determined
25 by each defendant regional center on January 1, 1994 for the
26 first fiscal year (1993-1994) and on July 1st of each subsequent
27 fiscal year. On January 31, 1994 for the first fiscal year

1 (1993-1994) and July 31st of each subsequent fiscal year, each
2 defendant regional center shall notify plaintiffs' counsel of
3 their respective portion of the milestone. The proportionate
4 number of eligible members for each regional center shall
5 constitute the maximum number for that center during any given
6 fiscal year.

7 (h) Subject to the requirements in paragraphs (g) (1)
8 and (2), the defendant regional centers may achieve less than the
9 milestones in the first fiscal year by up to 25% and in the
10 second, third and fourth fiscal years by up to 10%. If this
11 occurs each defendant regional center which failed to meet its
12 required number of placements shall carry that number forward
13 into the next fiscal year and shall be obligated to place that
14 number in addition to its share of the milestone for that year.
15 However, calculations of any variance in the milestone for the
16 next fiscal year will be based upon the milestone for that year,
17 not the increased milestone. The defendant regional centers
18 shall promptly notify plaintiffs' counsel of any variance in the
19 milestones. This does not preclude the defendant regional
20 centers from exceeding the milestones in any given fiscal year,
21 should they choose to do so. Should this occur the milestones
22 will be reduced in the following fiscal year.

23 (i) Defendant regional centers will develop or obtain
24 alternate community living arrangements and, if necessary, other
25 services and/or supports identified in the IPP for male and
26 female community target group members with a variety of the types
27 of disabilities set forth in paragraph (a) (3) above. Eligible

1 members will not be excluded from placement based solely on the
2 severity or nature of their disability.

3 (j) Pursuant to this settlement agreement, the number
4 of community target group members of each defendant regional
5 center eligible for placement in any given fiscal year may be
6 greater than the maximum established in paragraph (h) (2) for
7 that regional center. Accordingly, some eligible community
8 target group members may not be placed in the year they become
9 community target group members or within five (5) fiscal years.
10 However, the defendant regional centers are only obligated, under
11 this agreement, to develop or obtain placements, in the
12 aggregate, of up to 300 community target group members.

13 (k) It is the intent of the parties that the defendant
14 regional centers increase their community placement efforts to
15 enable eligible community target group members to reside in
16 appropriate community settings within a reasonable period of
17 time. For placements of community target group members during
18 the first fiscal year (1993-1994), the defendant regional centers
19 will request the Department's approval for funding on a case by
20 case basis. Within a reasonable period of time thereafter, the
21 defendant regional centers will send written notice to
22 plaintiffs' counsel of each request for approval submitted to the
23 Department. During the first fiscal year, the defendant regional
24 centers will not be required to seek approval for funding of the
25 positions of one resource developer and one service coordinator
26 for each defendant regional center. On June 1, 1994, and each
27 June 1st thereafter during the period of this agreement,

1 defendant regional centers shall develop and submit to the
2 Department annual comprehensive plans for increasing the
3 placement of community target group members and shall indicate
4 the resources which will need to be developed or obtained during
5 the next year to meet the placement milestones for the number of
6 community target group members they are obligated to place
7 pursuant to paragraph (h). Priority consideration for placement
8 shall be given to community target group members as a function of
9 the length of time the consumer has met the community target
10 group criteria. Upon receipt the Department shall forward a copy
11 of the plan to plaintiffs' counsel for review and comment.
12 Within fifteen (15) days of receipt of the plan, plaintiffs'
13 counsel shall review the plan and forward any comments to the
14 Department. Within fifteen (15) days thereafter, the Department
15 shall consider the comments of plaintiffs' counsel and approve or
16 deny all or a portion of the case by case requests and
17 comprehensive plan. The Department will approve the case by case
18 requests and plan and allocate the resources necessary to carry
19 out those elements of the requests and plans which the Department
20 determines can be successfully implemented and will enable the
21 defendant regional centers to meet their placement milestones for
22 that fiscal year. Copies of the approved plans and allocations
23 will be provided to plaintiffs counsel.

24 (1) Placement in community living arrangements and, if
25 necessary, the development of other services and supports will be
26 in the least restrictive environment appropriate to meet the
27 community target group members' needs as specified in their IPP

1 and in accordance with each member's rights pursuant to sections
2 4502, 4502.1 and 4503.

3 "It is the intent of the Legislature to ensure that the
4 individual program plan and provision of services and supports by
5 the regional center system is centered on the individual and the
6 family of the individual with developmental disabilities and
7 takes into account the needs and preferences of the individual
8 and the family, where appropriate, as well as promoting community
9 integration, independent, productive, and normal lives, and
10 stable and healthy environments. It is the further intent of the
11 legislature to ensure that the provision of services to consumers
12 and their families be effective in meeting the goals stated in
13 the individual program plan, reflect the preferences and choices
14 of the consumer, and reflect the cost-effective use of public
15 resources" section 4646(a). Placements made after development
16 and implementation of the assessment/planning process described
17 in Part III. B. will be in accordance with this process.
18 Placements made prior to full development and implementation, of
19 Part III. B. shall be made pursuant to applicable law and
20 regulation.

21 **3. Individual Named Plaintiffs**

22 The parties intend, as a part of this settlement, to
23 provide appropriate community living arrangements for the 13
24 named individual plaintiffs in addition to his or her rights
25 under the Lanterman Act. To accomplish this goal, the parties
26 will do the following:

27 ////

1 (a) Upon court approval of this settlement agreement,
2 each individual named plaintiff will have the opportunity once
3 during the five (5) fiscal year term of this settlement agreement
4 to request the appropriate defendant regional center to convene
5 an interdisciplinary (ID) team for the purpose of identifying an
6 appropriate community living arrangement for him or her pursuant
7 to the timeliness in paragraph (b), provided that request for the
8 ID team meeting must be initiated so that the date for placement
9 shall occur within the five (5) fiscal year period.

10 (b) The ID team of each named individual plaintiff who
11 requests an IPP review pursuant to paragraph (a), will convene
12 within thirty (30) days after the request is submitted to develop
13 an IPP pursuant to sections 4646 and 4646.5 which is centered on
14 the individual and, if appropriate, his/her family. If the ID
15 team determines it necessary, an assessment by qualified
16 individuals shall be performed. The plaintiff's choice,
17 including where and with whom he or she lives, shall be respected
18 pursuant to sections 4502(j) and 4502.1.

19 (c) Individual Program Plans developed will identify
20 the services and/or supports needed for each named individual
21 plaintiff in order for him or her to reside in an appropriate
22 community living arrangement. Within thirty (30) days following
23 completion of the IPP, the Department and the appropriate
24 defendant regional center will meet with each individual named
25 plaintiff and his/her parent, guardian, conservator or authorized
26 representative, as appropriate, to discuss the barriers to and
27 develop a plan for IPP implementation.

1 (d) The defendant regional centers will provide the
2 necessary services and supports and place each named individual
3 plaintiff in the community living arrangement, identified in the
4 IPP within one (1) year or less of the meeting specified in (c)
5 above.

6 (e) Upon agreement of an individual named plaintiff
7 and the appropriate defendant regional center, the time frames
8 for compliance set forth in Paragraphs (b), (c) and (d) above may
9 be modified or extended and new dates for performance may be
10 agreed to within the five (5) fiscal year period of this
11 agreement.

12 **B. CONSUMER ASSESSMENT/PLACEMENT PLANNING PROCESS**

13 **1. Target Population for Assessment and Planning**

14 (a) Individuals to be assessed in accordance with the
15 parameters and timelines set forth below include the following
16 categories: (1) all SDC residents (2) all community consumers of
17 the defendant regional centers who have requested an alternative
18 community living arrangement; and (3) community consumers of all
19 regional centers who, absent RRDP intervention, would have been
20 admitted to a developmental center.

21 **2. Assessment Parameters**

22 (a) Each individual identified in paragraph 1. above
23 shall be assessed and an IPP developed in accordance with the
24 parameters of the Lanterman Act (§§ 4500, et seq.) and, in
25 particular, sections 4501, 4502, 4502.1, 4512, 4646, 4646.5,
26 4647, 4648, 4651, 4652, 4685 and 4687-4689.

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1 3. **Process and Timeline for Developing Instructions**
2 **for the Assessment/Planning Process**

3 (a) Within thirty (30) days following court approval of
4 a written settlement agreement, the Department will establish the
5 workgroup specified in section 4646.5(c)(1). In addition to
6 those individuals and organizations identified in section
7 4646.5(c)(1) the workgroup shall also include RRDP personnel, a
8 representative of each organizational plaintiff and Protection
9 and Advocacy, Inc., one or more representatives of defendant
10 regional centers, consumers, family members from both the SDCs
11 and community, and individuals experienced in the CSLA assessment
12 process and other organizations and individuals, as appropriate.
13 The Department shall notify plaintiffs' counsel of the names and
14 affiliations of the members of the workgroup. The Department,
15 with the participation of the workgroup, shall prepare training
16 materials and a standard format and instructions for preparation
17 of the IPP (hereinafter "assessment/planning materials") which
18 embodies an approach centered on the person and family.

19 (b) Within three (3) months of the establishment of the
20 workgroup, the Department shall complete a draft of the
21 assessment/planning materials and forward them to plaintiffs'
22 counsel for review and comment.

23 (c) Within thirty (30) days of receipt of the
24 assessment/planning materials, plaintiffs' counsel shall review
25 the materials and forward any comments to the Department. Within
26 fifteen (15) days of receipt of the comments from plaintiffs'
27 counsel, the Department shall consider the comments and adopt a

1 final version of the assessment/planning materials which shall be
2 sent to plaintiffs' counsel. The Department shall make the
3 determination regarding the assessment/planning materials, and
4 notify regional centers of their obligation to use the training
5 materials and format prepared by the Department pursuant to
6 section 4646.5(c)(2).

7 **4. Timelines for Training Personnel**

8 (a) Within sixty (60) days of the Department's
9 adoption of the assessment/planning materials, the Department and
10 defendant regional centers will commence training all SDC and
11 regional center personnel responsible for completing the
12 resident/consumer assessment/planning process. The training will
13 be implemented on a phased-in basis. A sufficient number of
14 personnel will have completed training within sixty (60) days of
15 the adoption of the assessment/planning materials to implement
16 the assessment/planning process pursuant to the timelines in
17 paragraph 5. below.

18 (b) All personnel responsible for completing resident/
19 consumer assessments shall be trained as follows: 1) for SDC
20 personnel, training will be completed within six (6) months of
21 commencement of the training; 2) for defendant regional center
22 personnel, training will be completed within three (3) months of
23 commencement of the training.

24 **5. Implementation of Assessment Process**

25 (a) Upon being trained as specified in paragraph 4
26 above, SDC and regional center personnel shall conduct client
27 ////

1 assessments and IHP/IPPs in accordance with the adopted
2 assessment/planning materials.

3 (b) Except for named individual plaintiffs assessed
4 pursuant to Part III. A. 3. of this agreement: 1) Assessments of
5 all SDC residents admitted prior to training being completed
6 shall be performed at the time of their next scheduled IHP/IPP or
7 within one (1) year following completion of training of SDC
8 personnel as specified in paragraph 4. above. Each SDC resident
9 admitted after completion of training shall be assessed within
10 thirty (30) days of admission; 2) Assessments of defendant
11 regional center consumers who have requested an alternative
12 community living arrangement prior to training being completed
13 shall be performed within ninety (90) days following completion
14 of training of regional center personnel specified in paragraph
15 4. above. After completion of the training, consumers of
16 defendant regional centers shall be assessed at the time of their
17 next IPP; and 3) Assessments of community consumers who, absent
18 RRDP intervention, would have been admitted to a developmental
19 center, shall be completed using the assessment/planning
20 materials by the appropriate regional center as follows:

21 (i) For defendant regional centers, within ninety (90)
22 days following RRDP intervention; and

23 (ii) For nondefendant regional centers the Department
24 will make a good faith effort to obtain agreement with those
25 regional centers to also complete the assessment within ninety
26 (90) days following RRDP intervention. If the Department is

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1 successful in obtaining such an agreement it shall notify
2 plaintiffs' counsel.

3 (c) To the extent the Department determines that the
4 assessment/planning materials and process must be adopted as
5 regulations, the Department will make a good faith effort to
6 secure approval or adoption of the regulations on an emergency
7 basis. If unsuccessful, the parties agree to work cooperatively
8 to obtain adoption on the earliest possible date. The Department
9 will make a good faith effort to obtain agreement with the
10 nondefendant regional centers that they will use the
11 assessment/planning materials and process prior to adoption of
12 the regulations. If the Department is successful in obtaining
13 such an agreement it shall notify plaintiffs' counsel.

14 C. CASE MANAGEMENT

15 The obligation of the Department and the regional
16 centers to perform as specified below are contingent upon and
17 subject to the Department obtaining increased FFP under the
18 conditions specified in the "SCOPE OF SETTLEMENT" of this
19 document.

20 1. Supplementary CPP Proposal

21 To enable the regional centers to enhance community
22 services and accomplish the objectives of the settlement, funding
23 for additional consumer service personnel will be provided to the
24 regional centers by the Department. The amount of additional
25 funding allocated to each regional center will be based upon the
26 submission of a supplementary CPP proposal within four (4) months

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1 of court approval of a written settlement, that identifies the
2 staff resources necessary to accomplish the following:

3 (a) Enable the defendant regional centers to place the
4 community target group members and provide ongoing case
5 management services to those placed.

6 (b) Enable regional centers to place eligible
7 residents and provide ongoing case management services to those
8 placed out of the SDC.

9 (c) Allow regional centers to participate in the
10 process of identifying consumers described in Part III. A. 1.(e)
11 who, with the provision of appropriate services identified in
12 their IHP/IPP, will be able to leave the SDC within twenty-four
13 (24) months.

14 (d) Provide enhanced case management services to
15 consumers in the community who, are at risk of placement in a
16 more restrictive setting.

17 (e) Develop needed services and/or supports including
18 foster family agencies, residential services for children with
19 specialized health care needs and supported living services
20 required to enable residents to either exit an SDC or to enable
21 consumers to continue to reside in the community.

22 (f) Allow regional center resource development and
23 case management staff to participate in and/or attend the
24 training set forth in Part III. D. 3. (a) and (b).

25 (g) Provide assessments of community consumers of all
26 regional centers who, absent RRDP intervention, would have been
27 admitted to a developmental center.

1 This plan may be modified upon mutual agreement of the
2 Department and regional center.

3 **2. Allocation of Funding**

4 (a) Within thirty (30) days of receipt of the
5 supplemental CPP proposal the Department shall review and approve
6 the proposals and allocate funds to the regional centers to the
7 extent the proposals will achieve the purpose of the settlement.
8 Regional Centers receiving funding provided for this purpose
9 shall use all allocated funds in the manner identified in their
10 approved proposal. The level of funding allocated for enhanced
11 case management specified in Paragraph 1. (d) above shall be
12 based upon the amount of FFP funds available as identified in the
13 schedule in Part II. The Department shall send a copy of all
14 proposals, modifications of proposals, and approvals and fund
15 allocations to plaintiffs' counsel.

16 **3. Implementation**

17 The Department may, in its discretion, use the contract
18 process between the Department and regional centers to implement
19 the requirements of this Part III. C.

20 **D. INCREASE AVAILABILITY OF FLEXIBLE LIVING OPTIONS**

21 The obligations of the Department and regional centers
22 to perform as specified below are contingent upon and subject to
23 the Department obtaining increases in FFP under the conditions
24 specified in the "SCOPE OF SETTLEMENT" of this document.

25 Consistent with the requirements of sections 4646,
26 4646.5, 4648, 4685, 4687, and 4689 the Department will take the
27 following actions to achieve the goal of increasing the variety

1 of living options in the community from which consumers can
2 choose. This may include providing increased supports to minors
3 or adults residing in their family home when this is the
4 preferred objective in their IPP.

5 **1. Supported Living Arrangements**

6 Defendants will take the following actions to implement
7 the provisions of section 4689 which, places a high priority on
8 providing opportunities for adults with developmental
9 disabilities regardless of the degree of disability to live in
10 homes they own or lease with support available as often and for
11 as long as it is needed when that is the preferred objective in
12 the Individual Program Plan:

13 (a) Within sixty (60) days following court approval of
14 a written settlement agreement, the Department will send to
15 plaintiffs' counsel and all regional centers a written policy
16 statement delineating the procedural and funding mechanisms
17 regional centers may use to implement the provisions of section
18 4689 (hereinafter "supported living policy"). Within fifteen
19 (15) days of the receipt of the supported living policy,
20 plaintiffs' counsel shall review the policy and forward any
21 comments to the Department. Within fifteen (15) days of receipt
22 of the comments from plaintiffs' counsel, the Department shall
23 consider the comments and adopt a final version of the supported
24 living policy and send it to all regional centers and to
25 plaintiffs' counsel. The Department shall make the determination
26 regarding the policy. If procedures and funding mechanisms

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1 change during the period of this agreement, the Department shall
2 notify the regional centers and plaintiffs' counsel accordingly.

3 (b) The Department has issued draft regulations which
4 govern the provisions of supported living services. Within four
5 (4) months of court approval of a written settlement agreement
6 the Department will have considered all comments and pursued
7 adoption of the regulations. A copy of the final proposed
8 regulations and the rationale for any changes will be sent to
9 plaintiffs' counsel. The Department will make a good faith
10 effort to secure approval or adoption of the regulations on an
11 emergency basis. If unsuccessful, the parties agree to work
12 cooperatively to obtain adoption on the earliest possible date.

13 (c) Within one (1) year following court approval of a
14 written settlement agreement, the defendant regional centers will
15 take all actions necessary to develop or obtain resources to
16 provide supported living services, as set forth in section 4689
17 to consumers for whom those services are the preferred objective
18 in their IPP.

19 (d) The Department will make a good faith effort to
20 obtain agreement by July 1, 1994, with the nondefendant regional
21 centers to develop resources by July 1, 1995, to provide
22 supported living services, as set forth in section 4689, to
23 consumers in their catchment areas for whom supported living is
24 the preferred objective in their IPP. If the Department is
25 successful in obtaining such an agreement it shall notify
26 plaintiffs' counsel.

27 ////

1 2. Increasing the Type and Availability of Community
2 Living Arrangements

3 (a) Within two (2) months following court approval of
4 a written settlement agreement the Department will develop and
5 distribute to regional centers, RRDPs and plaintiffs' counsel
6 written instructions and materials on applicable licensing
7 requirements, vendorization alternatives, staffing and
8 reimbursement levels, quality assurance provisions, and
9 regulations governing the provision of services for children
10 through foster family agencies and residential services for
11 children with specialized health care needs as permitted by
12 AB 760 Chapter 1137 statutes of 1991.

13 (b) Within one (1) year following court approval of a
14 written settlement agreement, the defendant regional centers will
15 take all actions necessary to develop or obtain resources to
16 provide the services for children described in paragraph 2.(a) to
17 consumers for whom those services are the preferred objective in
18 their IPP.

19 (c) The Department will make a good faith effort to
20 obtain agreement by July 1, 1994, with the nondefendant regional
21 centers, to develop resources by July 1, 1995, to provide the
22 services for children described in paragraph 2.(a). to serve
23 consumers in their catchment areas for whom those services are
24 preferred objective in their IPP. If the Department is
25 successful in obtaining such an agreement it shall notify
26 plaintiffs' counsel.

27 ////

1 (d) Within one (1) year following court approval of a
2 written settlement agreement, the Department will make a good
3 faith effort to secure approval or adoption of regulations, on an
4 emergency basis, which establish a new Alternative Residential
5 Model (ARM) service level to serve children who otherwise would
6 require services in an SDC. The Department shall provide a copy
7 of the draft proposed regulations to plaintiffs' counsel for a
8 thirty (30) day review and comment period. A copy of the final
9 proposed regulations will be sent to plaintiffs' counsel. If the
10 Department is unsuccessful in obtaining adoption of the
11 regulations on an emergency basis, the parties agree to work
12 cooperatively to obtain adoption on the earliest possible date.

13 (e) Within one (1) year following court approval of
14 this settlement agreement, the Department will make a good faith
15 effort to secure approval or adoption of regulations, on an
16 emergency basis, which establish staffing standards for
17 designated ARM service Level 4 facilities, that permit flexible
18 staffing requirements, whereby staffing ratios may be reduced if
19 direct service staff with higher qualifications, training and
20 experience are utilized. If the Department is unsuccessful in
21 obtaining adoption of the regulations on an emergency basis, the
22 parties agree to work cooperatively to obtain adoption on the
23 earliest possible date.

24 3. Training

25 (a) Within sixty (60) days of the date of receipt of
26 the Department's written material regarding services for children
27 specified in paragraph 2. (a), defendant regional centers will

1 provide all case managers with a copy of the this information and
2 the Department's supported living policy specified in paragraph
3 1. (a) and provide inservice training which will include
4 informing the case managers that these services are options which
5 consumers should be advised of and that the options may be
6 considered at their IPP conference. The Department will make a
7 good faith effort to have the nondefendant regional centers
8 provide the information and training described above to their
9 case management staff. If the Department is successful in
10 obtaining such an agreement it shall notify plaintiffs' counsel.

11 (b) The Department, will initiate annual training by
12 qualified persons, including supported living and foster family
13 agency providers, on the various community living options,
14 including supported living and foster family agencies. This
15 training will be regionalized and will be offered to consumers,
16 families and authorized client representatives, and developmental
17 center and regional center staff. Developmental center staff
18 involved in placement activities, RRDP staff, defendant regional
19 center resource developers, and defendant regional center case
20 management supervisors will be required to attend the training
21 which will focus on learning about new options for community
22 living arrangements. The Department will make a good faith
23 effort to encourage the attendance of appropriate staff from
24 nondefendant regional centers. Within five (5) months of court
25 approval of the settlement agreement the first training will
26 commence and the Department with the assistance of qualified
27 persons, including supported living and foster family agency

1 providers, will prepare materials on community living options and
2 make them available to the persons attending the training.
3 Defendants will send a copy of all materials to plaintiffs'
4 counsel.

5 (c) In addition information on the various community
6 living options will be included as part of the
7 assessment/planning materials developed and implemented pursuant
8 to Part III. B.

9
10 **4. Community Placement Plan/Targeted Program
Development Fund**

11 (a) The Department will request and make a good faith
12 effort to obtain adequate start-up funds and, subject to the
13 annual appropriation of funds by the Legislature, will allocate
14 such funds for the start-up of new community living arrangements
15 necessary to implement the terms of this agreement.

16 (b) The Department will require the inclusion of a
17 wide variety of living options, including supported living and
18 foster family agency services when indicated by the
19 assessment/planning process described in Part III. B. of this
20 agreement, in the annual Community Placement Plan (CPP) developed
21 by each RRDP in cooperation with regional centers.

22 (c) The Department will approve the use of
23 appropriated CPP funds for start-up funding for supported living
24 and foster family agency services when submitted as part of the
25 annual CPP to the extent the Department determines the proposals
26 are achievable and will assist in meeting the net reduction goals
27 in the developmental center populations.

1 (d) Within forty-five (45) days following court
2 approval of a written settlement agreement the Department will
3 also authorize the use of resources developed with appropriated
4 CPP funds for community residents who, absent RRDP intervention,
5 would have been admitted into a developmental center and the
6 Department determines it will assist in meeting the RRDP's net
7 reduction goals in the developmental center population.

8 (e) Within thirty (30) days following court approval
9 of a written settlement agreement the Department will make a good
10 faith effort to obtain approval from the State Council on
11 Developmental Disabilities to include supported living and foster
12 family agencies as preferred options for start-up funding under
13 the statewide "Targeted Program Development Fund" (TPDF) in the
14 next, and each subsequent PDF cycle. The Department shall
15 provide plaintiffs' counsel with a copy of each TPDF cycle
16 document.

17 **5. Enhancing Financing Options**

18 (a) Within six (6) months following court approval of
19 a written settlement agreement the Department will identify the
20 various financing options that are available to providers and
21 consumers for the acquisition of residential facilities or homes,
22 start-up expenditures, remodeling, refinancing and rental
23 subsidies.

24 (b) The Department will annually provide training to
25 consumers, their families, and current and potential providers on
26 the various financing options available. Within six (6) months of
27 court approval of a written settlement agreement the Department

1 will have a person available to provide individual technical
2 assistance and within nine (9) months the Department will
3 commence the first training and prepare written materials for
4 dissemination on the financing options available. The written
5 material will be updated annually and a copy will be sent to
6 plaintiffs' counsel.

7 **6. Support In Residential Placement**

8 (a) Within thirty (30) days of court approval of a
9 written settlement agreement the Department will confirm in
10 writing to the regional centers that they may purchase
11 supplemental services for consumers residing in residential
12 settings in order to prevent their placement in a more
13 restrictive living arrangement provided that additional services
14 are not duplicative and a determination has been made by the ID
15 team that the services are consistent with the provisions of the
16 consumer's IPP. A copy will be sent to plaintiffs' counsel upon
17 completion.

18 **7. Governmental Barriers**

19 (a) Within ninety (90) days of court approval of a
20 written settlement agreement, the Department will form a
21 workgroup consisting of the Residential Services Provider
22 Advisory Board, representatives of the Department, the defendant
23 regional centers, the organizational plaintiffs, OAB, ARCA,
24 Protection & Advocacy, Inc., and other organizations and
25 individuals as the Department deems appropriate. The workgroup
26 shall identify governmental barriers and make recommendations for
27 their resolution.

1 **8. Policies and Procedures on Unmet Needs**

2 (a) Within sixty (60) days of court approval of a
3 written settlement agreement, each defendant regional center
4 shall prepare a draft of policies and procedures on recording
5 unmet needs for an alternative community living arrangement. The
6 policies and procedures shall, at a minimum, include a method of
7 accurately documenting consumer - specific unmet needs.
8 Defendant regional centers shall annually summarize and report to
9 plaintiffs' counsel the unmet needs by the consumer's age, type
10 of disability and type of alternative living arrangement needed.
11 The draft shall be forwarded to plaintiffs' counsel for review
12 and comment. Within fifteen (15) days of receipt of the proposed
13 policies and procedures, plaintiffs' counsel shall prepare and
14 submit their comments to counsel for defendant regional centers.
15 Within thirty (30) days of receipt, the regional centers shall
16 consider the comments and adopt a final version of the policies
17 and procedures and send a copy to plaintiffs' counsel. Each
18 respective regional center shall make the determination regarding
19 its policies and procedures. Within thirty (30) days of adoption
20 of the policies and procedures, the regional centers shall
21 provide training to case management staff on how and what to
22 document and how to implement the policies and procedures. A
23 copy of the annual summary of unmet needs shall be provided to
24 plaintiffs' counsel at the time it is compiled.

25 **9. Development of Qualified Service Providers**

26 (a) The Department through its RRDs in conjunction
27 with each developmental center, local regional center and local

1 area boards will semi-annually provide training and copies of
2 written materials to interested parties on how to develop new
3 community living arrangements, including supported living and
4 foster family agencies. Within six (6) months of court approval
5 of the settlement agreement the first training will be held.

6 **10. Federal Waivers**

7 **(a) Home and Community-Based Waiver Expansion**

8 The Department has been granted an increase in the
9 population served under the present Home and Community-based
10 Waiver from 3,360 to 20,000. Within four (4) months following
11 court approval of a written settlement agreement the Department
12 will apply for an amendment to the waiver so that the services
13 offered under said waiver include the array of services which are
14 necessary to provide supported living services pursuant to
15 section 4689. Prior to submission of the amendment, defendants
16 shall provide plaintiffs' counsel with a copy of the amendment
17 for review and comment. Plaintiffs' counsel shall provide their
18 comments, if any, to the Department for consideration within
19 fifteen (15) days thereafter. The Department shall make the
20 determination and provide plaintiffs' counsel with a copy of the
21 amendment upon its submission and HCFA's approval or disapproval.
22 In addition the Department will provide plaintiffs' counsel with
23 copies of required reports regarding the waiver submitted by the
24 Department to HCFA, including financial and quality assurance
25 reports (e.g. 372 and LAG reports) covering the term of this
26 agreement.

27 ////

1 **(b) Living Options Waiver**

2 Within three (3) months following court approval of a
3 written settlement agreement, the Department will apply for an
4 additional Home and Community-Based Waiver entitled the Living
5 Options Waiver to assist in the community placement of eligible
6 SDCs residents anticipated to be placed during the period of this
7 agreement. The services offered under said waiver shall include
8 the array of services which are necessary to provide supported
9 living services, pursuant to section 4689. Prior to submission
10 of the waiver, defendants shall provide plaintiffs' counsel with
11 a copy of the waiver for review and comment. Plaintiffs' counsel
12 shall provide their comments, if any, to the Department for
13 consideration within five (5) working days thereafter. The
14 Department shall make the determination and provide plaintiffs'
15 counsel with a copy of the waiver upon its submission and HCFA's
16 approval or disapproval. In addition the Department will provide
17 plaintiffs' counsel with copies of required reports regarding the
18 waiver submitted by the Department to HCFA, including financial
19 and quality assurance reports (e.g. 372 and LAG reports) covering
20 the term of this agreement.

21 **(c) New Model Waivers**

22 Within six (6) months following court approval of a
23 written settlement agreement, the Department will apply for a
24 Medicaid Waiver to serve non-Medi-Cal eligible children who are
25 living at home and at risk of ICF-MR placement and a Medicaid
26 Waiver for technology dependent children residing at a SDC who
27 could possibly be placed at home. These waivers shall include a

1 full array of services required by these technology-dependent
2 children and shall waive deeming of parental income and
3 resources. Prior to submission of the waiver, the Department
4 shall provide plaintiffs' counsel with a copy of the waiver for
5 review and comment. Plaintiffs' counsel shall provide their
6 comments, if any, to the Department for consideration within
7 fifteen (15) days thereafter. The Department shall make the
8 determination and provide plaintiffs' counsel with a copy of the
9 waivers upon their submission and a copy of HCFA's approval or
10 disapproval. In addition the Department will provide plaintiffs'
11 counsel with copies of required reports regarding the waiver
12 submitted by the Department to HCFA, including financial and
13 quality assurance reports (e.g. 372 and LAG reports) covering the
14 term of this agreement.

15 **(d) Combination Waivers**

16 Even though the waivers discussed in paragraphs (a),
17 (b), and (c) above are identified as separate waivers, with
18 discrete target populations, it may be necessary to separate
19 and/or combine populations/waivers to accommodate state and
20 federal program approval preferences. However the waivers are
21 submitted, whether separately or in combination, the principles
22 set forth above under each waiver shall apply.

23 **E. EMERGENCY AND CRISIS INTERVENTION SERVICES**

24 **1. Purpose**

25 The obligations of the Department and regional centers
26 to perform as specified below and accordingly are contingent upon
27 and subject to the Department obtaining increases in FFP under

1 the conditions specified in the SCOPE OF SETTLEMENT" of this
2 document.

3 Welfare and Institutions Code section 4648(a)(10)
4 states: "In order to achieve the stated objectives of a
5 consumer's individual program plan, the regional center shall
6 conduct activities including, but not limited to, all of the
7 following:

8 Emergency and crisis intervention services including,
9 but not limited to, mental health services and behavior
10 modification services, may be provided, as needed, to maintain
11 persons with developmental disabilities in the living arrangement
12 of their own choice. Crisis services shall first be provided
13 without disrupting a person's living arrangement. If crisis
14 intervention services are unsuccessful, emergency housing shall
15 be available in the person's home community. If dislocation
16 cannot be avoided, every effort shall be made to return the
17 person to his or her living arrangement of choice, with all
18 necessary supports, as soon as possible."

19 **2. Implementation**

20 In order to implement the provisions of section
21 4648(a)(10) statewide and to avoid the unnecessary
22 institutionalization of individuals, defendants will take the
23 following actions:

24 **(a) Crisis Service Proposal**

25 In order to assist regional centers in complying with
26 these provisions, the Department will issue guidelines for
27 development of a crisis service proposal (CSP) to regional

1 centers within thirty (30) days following court approval of a
2 written settlement agreement, for funding emergency and crisis
3 intervention services. A copy of the guidelines and CSP will be
4 sent to plaintiffs' counsel.

5 (b) CSP Requirements

6 The guidelines for development of the CSP shall
7 require, at a minimum, the following:

8 (1) Collaboration with RRDPs, area boards, private
9 providers, local mental health agencies, and, as appropriate,
10 other regional centers and developmental centers.

11 (2) An assessment of service needs in order to
12 identify the gaps in local and regional emergency and crisis
13 intervention services and supports sufficient to meet the needs
14 of the consumer in the area covered. This will include, at a
15 minimum, identification of available generic services, how these
16 services can be accessed, the availability of emergency housing,
17 and other types of crisis intervention services either through
18 public or private resources.

19 (3) A description of roles and responsibilities for
20 the various agencies to be involved in providing crisis
21 intervention and emergency services. This will include at a
22 minimum, the role of the local regional center, the RRDPs, SDCs,
23 local mental health agencies and private providers.

24 (4) A description of emergency housing requirements in
25 the local community including the need for start-up funding, time
26 frames for the development of emergency housing, the payment
27 mechanism proposed, the staffing level and staff and consultant

1 qualifications proposed and the type of services to be provided.
2 The CSP will describe the rate and payment mechanisms available
3 for consideration in developing proposals.

4 (5) A description of emergency and crisis intervention
5 services including crisis intervention teams, services to be
6 provided in emergency housing, methods for assessment and
7 diagnosis of client needs, both short term and long term and the
8 types of training and support that will be available to meet
9 these needs so the consumer can remain in or return to his/her
10 current living arrangement or if necessary, an alternative,
11 appropriate and preferred community living arrangement as quickly
12 as possible.

13 (6) A description of an after hours response system
14 including a description of the training on call staff will
15 receive that will enable them to resolve emergency situations
16 including accessing appropriate local support services and
17 alternative temporary emergency housing.

18 (7) Identification of the funding level needed to
19 implement the proposal including start-up costs, cost of crisis
20 intervention teams, emergency housing costs, and other costs
21 associated with crisis intervention and emergency services.

22 (8) Consideration of models of successful crisis
23 intervention and emergency services, supports and facilities and
24 the problems experienced by currently existing services and ways
25 to remedy these problems. The proposal shall specify those
26 models considered and utilized.

27 /////

1 (9) The reporting requirements which will include
2 information on the development, implementation, effectiveness and
3 utilization of services funded pursuant to the proposal,
4 including, at a minimum, the number and location of crisis
5 intervention teams; number and locations of crisis facility beds;
6 and a description of the after hours response system and any
7 other emergency and crisis intervention services developed.

8
9 **(c) Submission of Proposals by Defendant Regional
 Centers**

10 The defendant regional centers shall, individually or
11 in cooperation with one or more other regional center, submit to
12 the Department their proposals consistent with paragraph 2.(b)
13 above, for funding and implementation of an emergency and crisis
14 intervention service system.

15 **(d) Submission of Proposals by Nondefendant Regional
 Centers**

16
17 If nondefendant regional centers choose not to submit a
18 proposal, consistent with paragraph 2.(b) above the Department
19 will request submission of an assessment of emergency and crisis
20 intervention services in that regional center's catchment area by
21 the nondefendant regional center and the area board with
22 responsibilities for that catchment area within thirty (30) days
23 of when a plan is due. A copy of such request shall be sent to
24 plaintiffs' counsel. The Department will make a good faith
25 effort to obtain assessments of emergency and crisis intervention
26 services in all nondefendant regional centers catchment areas
27 and, if based on these assessments gaps are identified in the

1 provisions of services, the Department will make a good faith
2 effort to obtain a plan for providing these services from the
3 appropriate regional center. Copies of all proposals,
4 assessments and plans will be sent to plaintiffs' counsel by the
5 Department.

6 (e) Time Frames, Approval and Funding

7 (1) Within three (3) months following issuance of the
8 CSP, proposals will be due to the Department. Copies will also
9 be sent to plaintiffs' counsel by the Department.

10 (2) The Department will review and make a decision on
11 the proposals within sixty (60) days of receipt. The Department
12 will approve and funding will be allocated pursuant to paragraph
13 (4) to carry out those elements of the proposals which the
14 Department determines can be successfully implemented and will
15 achieve the objectives of this settlement agreement and enable
16 the regional centers to provide the emergency and crisis
17 intervention services specified in paragraph 2. (b). Final
18 copies of the proposals and Department approvals and allocations
19 will be sent to plaintiffs' counsel.

20 (3) The defendant regional centers will implement the
21 approved proposal. The Department will monitor and make a good
22 faith effort to secure implementation of approved proposals by
23 nondefendant regional centers.

24 (4) The level of funding allocated shall be based upon
25 the amount of funds available for crisis intervention and
26 emergency services as identified in the schedule in Part II.

27 ////

1 (f) Implementation

2 (1) The Department may, in its discretion, use the
3 contract process between the Department and regional centers to
4 implement the requirements of this Part III. E.

5 F. QUALITY ASSURANCE

6 1. Statewide Quality Assurance System

7 (a) Defendants will re-examine, revise as necessary,
8 adopt and implement revised and updated quality assurance
9 standards and procedures for community residential services and
10 supports, including supported living and foster family agencies
11 and facility-based programs. Such standards and procedures will
12 incorporate and supplement where necessary, existing quality
13 assurance mechanisms, including those specified in statutes and
14 regulations, and will not duplicate quality assurance systems
15 already in place.

16 (b) The quality assurance standards and procedures
17 developed pursuant to paragraph (a) above shall include at least
18 the following components: the development of outcome and value-
19 based standards; measurement of outcomes including at a minimum,
20 assessment of consumer and family satisfaction and quality of
21 life indicators; procedures which address corrective actions and
22 sanctions; program quality enhancements; training of quality
23 assurance reviewers, providers and consumers; and monitoring and
24 evaluation efforts that involve consumers, family members,
25 volunteers and professionals.

26 (c) Within thirty (30) days following court approval
27 of the written settlement agreement, the Department will

1 establish a Quality Assurance Advisory Group (hereinafter
2 "Advisory Group") which includes consumers, family members, and
3 representatives from, supported living, foster family agencies
4 and residential providers, professionals with knowledge of
5 quality assurance, ARCA, defendant regional centers, OAB, the
6 organizational plaintiffs, Protection and Advocacy, Inc. and
7 other organizations and individuals as appropriate, to advise the
8 Department in developing the quality assurance standards and
9 procedures set forth in paragraphs (a) and (b) above. The
10 Department shall notify plaintiffs' counsel of the names and
11 affiliations of the advisory group.

12 (d) In advising the Department the Advisory Group will
13 consider and recommend standards and procedures consistent with
14 best practices in the field of quality assurance. At a minimum,
15 the Advisory Group will consider legal requirements (including
16 but not limited to sections 4502-4505; 4648.1; and 4689(e)) and
17 outcome measures for assessing consumer and family satisfaction
18 and quality of life such as health and safety, decision-making
19 and choice, normalization, integration, independence,
20 productivity, social relationships, recreation and leisure,
21 consumer rights and dignity and respect; the quality assurance
22 standards and procedures designed for the state developmental
23 center system; those that were developed for and used in the
24 federal CSLA grant program; the Health Care Financing
25 Administration's Quality Assurance Standards for Home and
26 Community Based Waiver Programs; the latest standards of the
27 Accreditation Council on Services for People with Disabilities

1 (ACDD); the latest edition of the ACDD Outcome Based Performance
2 Measures; and other quality assurance models that are used or
3 being developed by other states.

4 (e) Within nine (9) months of the date specified in
5 paragraph (c) above for formation of the Quality Assurance
6 Advisory Group, the Department shall develop, taking into account
7 the recommended best practices in the field of quality assurance,
8 quality assurance standards as specified in paragraph (a) and (b)
9 above and forward them to plaintiffs' counsel.

10 (f) Within thirty (30) days of receipt of the quality
11 assurance standards, plaintiffs' counsel shall review the
12 materials and forward any comments to the Department.

13 (g) Within thirty (30) days of receipt of the comments
14 by plaintiffs' counsel, the Department shall consider the
15 comments and adopt a final version of the quality assurance
16 standards and send a copy to plaintiffs' counsel. The Department
17 shall make the determination regarding the standards.

18 (h) Within three (3) months of the adoption of the
19 final version of the standards, the Department, in consultation
20 with the Advisory Group, shall develop, taking into account the
21 recommended best practices in the field of quality assurance,
22 quality assurance procedures as set forth in paragraphs (a) and
23 (b) above and forward them to plaintiffs' counsel.

24 (i) Within thirty (30) days of receipt of the quality
25 assurance procedures, plaintiffs' counsel shall review them and
26 forward any comments to the Department.

27 ////

1 (j) Within thirty (30) days of receipt of the comments
2 by plaintiffs' counsel, the Department shall consider the
3 comments and adopt a final version of the quality assurance
4 procedures and send a copy to plaintiffs' counsel. The
5 Department shall make the determination regarding the procedures.

6 (k) Upon adoption, the quality assurance standards and
7 procedures shall become effective.

8 (l) Within sixty (60) days of the Department's
9 adoption of the quality assurance procedures, the defendant
10 regional centers will have trained personnel in order to
11 implement the quality assurance system as prescribed in the
12 quality assurance procedures. Priority for training and
13 implementation shall be given to supported living and services
14 provided by a foster family agency.

15 (m) Within six (6) months of the Department's adoption
16 of the quality assurance procedures, the Department will make a
17 good faith effort to obtain agreement with the nondefendant
18 regional centers that they will implement within one year of
19 agreement, the quality assurance system as prescribed in the
20 quality assurance procedures. Priority for training and
21 implementation shall be given to supported living and services
22 provided by a foster family agency.

23 (n) Enforcement of the quality assurance system
24 statewide, on those service providers subject to the standards
25 and regional centers other than defendants, will be contingent
26 upon the Department adopting the system in regulations. The
27 Department shall make a good faith effort to secure approval or

1 adoption of the regulations on an emergency basis. If
2 unsuccessful, the parties agree to work cooperatively to obtain
3 adoption on the earliest possible date.

4 **2. Quality Assurance Mechanisms for Class Members**

5 (a) The Department shall be responsible for conducting
6 a monitoring process to review satisfaction of community target
7 group members, SDC residents who have been placed and consumers
8 who have received RRDP intervention pursuant to Part III. A. 1.
9 (b) 2. and the quality of the community living arrangements into
10 which they move.

11 (b) Within three (3) months of court approval of the
12 settlement agreement the Department will develop a quality of
13 life and consumer and family satisfaction survey protocol and
14 instrument(s) which will measure the quality of community
15 placement, services and supports for consumers identified in (a)
16 above during the period of this agreement. Such survey
17 instruments will measure: consumer and family satisfaction with
18 services provided, including case management; important aspects
19 of quality of life including independence, productivity,
20 integration, opportunity for choice and control, delivery of
21 needed services including behavioral supports, general health and
22 safety, psychoactive medication usage, and the quality of home
23 and work settings; and the cost of services and supports provided
24 to consumers including residential services, day programs and
25 other services and supports. The survey protocols shall include
26 such things as record reviews, cost data direct observations, and
27 interviews with consumers and their representatives,

1 identification of appropriate sample size of a stratified random
2 sample, timing of reviews, reporting requirements and quality
3 assurance review process designed to test the validity of this
4 survey system. The Department will also develop a training plan
5 for using the survey instrument(s) and implementing the
6 protocols. Upon completion, copies of the survey instrument(s),
7 training plans and protocols will be forwarded to plaintiffs'
8 counsel.

9 (c) In designing the survey protocol and instrument(s)
10 the Department will obtain the input of individuals identified by
11 the Department with experience in: (1) designing valid tracking
12 instruments; (2) tracking the quality of community programs
13 including outcome based measures such as quality of life and
14 consumer satisfaction; (3) tracking the quality of community
15 placements for persons moving from large institutions into
16 community settings; (4) evaluating the quality of community
17 services and supports for persons with developmental
18 disabilities; (5) developing data systems including the
19 collection of data necessary to monitor community services to
20 consumers and; (6) data analysis and report preparation.

21 (d) In order to ensure the objectivity of the quality
22 assurance mechanism for class members, the Department will
23 contract with an independent expert consultant chosen jointly by
24 the Department, the regional center defendants as a group, and
25 the plaintiffs as a group, to assist, at a minimum, in the
26 development of the survey protocols and instrument, the analysis
27 of the data collected, the staff training, the development and

1 application of the quality assurance review process designed to
2 test the validity of the survey system, and the preparation of an
3 annual report describing the results of the surveys. The
4 consultant shall be responsible for testing the validity of the
5 survey system, preparing the annual report and determining the
6 sample size. If not responsible for directly performing any of
7 the remaining tasks described above, the consultant will be
8 utilized by the Department in a consultant capacity to ensure the
9 integrity of those activities.

10 (e) Within three (3) months of development of the
11 survey instrument(s) and protocols the Department will be
12 responsible for the training of personnel to implement the
13 quality assurance mechanism for the class members who have been
14 placed and/or who have received RRDP intervention, as prescribed
15 in the quality of life and consumer and family satisfaction
16 survey protocols. At a minimum there will be an annual survey of
17 the appropriate sample size. Persons chosen to be surveyed each
18 year will continue to be surveyed on an annual basis throughout
19 the term of this agreement.

20 (f) Plaintiffs' counsel shall be provided a copy of
21 the completed annual report and have access to all of the
22 completed survey instruments and data bases generated by the
23 Department or expert consultant as specified herein. In order to
24 protect client confidentiality, the clients' names shall be
25 redacted from the file so long as the client can be identified by
26 UCI number by defendants.

27 ////

1 (g) Following submission of the completed annual
2 report each year, the Department, the regional center defendants
3 as a group, or the plaintiffs as a group may, if they believe the
4 consultant did not perform in accordance with the terms of his or
5 her contract, request the selection of a different independent
6 expert consultant. Should such a request be made the party group
7 making the request must demonstrate how the consultant failed to
8 meet his or her contractual obligations. Any unresolved dispute
9 between the parties on this issue shall be governed by the
10 mediation process specified in Part VIII. of this agreement;
11 however, in this instance the mediator selected shall have the
12 authority to issue a binding decision upon the parties. The
13 Department will not terminate its contract with a consultant
14 until the provisions of this paragraph have been complied with.
15 Selection of a subsequent independent expert consultant shall be
16 made pursuant to the process specified in paragraph (d) above.

17 **G. MONITORING^{4/}**

18 **1. Purpose**

19 The purpose of this section is to provide a mechanism
20 for plaintiffs' counsel to monitor the progress of the settlement
21 agreement. The information required below is in addition to
22 documents which are to be provided to plaintiffs' counsel
23 pursuant to the substantive sections of the agreement above.

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4. Any data provided under this section shall clearly indicate the date on which the data is current.

1 2. Quarterly Reports

2 (a) Timing: Beginning six (6) months following court
3 approval of a written settlement agreement, and continuing on a
4 quarterly basis until such time as defendants' submit the
5 Notification of Compliance to plaintiffs' counsel pursuant to
6 Part XII. of the agreement, defendants shall submit to
7 Plaintiffs' counsel a written report, with supplementary
8 documentation and charts or computer printouts as necessary,
9 which contains the information set forth in Paragraphs (b)
10 through (i) below.

11 (b) Status Update: The report shall include a part-
12 by-part status report of the progress made toward achieving each
13 of the objectives of the settlement agreement, to wit:
14 Placements; Client Assessment/Placement Planning Process; Case
15 Management; Increase Availability of Flexible Living Options;
16 Crisis Intervention and Emergency Services; and Quality
17 Assurance. Such report shall specify the overall progress made
18 and the progress made during the previous quarter toward each of
19 the goals and provisions set forth in this agreement. If no
20 progress was required under a particular section of the agreement
21 during the quarter, or the goal has been completed, the report
22 shall so indicate.

23 (c) Training Data: Training is required in the
24 following sections of this agreement: Client Assessment/Placement
25 Planning Process (Part III. B. 4.); Increase Availability of
26 Flexible Living Options (Parts III. D. 3., 8., and 9.); and
27 Quality Assurance (Parts III. F. 1. (l), and (m)). Information

1 regarding progress under each of the training provisions shall be
2 included in the relevant section of the status report. For each
3 training activity, DDS shall provide plaintiffs with the
4 following:

5 (1) a copy of all training material;

6 (2) a copy of the agenda, including date, location of
7 training, names and qualifications of trainers; and

8 (3) a copy of the sign-in sheet which includes names
9 and, where appropriate, affiliation or employer, and job title of
10 participants.

11 Plaintiffs' counsel shall receive advance notice of all
12 trainings required under this settlement agreement, which are
13 open to the public and plaintiffs' counsel or designee shall be
14 entitled to attend any of these trainings and receive copies of
15 all training materials.

16 (d) Statistics/Data on Consumers: Statistical
17 information regarding persons with developmental disabilities
18 affected by this agreement shall be attached to the quarterly
19 reports.

20 (1) Placement and Assessment -- Defendants shall
21 include the following statistical information in each quarterly
22 report regarding all SDC residents and community target group
23 members to be assessed and/or placed pursuant to this agreement.

24 A. Data to be developed by the Department for SDC
25 residents shall include:

26 (i) UCI number or other method of
27 identifying persons without divulging
individuals' names.

- 1 (ii) The current living arrangement including
2 type, location by SDC and SDC unit.
- 3 (iii) The individual's age, type of
4 disability/disabilities, and sex.
- 5 (iv) The responsible regional center.
- 6 (v) Date of assessment and development of
7 the IPP/IHP.
- 8 (vi) Whether or not community placement was
9 recommended as a result of the
10 assessment and IHP/IPP and, if
11 recommended, identification of the
12 community services and supports needed,
13 including, if recommended, the type of
14 residential placement (e.g., facility,
15 supported living, foster family agency).
- 16 (vii) The length of time individuals have been
17 waiting for community placement or
18 services and supports.
- 19 (viii) Whether the individual has been placed.
20 The following information shall be
21 provided in the first quarterly report
22 after placement:
- 23 (aa) Date of placement;
- 24 (bb) The type of placement made,
25 including type and size of facility
26 or, if placed in a non-facility
27 based home, the type of home (e.g.,
supported living, family home,
independent living or foster family
agency) and identification of the
services and supports actually
provided and planned at the time of
placement; and
- (cc) Location of the placement by
regional center.
- (ix) Whether the individual was subsequently
removed from referral for alternative
placement pursuant to Paragraph III. A.
1. (e) of the agreement and the reason
for removal as follows:
- (aa) Consumer choice

////

- 1 (bb) Legal representative's decision
- 2 (cc) Reassessment of service needs
- 3 B. Data to be included by the defendant regional
- 4 centers for community target group members shall include:
- 5 (i) UCI number or other method of
- 6 identifying persons without divulging
- 7 individuals' names.
- 8 (ii) Date of membership in the community
- 9 target group.
- 10 (iii) The current living arrangement,
- 11 including type, location by regional
- 12 center area.
- 13 (iv) The individual's age, type of
- 14 disability/disabilities, and sex.
- 15 (v) The responsible regional center.
- 16 (vi) The community services and supports
- 17 identified as needed as a result of
- 18 assessment and development of the IPP,
- 19 including, if recommended, the type of
- 20 residential placement (e.g., facility,
- 21 supported living, foster family agency).
- 22 (vii) The length of time individuals have been
- 23 waiting for community placement or
- 24 services and supports.
- 25 (viii) Whether the individual has been placed.
- 26 The following information shall be
- 27 provided in the first quarterly report
- after placement:
- (aa) Date of placement;
- (bb) The type of placement made,
- including type and size of facility
- or, if placed in a non-facility
- based home, the type of home (e.g.,
- supported living, family home,
- independent living or foster family
- agency) and identification of the
- services and supports provided; and
- (cc) Location of the placement by
- regional center.

- 1 (ix) Whether there has been failed placement
2 which resulted in the consumer becoming
3 a member of the community target group
4 again, and date this occurred.
- 5 (x) Whether the individual was subsequently
6 removed from the community target group
7 and the reason for removal as follows:
- 8 (aa) Consumer choice
- 9 (bb) Legal representative's decision
- 10 (cc) Reassessment of service needs
- 11 (2) RRDP Interventions -- The Department shall include
12 the following statistical information in each quarterly report
13 regarding number of consumers who, absent RRDP intervention,
14 would have been admitted to SDCs.
- 15 (A) UCI number or other method of identifying
16 persons without divulging individuals' names.
- 17 (B) Living arrangement, including type and
18 location by regional center at time of RRDP
19 intervention.
- 20 (C) Individual's age, type of
21 disability/disabilities, and sex.
- 22 (D) Responsible regional center.
- 23 (E) Date RRDP determined intervention necessary.
- 24 (F) Date the individual was assessed pursuant to
25 this agreement, and if assessed pursuant to
26 this agreement, identification of community
27 placement and services or supports needed.
- 28 (G) Identification of services and supports
29 provided in order to avoid admission to SDCs
30 (e.g., crisis intervention, placement).
- 31 (3) Admissions -- The Department shall include the
32 following statistical information in each quarterly report
33 regarding admissions during that quarter to the SDCs.

- 1 (A) UCI number or other method of identifying
- 2 persons without divulging individuals' names.
- 3 (B) SDC and unit.
- 4 (C) Immediately, previous living arrangement,
- 5 including type and location by regional
- 6 center.
- 7 (D) Individual's age, type of
- 8 disability/disabilities, and sex.
- 9 (E) Responsible regional center.
- 10 (F) The reason for admission.
- 11 (G) The legal status of the resident.
- 12 (H) Whether or not the individual previously
- 13 resided in an SDC, and the date of discharge.
- 14 The information shall be limited to
- 15 individuals placed during the term of this
- 16 agreement.

13 (e) Net Reduction: In order to monitor the net
14 reduction and community placement of SDC residents pursuant to
15 Part III. A. 1. of this agreement, the Department shall include
16 the following in each quarterly report:

- 17 (A) Total number in the population census at each
- 18 SDC including individuals residing in state-
- 19 owned community residence(s) on SDC property
- 20 by regional center.
- 21 (B) Number of community placements made from each
- 22 SDC.
- 23 (C) Number of admissions at each SDC.
- 24 (D) Number of deaths at each SDC.
- 25 (E) Number of transfers between SDCs and the
- 26 location of the sending and receiving SDCs.
- 27 (F) Number of placements by responsible regional
- center at the time of placement.

26 (f) Community Target Group: In order to monitor the
27 number of members in the community target group and community

1 placements pursuant to Part III. A. 2. of this agreement,
2 defendants shall include the following in each quarterly report
3 by each defendant regional center.

4 (A) Total number of consumers who are members of
5 the community target group.

6 (B) Number of community target group members
7 placed into community living arrangements
8 pursuant to their IPPs.

9 (C) Number of community target group members
10 removed from the community target group for
11 reasons other than placement.

12 (g) Availability of Flexible Living Options:

13 Defendants shall include the following in each quarterly report
14 regarding progress made under Part III. D. of this agreement.

15 (1) In order to monitor the provision of
16 supported living services on a statewide basis, pursuant to Parts
17 III. D. 1. (c) and (d) of the agreement, defendants shall include
18 in/with the quarterly report the following data regarding
19 supported living from each regional center catchment area.

20 (A) Number of persons served by SDCs and the four
21 defendant regional centers whose assessments
22 and IPPs reflect the need for supported
23 living services by SDC and regional center.

24 (B) Number of persons requesting supported living
25 services under CSLA by regional center.

26 (C) Number of persons receiving services
27 purchased by the regional centers through the
CSLA program by regional center.

(D) Number of persons who are not participants in
the CSLA program, by regional center,
receiving vendored supported living services
and the aggregate cost data for these
services as defined in the Department's
supported living regulations.

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1 (E) Number of vendored supported living agencies,
2 including names and locations of such
agencies.

3 (2) In order to monitor the provision for
4 providing services for children pursuant to Part III. D. 2. (f)
5 of this agreement, the Department shall include in/with the
6 quarterly report the following data.

7 (A) Number of persons served by SDCs whose
8 assessments and IPPs reflect the need for
9 foster agency services or residential
services to children with specialized health
care needs by SDC and regional center.

10 (B) For the defendant regional centers, number of
11 children receiving such services purchased by
defendant regional centers.

12 (C) For the defendant regional centers, number,
13 names, and locations of foster family
agencies and number and locations, by
14 regional center catchment area, of homes
providing specialized health care services to
children pursuant to AB 760.

15 (D) On a statewide basis, number, names, and
16 locations of foster family agencies and
17 number and locations, by regional center
catchment area, of homes providing
18 specialized health care services to children
pursuant to AB 760 for all homes receiving
19 start-up funds through the PDF or CPP.

20 (3) In order to monitor Part III. D. 5. regarding the
21 provision of financial technical assistance by the Department of
22 Developmental Services, the Department shall include in the
23 quarterly report the following data.

24 (A) Number of requests for technical assistance.

25 (B) Who asked for assistance, whether provider,
26 consumer, or family member.

27 (C) Type of assistance given.

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1 (D) Subject areas of technical assistance given.

2 (h) Crisis Intervention and Emergency Services:

3 Defendants shall include the following in each quarterly report
4 regarding progress made under Part III. E. of the agreement.

5 (1) In order to monitor the implementation of
6 emergency and crisis intervention services by defendant regional
7 centers pursuant to the plans set forth in Part III. E. 2. (b),
8 defendants shall include in/with the quarterly report from each
9 defendant regional center, a status update on implementation of
10 the defendant regional center proposals approved by the
11 Department, including, at a minimum, the number and locations of
12 crisis intervention teams; number and location of crisis facility
13 beds; a description of the after-hours response system and any
14 other crisis/emergency services developed. In addition, the
15 defendant regional centers shall submit a copy of any report
16 required pursuant to Part III. E. 2. (b) (9).

17 (2) In order to monitor the implementation of
18 emergency crisis services by nondefendant regional centers, the
19 Department shall make a good faith effort to obtain the
20 information from the nondefendant regional centers pursuant to
21 the plans set forth in Part III. E. 2. (b) or (d). To the extent
22 the Department obtains this information from the nondefendant
23 regional centers, the Department shall include it in/with the
24 quarterly report.

25 (i) Quality Assurance: In order to monitor the
26 effectiveness of the quality assurance system developed pursuant
27 to Part III. G. of the agreement, upon adoption and

1 implementation of the quality assurance system, defendants shall
2 include in the quarterly reports by regional center a status
3 report on the progress of implementing the quality assurance
4 standards and protocols of the adopted quality assurance system,
5 including, but not limited to, the number of facilities/programs
6 monitored or evaluated and the number of trainings completed for
7 providers, consumers, and quality assurance reviewers.

8 (j) Financial Information: At the time the Governor
9 submits the annual Budget and upon public release of the May
10 revision to that budget, the Department will provide the
11 estimated actual expenditures for the current budget year and the
12 projected expenditures for the budget year committed by the
13 Department for the purpose of complying with the terms and
14 conditions of this agreement. The Department shall separate from
15 the totals the estimated actual and projected expenditures for
16 enhanced case management, for emergency and crisis intervention
17 services, for community target group placements, and for the
18 specified reduction of the SDC population. The Department will
19 also provide the estimated actual amount of FFP received for the
20 waivers during the current budget year and the projected amount
21 of such FFP the Department expects to receive for the remainder
22 of the current budget year and to receive for the next budget
23 year.

24 (k) Notice: In order to monitor the notice provisions
25 set forth in Part IV. D. 4. of this agreement, defendants will
26 provide, in each quarterly report, the number of persons from
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1 each SDC and defendant regional center who have received the
2 notice set forth in Attachment A.

3 (1) Follow-up Meetings: Within one month after
4 submission of each quarterly report by defendants, plaintiffs'
5 counsel, upon written request, may meet with persons designated
6 by the defendants who are familiar with the information contained
7 in the reports to discuss any questions or concerns raised by the
8 report. Plaintiffs' counsel may opt to conduct this meeting
9 face-to-face or by conference call.

10 3. Named Plaintiffs

11 For all named plaintiffs who require an IDT meeting
12 pursuant to Part III. A. 3. of this agreement, defendants shall
13 provide plaintiffs' counsel with a quarterly progress report on
14 each plaintiff until placement is complete. Six (6) months after
15 placement, defendants shall provide plaintiffs' counsel with a
16 final progress report.

17 4. Random Sample of Assessments

18 Defendants shall send to plaintiffs' counsel a random
19 sample of IPPs prepared during the first year after the
20 assessment/planning procedures set forth in Part III. B. are in
21 place. Such sample shall consist of ten percent (10%) of all
22 completed IPPs which recommend community placement, to be
23 distributed proportionally among each SDC and each defendant
24 regional center. Such IPPs shall have the names expunged
25 provided that there is a UCI number or alternative method of
26 identifying the class member. Thereafter, additional annual
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1 random sampling of IPP documents shall only be provided if
2 plaintiffs' counsel so requests.

3 **5. Death and Special Incident Reports**

4 Throughout the term of this agreement, plaintiffs'
5 counsel shall have access and be provided copies upon request to
6 all special incident reports received by the Department involving
7 death from other than natural causes or serious bodily injury in
8 which there are allegations of abuse or neglect of class members
9 who have been placed pursuant to this agreement. Such reports
10 shall have the names expunged so long as the document contains a
11 UCI number or other method of identifying the class member if
12 plaintiffs' counsel so requests.

13 **6. Other Reporting Requirements**

14 In addition to the documents specified in this
15 agreement, the Department shall provide the plaintiffs' counsel,
16 upon request, with copies of all Community Placement Plan (CPP)
17 and Program Development Fund (PDF) instructions, CPP development
18 proposals and PDF proposals for residential services, approved
19 proposals, modifications to approved proposals, allocations for
20 start-up, charts or reports regarding success in starting new
21 programs and roll-overs to subsequent years, the minutes of each
22 Regional Resource Development Project's steering committee
23 meetings or substantially similar documents. Under no
24 circumstances shall documents which are confidential, privileged
25 or otherwise protected from disclosure, be provided to
26 plaintiffs' counsel pursuant to such a request.

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IV.

**DISMISSAL, CLASS CERTIFICATION,
APPROVAL OF SETTLEMENT, NOTICE TO
CLASS AND CONDITIONS OF SETTLEMENT**

This action shall be settled as follows:

A. DISMISSAL OF PARTIES AND CAUSES OF ACTION

1. The State of California shall be dismissed as a party, with prejudice.

2. The Department of Finance shall be dismissed as a party, without prejudice. If any party alleges that the Department of Finance is the cause of any noncompliance or violation of the terms of the Judgment, the Department of Finance may, pursuant to an ex parte application for an order to show cause, be made a party to any motion for judicial relief.

3. The allegations contained in the first, third, fourth, fifth, and sixth causes of action in plaintiffs' complaint for declaratory and injunctive relief and petition for writ of mandate shall be fully compromised and settled pursuant to this settlement agreement and final Judgment.

4. The allegations contained in plaintiffs' second cause of action shall be dismissed without prejudice.

B. CERTIFICATION OF CLASS

1. The plaintiff class (hereinafter "Class") is defined as those SDC residents identified in Part III. A. 1. (c) and (e), those community consumers, who absent RRDP intervention, would have been admitted to an SDC identified in Part III. A. 1. (b) (2), those community target group members of the defendant

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1 regional centers identified in Part III. A. 2. (c) (1) and (2)
2 and the individual named plaintiffs.

3 2. The Class shall be certified pursuant to the
4 procedures described in Rule 23(b)(2) of the Federal Rules of
5 Civil Procedure. (Vasquez v. Superior Court (1971) 4 Cal.3d 800;
6 Southern California Edison Co. v. Superior Court (1972) 7 Cal.3d.
7 832).

8 **C. APPROVAL OF SETTLEMENT AND ENTRY OF JUDGMENT**

9 1. All parties agree to the following settlement
10 procedure:

11 (a) to seek via ex parte application, preliminary
12 approval of the settlement, the settlement class and approval of
13 the Notice of Proposed Settlement (Attachment C) and the method
14 of distribution;

15 (b) to request a hearing to obtain certification of
16 the class and court approval of the settlement and to distribute
17 the Notice of Proposed Settlement as required by the court;

18 (c) to submit briefs and supporting documents to the
19 court, as necessary, in good faith to persuade the court that the
20 settlement is fair, reasonable and adequate, and should be
21 approved and binding and enforceable upon the parties;

22 (d) to request a Judgment approving the settlement and
23 making the terms and conditions of the settlement binding and
24 enforceable upon all parties, certifying the class and approving
25 the Notice of Approved Settlement and Judgment (Attachment A) to
26 be given to class members.

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1 D. FORM AND METHOD OF NOTICE

2 1. The Notice of Proposed Settlement shall be in the
3 form set forth in Attachment C or as required by the court. The
4 Notice of Approved Settlement and Judgment shall be in the form
5 set forth in Attachment A or as required by the court. The
6 notices shall describe the settlement in summary form and specify
7 the locations where copies of the settlement agreement will be
8 made available for review. The actual cost of copying such
9 notice not to exceed 10 cents per page and postage shall be
10 shared equally by the plaintiffs, the Department and the
11 defendant regional centers.

12 2. Notice of Proposed Settlement shall be given after
13 ex parte court approval of the form of notice and prior to class
14 certification and approval of the settlement, as the court may
15 direct.

16 3. Notice of Approved Settlement and Judgment shall be
17 given after class certification, approval of the settlement and
18 approval of the form of notice by the court and entry of final
19 Judgment, as the court may direct.

20 4. Initially those persons to whom Notice of Approved
21 Settlement and Judgment shall be given by first class mail
22 include the individual named plaintiffs, all SDC residents
23 identified in Part III. A. 1. (c) and all community target group
24 members of the defendant regional centers identified in Part III.
25 A. 2. (c). Subsequent notice to the those SDC residents
26 identified in Part III. A. 1. (e), those community target group
27 members of the defendant regional center identified in Part III.

1 A. 2. (d), and community consumers of all regional centers
2 identified in Part III. A. 1. (b) (2), who, absent RRDP
3 intervention, would have been admitted to a SDC shall be given by
4 personal delivery or by first class mail. Defendants shall
5 maintain a list of SDC residents and community target group
6 members to whom notice has been given.

7 **E. CONDITIONS OF SETTLEMENT**

8 1. The court must certify the class and approve notice
9 of class certification and settlement and enter Judgment
10 approving the settlement and ordering its terms and conditions
11 binding and enforceable upon all parties.

12 2. The Judgment shall constitute a complete settlement
13 of any and all claims based upon the conduct complained of in the
14 first, third, fourth, fifth and sixth causes of action and the
15 individual named plaintiffs', organizational plaintiffs' and
16 class members, including those not benefitted by the settlement
17 are barred and enjoined from filing a lawsuit asserting any
18 allegations covered by or encompassed within those causes of
19 actions during the five (5) fiscal year term of this agreement.
20 However, individuals or class members may request an
21 administrative fair hearing pursuant to section 4710 et seq. and
22 an associated writ pursuant to Code of Civil Procedure section
23 1094.5 during the term of this agreement, for consumer-specific
24 disputes where an applicant or recipient is dissatisfied with a
25 decision or action of the service agency. The Judgment can
26 neither be enforced in nor used as a defense at a fair hearing or
27 associated writ proceeding.

1 3. Nothing in the Judgment as entered shall affect the
2 rights of individual named plaintiffs, organizational plaintiffs
3 or class members with respect to any claims which arise or
4 continue after the period of the Judgment, or affect their right
5 to bring any action to enforce such claims once this Judgment is
6 no longer enforceable for whatever reason.

7 4. This agreement constitutes the entire agreement
8 between the plaintiffs and the Department, the defendant regional
9 centers and the Department of Finance and embodies the entire
10 terms and conditions of the settlement agreement. This is an
11 integrated agreement. Any prior or contemporaneous oral
12 representations concerning the agreement shall be of no force or
13 effect. This agreement supersedes any prior documents provided
14 by or signed by the parties in the course of resolving this
15 action. All words, phrases, sentences, and paragraphs, are
16 material to the execution of this agreement. It is expressly
17 agreed and understood that this agreement shall not be altered,
18 amended, modified, or otherwise changed in any respect
19 whatsoever, except pursuant to Part VI., of this agreement. The
20 Department and defendant regional centers may enter into a
21 separate agreement(s) consistent with terms of this settlement
22 agreement and for the purpose of implementing its terms and
23 conditions.

24 5. The parties agree that the Judgment, once approved
25 by the court, shall be binding and enforceable upon the parties
26 until the end of the 1997-1998 fiscal year (June 30, 1998). No
27 defendant is obligated thereafter to perform any further act

1 under the Judgment, with the exception of the final monitoring
2 reports, unless the court expressly finds pursuant to the
3 procedures set forth in Part XII. that an order is necessary to
4 remedy a failure by a defendant to comply with the Judgment
5 during the period set forth above.

6 6. The parties agree that this agreement is the
7 product of mutual negotiation and preparation and, accordingly,
8 this agreement shall not be deemed to have been prepared or
9 drafted by a particular party. The parties further agree that
10 any court seeking to interpret this agreement should construe it
11 as the product of mutual negotiation and preparation.

7. If this agreement is disapproved by the court or if it is not consummated for any reason whatever, including the court's failure to enter specified orders or judgments, then this agreement is terminated and shall have no further force and effect, and it and all negotiations and proceedings connected therewith shall be without prejudice to the rights of any party and shall not be used in any subsequent proceeding in any of these actions or in any other action or proceeding. Defendants retain the right to object to the maintenance of the action as a class action. Plaintiffs retain the right to amend the complaint, including adding other causes of action.

V.

INTERVENING CHANGES IN FACT AND/OR LAW

25 (a) The parties acknowledge that intervening changes
26 in fact and/or law, including the Lanterman Act, the entitlement
27 as construed under ARC v. DDS, and other applicable statute or

1 decisional law or the Budget Act, may occur following court
2 approval of this settlement agreement. If any party believes
3 that an intervening change in fact and/or law materially affects
4 defendants' performance of their obligations and responsibilities
5 under the Judgment, the party may move the court to modify or
6 vacate the Judgment on the grounds that it is no longer just and
7 equitable in relation to that party. The party seeking
8 modification bears the burden of establishing that a material
9 change in law or fact warrants revision of the Judgment and must
10 carry the burden of establishing that the proposed modification
11 is tailored to the change in law or fact.

12 VI.

13 MODIFICATION

14 (a) If any party requests modification of the
15 Judgment, including requests based on material changes in the law
16 or factual circumstances as discussed in Part V. above, such
17 party shall notify the remaining parties' counsel in writing.
18 The notice shall specify: (1) the circumstances which warrant
19 the proposed modification(s); (2) reference to the specific terms
20 of the Judgment for which modification(s) are proposed; (3)
21 proposed language, if appropriate; and (4) the reasons
22 modification is needed and how the proposed modification(s) will
23 remedy the problem. Said request shall propose dates for a meet
24 and confer session.

25 (b) Within thirty (30) days from receipt of the notice
26 of request for modification, opposing counsel shall provide the
27 requestee with a written response which addresses each proposed

1 modification, whether the modification will be accepted or
2 rejected and the reasons for the decision, and acceptable
3 alternative provisions.

4 (c) Within fifteen (15) days following receipt of the
5 response, the parties shall meet to discuss resolution of the
6 proposed modification of the Judgment.

7 (d) If the parties are unable to reach resolution the
8 party seeking modification may invoke the nonbinding mediation
9 process specified in Part VIII. or may move in court to modify or
10 vacate the Judgment.

11 VII.

12 NONCOMPLIANCE OR VIOLATION OF THE JUDGMENT

13 (a) If any party believes that another party has
14 failed to comply with any term of the Judgment or violated a term
15 of the Judgment, including alleged violations by the Department
16 in making determinations under the Judgment, such party shall
17 notify the remaining parties' counsel in writing. The notice
18 shall specify the term(s) of the Judgment the party allegedly has
19 failed to comply with or violated and the reason(s) for the
20 allegation. Such notification shall propose dates for a meet and
21 confer session.

22 (b) Within fifteen (15) days from receipt of the
23 notice opposing counsel shall provide counsel for the party
24 alleging noncompliance or violation of the terms of the Judgment
25 with a written response. The response shall specify whether the
26 party agrees or disagrees with the allegation, the basis for
27 agreement or disagreement and, when appropriate, the steps the

1 party proposes to take to remedy the alleged noncompliance or
2 violation.

3 (c) Within ten (10) days following receipt of the
4 response, the parties shall meet to discuss resolution of the
5 alleged noncompliance or violation.

6 (d) If the parties are unable to reach resolution, the
7 party alleging noncompliance or violation may invoke the
8 nonbinding mediation process specified in Part VIII. in an
9 attempt to resolve the dispute, or may seek appropriate judicial
10 relief.

11 (e) Consumer-specific disputes where an applicant or
12 recipient is dissatisfied with a decision or action of the
13 service agency shall be resolved pursuant to the fair hearing
14 procedures set forth in Welfare and Institutions Code, section
15 4700, et seq., and not pursuant to the process in this Part VII.
16 or the mediation process specified in Part VIII. below.

17 VIII.

18 MEDIATION

19 (a) Mediation shall be conducted by either a person
20 mutually agreed to by the parties or, in the absence of such an
21 agreement, a three-member panel. The panel shall consist of one
22 person selected by plaintiffs, one person selected by defendants,
23 and one person selected by mutual agreement of the other two
24 persons. The plaintiffs, the Department and the regional center
25 defendants shall share all the costs of mediation equally.
26 Neither the plaintiffs, the Department or the regional center
27 defendants shall be required to contribute more than \$4,500 per

1 year to the costs of mediation; however, by agreement, the
2 parties may decide to expend a greater amount on mediation in a
3 particular year.

4 (b) The mediator or, if necessary, the mediation panel
5 shall be selected within sixty (60) days of court approval of
6 this settlement agreement. Should vacancies occur, the
7 position(s) shall be filled pursuant to paragraph (a) above,
8 within sixty (60) days of notice to the parties that the position
9 is being vacated.

10 (c) The mediator or mediation panel shall set the
11 date, time, and location of the mediation following consultation
12 with the parties. For disputes involving time frames and dates
13 for performance, the mediation shall commence within fifteen (15)
14 days of the request for mediation. For all other disputes, the
15 mediation shall commence within thirty (30) days of the request
16 for mediation.

17 (d) Each party shall provide to the mediator those
18 documents, if any, which that party deems necessary to its
19 position in mediating the dispute at issue. If documents are
20 provided to the mediator, they shall also be provided
21 concurrently to the other parties, except for those documents
22 submitted to the mediator in confidence. Upon agreement of the
23 parties the exchange of documents may be done in advance of the
24 mediation. The mediator(s) shall take all necessary steps to
25 prevent disclosure of confidential information to
26 persons/agencies who are not parties to this agreement.

27 (e) Any party may be represented by counsel.

1 plaintiffs are the prevailing party. Work performed specifically
2 relating to the court action only includes work directly related
3 to the enforcement action and shall not include monitoring
4 activities specified in this agreement and work performed during
5 the dispute resolution process.

6 X.

7 **ADHERENCE TO TIME FRAMES AND DATES**

8 The parties shall make good faith efforts to adhere to
9 the time frames and/or dates specified in the Judgment. If at
10 any time any defendant believes it will be unable to meet a time
11 frame or date, that defendant shall immediately notify the other
12 parties in writing, specifying the reasons for its noncompliance
13 and its proposed new time frame and/or date for performance.
14 Time frames and dates which cannot be met due to circumstances
15 beyond the reasonable control of the defendants shall be adjusted
16 accordingly to reflect the next date upon which compliance can be
17 expected. If the new time frame and/or date is acceptable to the
18 other parties, it shall become the new time frame and/or date for
19 that defendant's performance without formal modification of the
20 Judgment pursuant to Part VI. Such acceptance shall be deemed a
21 modification and shall be signed by counsel for each party. If
22 the new time frame and/or date is unacceptable to any of the
23 other parties, the parties seeking the change may invoke the
24 mediation process pursuant to Part VIII. of this agreement.

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XI.

FUNDING TO IMPLEMENT JUDGMENT

The Department will seek the funding necessary to implement the terms of the Judgment, up to the amounts specified in Part II. herein, and will make a good faith effort to secure said funding through the Budget Act.

XII.

NOTIFICATION OF COMPLIANCE

Once defendants have determined that they have fully complied with the terms and conditions of the Judgment, they shall notify plaintiffs' counsel and the court, in writing, of this determination. Plaintiffs' counsel will have sixty (60) days from receipt of the notice in which to file their written opposition, if any, with the court and serve defendants. Plaintiffs' written opposition shall specify with particularity, how defendants have failed to comply with the terms of the Judgment or how they have violated the terms of the Judgment. If no written opposition is filed within the time specified, the court shall issue an order stating that the defendants are discharged from their responsibilities pursuant to the Judgment. If written opposition is filed, the parties shall first attempt to resolve their disagreement through the dispute resolution process set forth in Part VII. If unsuccessful, the matter shall be set for a court hearing. The issue at the hearing shall be whether the defendant or defendants specified in the written opposition failed to comply with or violated the terms and conditions of the Judgment and the court may order defendants to

1 comply with those portions of the Judgment which have not been
2 complied with or to remedy violation of the Judgment; provided
3 that defendants shall not be obligated to perform any duties or
4 responsibilities contained in the Judgment which the court
5 determines are impossible to perform. Any aggrieved party may
6 appeal the decision of the court.

7 XIII.

8 EXECUTION IN COUNTERPARTS

9 This agreement may be executed in one or more
10 counterparts, each of which shall be deemed an original, and of
11 which taken together shall constitute one and the same
12 instrument, binding all parties hereto, notwithstanding that all
13 parties are signatories to the original or same counterpart.

14 Respectfully Submitted,

15
16 Dated: _____

Department of Developmental Services
of the State of California

17
18
19 Date: _____

Dennis G. Amundson, Director
Department of Developmental Services
of the State of California

20
21
22
23 Dated: _____

Department of Finance
of the State of California

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NOTICE OF APPROVED SETTLEMENT AND JUDGMENT
IN COFFELT V. DDS

You are a member of the class of people eligible to be benefitted by the settlement in the class action lawsuit, Coffelt, et al. v. DDS, et al. The settlement in this case requires the Department of Developmental Services (the Department) and the four defendant regional centers -- North Bay Regional Center, Golden Gate Regional Center, Regional Center of the East Bay and San Andreas Regional Center -- over the five fiscal years from July, 1993 to June, 1998, to provide community living arrangements for a specific number of class members and to take other actions which will improve the delivery of quality, stable, integrated community living options statewide. Although only the four defendant regional centers are bound by this settlement, the Department will make good faith efforts to obtain the participation of the remaining regional centers. The defendants' obligation to perform under this settlement agreement and judgment is contingent upon the Department obtaining a significant increase in the amount of federal funds the state receives for developmental disability services. The Department is only obligated to commit funds to carry out the terms of the agreement up to a set annual amount.

A. Who is a Class Member?

You are a State Developmental Center (SDC) class member eligible for benefits if you either:

- 1) Are an SDC resident whose IPP/IHP recommends placement in a community living arrangement; or
- 2) Reside in the community and absent Regional Resource Development Project (RRDP) intervention and the provision of services or supports you would be admitted to an SDC.

You are a community class member of the four defendant regional centers (called the community target group) eligible for benefits if you have requested an alternative living arrangement; have one of the following characteristics:

- (a) Very physically involved (e.g., cannot transfer unassisted)
- (b) Medically fragile adult or child
- (c) Nonambulatory with behavior challenges
- (d) Brain-injured with physical and/or behavioral management issues
- (e) Severe behavioral challenges (e.g., pica)
- (f) History of sex offenses
- (g) Serious behavioral challenges but seemingly capable of functioning independently
- (h) Present an elopement risk
- (i) Dually diagnosed; and

after a 30-day search by your regional center, an appropriate community living arrangement has not been identified.

B. Who is Entitled to Placement?

- 1) Over the five fiscal year term of the settlement, the Department will reduce the SDC population by 2000 residents by developing or obtaining community living arrangements for individuals who should be appropriately served in the community and by preventing other

individuals from being inappropriately admitted to SDCs through provision of services in the community.

2) Over the five fiscal years, the defendant regional centers will develop or obtain alternative community living arrangements for 300 community target group members.

3) Both the net reduction of 2000 SDC residents and the placements of 300 community target group members will be phased in over the five years according to specified milestones.

4) The number of SDC residents and/or community target group members eligible for placement under this agreement may be greater than the number of placements defendants are required to make, therefore, some persons may not be placed in the year they are first identified for placement or within five years. Persons eligible for placement will not be excluded based solely on the severity or nature of their disability.

C. The Rights of Class Members.

1) Assessment/Placement Planning Process -- The Department will, with the assistance of a work group, develop assessment/placement planning materials which will be used to assess all SDC residents, consumers in the defendant regional center areas who request alternative community placements and persons who receive RRDP services to avoid placement in an SDC. Once they are developed and implemented, the assessment/placement planning materials will be used as part of the IPP/IHP process to determine who is appropriate for placement and to identify those services and supports needed and preferred by the consumer to live in an appropriate community living arrangement.

2) Placement Parameters -- All placements made under this agreement will be in the least restrictive environment appropriate to meet consumers' needs as specified in their IPP/IHP, enable consumers to achieve the most independent, productive, and normal lives possible and will ensure the consumers' rights under the Lanterman Act.

3) Fair Hearings -- Class members who are eligible for placement, including those who do not get a placement at a specific time or at any time during the five years, are barred from filing a lawsuit on the issues settled in Coffelt during the five-year term of this agreement. However, a class member may, during the term of the agreement, request an administrative fair hearing pursuant to Welf. & Inst. Code § 4710, et seq., and appeal from an adverse hearing decision pursuant to CCP §1094.5 to resolve individual disputes where he/she is dissatisfied with a decision or action of the SDC or regional center. The settlement agreement can neither be enforced in nor used as a defense at a fair hearing or associated writ proceeding.

4) Quality Assurance -- Class members' satisfaction with the placement, services or supports they receive under this agreement and the quality of the community living arrangements into which class members move will be monitored by the Department, with the involvement of an independent consultant, through a random sample process.

D. Additional Case Management Personnel Will be Funded For Regional Centers.

All regional centers will have the opportunity to submit proposals to the Department for funding of additional case management staff needed to enhance community services. Up to an annual maximum amount, the Department will fund proposals that achieve the purposes of the settlement.

E. The Department and Regional Centers Will Undertake Actions to Achieve the Goal of Increasing the Variety of Living Options in the Community From Which Consumers Can Choose.

- 1) Supported Living -- By July 1, 1994, the defendant regional centers will take all actions necessary to develop or obtain resources to provide supported living to consumers for whom it is the preferred IPP objective. The Department will make good faith efforts to obtain agreement by July 1, 1994, with non-defendant regional centers to provide supported living by July 1, 1995, to consumers for whom it is the preferred IPP objective. The Department will make good faith efforts to seek prompt adoption of regulations promoting supported living.
- 2) Options for Children -- Defendant Regional Centers will by July 1, 1994 take all actions necessary to develop or obtain resources to provide services for children through foster family agencies and small family homes for children with specialized health care needs when they are the preferred IPP objective. The Department will make good faith efforts to obtain agreement by July 1, 1994, with the non-defendant regional centers to provide by July 1, 1995, the above services for children. The Department will make good faith efforts to establish, through regulations, a new Alternative Residential Model (ARM) level for children and will apply for federal waivers to allow technology-dependent children to be supported by Medi-Cal in the family home regardless of parental income.
- 3) Increasing the Flexibility of Community Living Arrangements -- The Department will develop flexible staffing standards for ARM Level 4 facilities and will inform the regional centers that they may purchase supplemental services for consumers residing in residential settings in order to prevent their placement into more restrictive living arrangements.
- 4) Training -- The Department will conduct annual regionalized trainings for consumers, family members, regional center and SDC staff on the various community living options. The Department will provide semi-annual trainings for providers on how to develop new living options including supported living. The Department will identify and provide training and technical assistance on financing options that are available to providers and consumers for the acquisition of residential facilities or living arrangements.
- 5) Start-Up Funds for Community Living Arrangements -- The Department will make good faith efforts to obtain adequate start-up funds for the new community living arrangements necessary to implement this agreement.
- 6) Governmental Barriers -- The Department will establish a work group to assist in identifying and resolving governmental barriers to community development.
- 7) Federal Waivers -- The Department will apply for and administer several waivers to obtain federal funds for community living arrangements, including supported living and the ability for technology- dependant children to be supported in their family homes.

F. Emergency and Crisis Intervention Services and Supports will be Developed.

The Department will fund, up to an annual maximum amount, Regional Center proposals for an emergency and crisis services system including an after-hours response capacity, crisis intervention teams, and emergency housing.

G. Updated Quality Assurance Standards and Procedures for Community Residential Services Will be Adopted and Implemented Statewide.

The Quality Assurance system will include outcome and value based standards, such as assessment of consumer and family satisfaction and quality of life indicators, and program quality enhancement as well as procedures which address corrective actions and sanctions. The new components of the Quality Assurance system will incorporate and supplement, but not duplicate, systems already in place. An Advisory Group will be established by the Department to assist in developing the standards and procedures. The Quality Assurance system will become effective upon adoption, however, complete enforcement will require adoption of the system in regulations.

H. Plaintiff's Counsel Will Monitor Progress Under the Settlement Agreement.

Plaintiffs' counsel will receive quarterly reports and statistics from the defendants demonstrating progress under each provision of the agreement. The Department will provide to plaintiffs' counsel, with names deleted requests for fair hearings and fair hearing decisions of class members related to community placement.

I. Information Regarding the Settlement may be Obtained by Contacting Attorneys for the Plaintiffs and Class Members.

Protection and Advocacy, Inc.
1330 Broadway, Suite 1250
Oakland, CA 94612
(800) 776-5746

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NOTICE OF POTENTIAL COFFELT COMMUNITY TARGET GROUP MEMBERSHIP

You have requested an alternative living arrangement and, after searching for 30 days, your regional center has been unable to identify an appropriate living arrangement available within the time frame specified by your Interdisciplinary Team. Therefore, you may be a member of the class of people eligible to be benefitted by the settlement and judgment in the class action lawsuit, Coffelt et al. v. DDS et al. However, your regional center has determined that you are not a class member because you do not have one or more of the following characteristics:

- (a) Very physically involved (e.g., cannot transfer unassisted);
- (b) Medically fragile adult or child;
- (c) Nonambulatory with behavior challenges;
- (d) Brain-injured with physical and/or behavioral management issues;
- (e) Severe behavioral challenges (e.g., pica);
- (f) History of sex offenses;
- (g) Serious behavioral challenges but seemingly capable of functioning independently;
- (h) Present an elopement risk;
- (i) Dually diagnosed.

If you disagree with the regional center's determination that you do not have one or more of the above characteristics and you think you should be included in the Coffelt class, **you must request a fair hearing by completing the attached hearing request form and returning it to the regional center within 30 days of receiving this notice.** (The regional center must assist you in filling out the hearing request form if you ask for assistance.) After the regional center receives the completed form you will be provided with further notice of your fair hearing rights and information on the hearing procedures.

Who is Entitled to Placement?

The Coffelt settlement applies to consumers who are residents of state developmental centers and to consumers, like you, who currently reside in the community (referred to as "community target group" members). Community target group members are persons who have requested an alternative community living arrangement, but for whom the regional center has been unable to identify an appropriate placement. To be eligible as a community target group member, a consumer must also have one or more of the above characteristics.

Under the agreement, over five fiscal years (July 1, 1993 to June 30, 1998), the four defendant regional centers (North Bay Regional Center, Golden Gate Regional Center, Regional Center of the East Bay, and Golden Gate Regional Center) must develop or obtain alternative community living arrangements for 300 eligible community target group members. The number of community target group members eligible for placement under the settlement may be greater than the number of placements defendants are required to make. Therefore, some persons may not be placed in the year they are first identified for placement, or within five years.

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Because the Coffelt settlement is quite lengthy and complex, it is not possible to give a complete overview here. The following is intended only as a general summary of some of the other major provisions of the agreement:

Rights of Community Class Members Under the Settlement

- Assessment/placement planning materials will be developed to determine who is appropriate for placement and to identify those services and supports needed and preferred by the consumer to live in an appropriate community living arrangement.
- Placements will be made in the least restrictive environment appropriate to meet consumers' needs as specified in their IPP, enable consumers to achieve the most independent, productive, and normal lives possible and will ensure consumers' rights under the Lanterman Act.
- Consumers may request administrative fair hearings (and seek judicial review of an adverse decision) to resolve individual disputes where the consumer is dissatisfied with a decision or action of a regional center. (However, eligible community target group members who do not get a placement may not file a lawsuit on the issues settled in Coffelt during the five years covered by the settlement.)
- Monitoring will be done through a random sampling process to evaluate satisfaction with the placement, services or supports received under the settlement and of the quality of the community living arrangements provided under the settlement.

Other Actions Required

Under the settlement, the Department and/or the defendant regional centers must also:

- Take actions which will improve the delivery of quality, stable, integrated living options in the community from which consumers can choose;
- Develop emergency and crisis services systems, including after-hours response capacity, crisis intervention teams and emergency housing;
- Update quality assurance standards and procedures for community residential services to be adopted and implemented statewide.

Further Information Regarding the Settlement may be Obtained by Contacting Attorneys for the Plaintiffs and Class Members:

Protection and Advocacy, Inc.
1330 Broadway, Suite 1250
Oakland, CA 94612
(800) 776-5746

**NOTICE OF COURT HEARING ON PROPOSED SETTLEMENT
IN THE COFFELT v. DDS CLASS ACTION**

If you are a resident of Agnews, Camarillo, Fairview, Lanterman, Porterville, Sonoma or Stockton Developmental Centers; or a consumer residing in the community receiving services through Golde, Gate, San Andreas, North Bay or East Bay regional centers; or the parent, guardian or conservator of such an individual, please read this notice carefully. You may be a member of the proposed class eligible to be benefitted by this lawsuit.

The parties have reached agreement on a proposed settlement of the COFFELT class action. The agreement is subject to approval by the Court. The intent of the settlement is to increase the availability of quality, stable, normalized, and integrated community living arrangements for consumers.

BRIEF SUMMARY OF PROVISIONS

■ Over the five fiscal years from July, 1993 to June, 1998, (1) reduce the population of the state developmental centers (SDCs) by 2,000 by developing or obtaining community living arrangements for individuals who, pursuant to their IHP/IPP, should appropriately be served in the community and by preventing other individuals from being inappropriately admitted to SDCs through the provision of services in the community; (2) develop or obtain appropriate alternative community living arrangements for 300 consumers currently living in the community (referred to as "community target group members") and (3) provide appropriate community living arrangements for the named plaintiffs.

■ Ensure the development and implementation of assessment/placement planning materials which will be used as part of the IPP/IHP process to determine who is appropriate for placement and to identify those services and supports needed and preferred by the consumer to live in an appropriate community living arrangement.

■ Provide funding for additional case management staff needed to enhance community services

■ Increase the availability of quality, stable, normalized, and integrated community living options statewide, including supported living and foster family options.

■ Ensure the development of emergency and crisis intervention services and supports.

■ Ensure the adoption and statewide implementation of updated quality assurance standards and procedures for community residential services.

Although only four defendant regional centers are bound by this settlement, the Department of Developmental Services will make good faith efforts to involve the remaining regional centers. The defendants' obligation to fully perform this settlement agreement is contingent upon the Department obtaining a significant increase in the amount of federal funds the State receives for developmental disability services. The Department is only obligated to commit funds to carry out the terms of the agreement up to a set annual amount.

COURT HEARING

On _____, 1993, at _____ p.m., in Dept. 8 of the Superior Court in San Francisco, CA, Room 418, at the City Hall, a hearing will be held to determine whether the settlement should be approved and judgment be entered.

ATTENDANCE AT THE HEARING

If you are satisfied with the settlement, it is *NOT* necessary to appear at the hearing or to take any other action at this time. However, any member of the class who objects to the proposed settlement agreement may appear at the hearing in person, or by counsel, and show cause why the settlement should not be approved as fair, adequate, and reasonable. If you are going to object, you must, by _____, 1993, at 4:00 p.m., have a statement of your objections filed with the Court and delivered by mail, or in person, to Ellen Goldblatt, Protection and Advocacy, Inc., 1330 Broadway, Suite 1250, Oakland, CA 94612; Beverley R. Meyers, Office of the Attorney General, 455 Golden Gate Avenue, Suite 6200, San Francisco, CA 94102-3658; and Bette Epstein, Crosby, Heafey, Roach & May, 1999 Harrison Street, Oakland, CA 94612.

AVAILABILITY OF THE PROPOSED SETTLEMENT AGREEMENT

A more detailed description of the agreement is attached to this Notice. If you want to review the entire proposed settlement document, it is available at the main administrative office of each SDC, at the main and satellite offices of each defendant regional center, and at the offices of Protection and Advocacy, Inc. in Glendale, Sacramento, and Oakland during normal business hours.

DESCRIPTION OF COFFELT v. DDS
CLASS ACTION LAWSUIT and PROPOSED SETTLEMENT AGREEMENT

BACKGROUND OF CASE

Plaintiffs, thirteen named developmentally disabled individuals as well as six nonprofit organizations advocating for the rights of the developmentally disabled, filed a class action lawsuit against the State of California, the Department of Developmental Services, the Director of the Department, the Department of Finance, and four regional centers (San Andreas, East Bay, North Bay, and Golden Gate) on February 1, 1990. Plaintiffs' action challenged defendants' implementation of the Lanterman Act and compliance with other laws. Plaintiffs alleged that defendants' policies, practices, and actions caused or resulted in a critical lack of stable, quality, integrated community residential living options for developmentally disabled persons in California. Plaintiffs further alleged that over 2,000 persons currently residing in state developmental centers are inappropriately placed pursuant to their IHP/IPPs and that other individuals currently residing in the community are being denied more appropriate and less restrictive community options based on their IPPs.

Although the defendants have denied all of plaintiffs' allegations and admit no wrongdoing, a settlement agreement has been reached by the parties. Plaintiffs and defendants have requested the Court to approve the settlement agreement.

CONTENTS OF PROPOSED SETTLEMENT AGREEMENT

The proposed settlement agreement requires the Department of Developmental Services (the Department) and the four defendant regional centers -- North Bay Regional Center, Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center -- over a five fiscal year term from July, 1993 to June 30, 1998, to provide community living arrangements for a specific number of class members and to take other actions which will improve the delivery of quality, stable, integrated community living options statewide. Although only the four defendant regional centers are bound by this settlement, the Department will make good faith efforts to obtain the participation of the remaining regional centers. The defendants' obligation to fully perform this settlement agreement is contingent upon the Department obtaining a significant increase in the amount of federal funds the state receives for developmental disability services.

A. Who is a Class Member?

You are a State Developmental Center (SDC) class member eligible for benefits if you either:

- 1) Are an SDC resident whose IPP/IHP recommends placement in a community living arrangement; or
- 2) Reside in the community and absent Regional Resource Development Project (RRD) intervention and the provision of services or supports you would be admitted to an SDC.

You are a community class member of the four defendant regional centers (called the community target group) eligible for benefits if you have requested an alternative living arrangement; have one of the following characteristics:

- (a) Very physically involved (e.g., cannot transfer unassisted)
- (b) Medically fragile adult or child
- (c) Nonambulatory with behavior challenges
- (d) Brain-injured with physical and/or behavioral management issues
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after a 30-day search by your regional center, an appropriate community living arrangement has not been identified.

B. Who is Entitled to Placement?

- 1) Over the five fiscal year term of the settlement, the Department will reduce the SDC population by 2000 residents by developing or obtaining community living arrangements for individuals who should be appropriately served in the community and by preventing other individuals from being inappropriately admitted to SDCs through provision of services in the community.

2) Over the five fiscal years, the defendant regional centers will develop or obtain community living arrangements for 300 community target group members.

3) Both the net reduction of 2000 SDC residents and the placements of 300 community group members will be phased in over the five years according to specified milestones.

4) The number of SDC residents and/or community target group members eligible for placement under this agreement may be greater than the number of placements defendants are required to make; therefore, some persons may not be placed in the year they are first identified for placement or within five years. Persons eligible for placement will not be excluded based solely on the severity or nature of the disability.

C. The Rights of Class Members.

1) Assessment/Placement Planning Process -- The Department will, with the assistance of a work group, develop assessment/placement planning materials which will be used to assess all SDC resident consumers in the defendant regional center areas who request alternative community placements and persons who receive RRDP services to avoid placement in an SDC. Once they are developed and implemented, the assessment/placement planning materials will be used as part of the IPP/IHP process to determine who is appropriate for placement and to identify those services and supports needed and preferred by the consumer to live in an appropriate community living arrangement.

2) Placement Parameters -- All placements made under this agreement will be in the least restrictive environment appropriate to meet consumers' needs as specified in their IPP/IHP, enable consumers to achieve the most independent, productive, and normal lives possible and will ensure the consumers' rights under the Lanterman Act.

3) Fair Hearings -- Class members who are eligible for placement, including those who do not get a placement at a specific time or at any time during the five years, are barred from filing a lawsuit on the issues settled in Coffelt during the five-year term of this agreement. However, a class member may, during the term of the agreement, request an administrative fair hearing pursuant to Welf. & Inst. Code § 4710, et seq., and appeal from an adverse hearing decision pursuant to CCP §1094.5 to resolve individual disputes where he/she is dissatisfied with a decision or action of the SDC or regional center. The settlement agreement can neither be enforced in nor used as a defense at a fair hearing or associated writ proceeding.

4) Quality Assurance -- Class members' satisfaction with the placement, services or supports they receive under this agreement and the quality of the community living arrangements into which class members move will be monitored by the Department, with the involvement of an independent consultant, through a random sample process.

D. Additional Case Management Personnel Will be Funded For Regional Centers.

All regional centers will have the opportunity to submit proposals to the Department for funding of additional case management staff needed to enhance community services. Up to an annual maximum amount, the Department will fund proposals that achieve the purposes of the settlement.

E. The Department and Regional Centers Will Undertake Actions to Achieve the Goal of Increasing the Variety of Living Options in the Community From Which Consumers Can Choose.

1) Supported Living -- By July 1, 1994, the defendant regional centers will take all actions necessary to develop or obtain resources to provide supported living to consumers for whom it is the preferred IPP objective. The Department will make good faith efforts to obtain agreement by July 1, 1994, with non-defendant regional centers to provide supported living by July 1, 1995, to consumers for whom it is the preferred IPP objective. The Department will make good faith efforts to seek prompt adoption of regulations promoting supported living.

2) Options for Children -- Defendant Regional Centers will by July 1, 1994 take all actions necessary to develop or obtain resources to provide services for children through foster family agencies and small family homes for children with specialized health care needs when they are the preferred IPP objective. The Department will make good faith efforts to obtain agreement by July 1, 1994, with the non-defendant regional centers to provide by July 1, 1995, the above services for children. The Department will make good faith efforts to establish, through regulations, a new Alternative Residential Model (ARM) level for children and will apply for federal waivers to allow technology-dependent children to be supported by Medi-Cal in the family home regardless of parental income.

3) **Increasing the Flexibility of Community Living Arrangements** -- The Department will develop staffing standards for ARM Level 4 facilities and will inform the regional centers that they may purchase supplemental services for consumers residing in residential settings in order to prevent their placement in more restrictive living arrangements.

4) **Training** -- The Department will conduct annual regionalized trainings for consumers, family members, regional center and SDC staff on the various community living options. The Department will provide semi-annual trainings for providers on how to develop new living options including supported living. The Department will identify and provide training and technical assistance on financing options that are available to providers and consumers for the acquisition of residential facilities or living arrangements.

5) **Start-Up Funds for Community Living Arrangements** -- The Department will make good faith effort to obtain adequate start-up funds for the new community living arrangements necessary to implement the agreement.

6) **Governmental Barriers** -- The Department will establish a work group to assist in identifying and resolving governmental barriers to community development.

7) **Federal Waivers** -- The Department will apply for and administer several waivers to obtain federal funds for community living arrangements, including supported living and the ability for technology-dependent children to be supported in their family homes.

F. Emergency and Crisis Intervention Services and Supports Will be Developed.

The Department will fund, up to an annual maximum amount, Regional Center proposals for emergency and crisis services system including an after-hours response capacity, crisis intervention team and emergency housing.

G. Updated Quality Assurance Standards and Procedures for Community Residential Services Will be Adopted and Implemented Statewide.

The Quality Assurance system will include outcome and value based standards, such as assessment of consumer and family satisfaction and quality of life indicators, and program quality enhancement as well as procedures which address corrective actions and sanctions. The new components of the Quality Assurance system will incorporate and supplement, but not duplicate, systems already in place. An Advisory Group will be established by the Department to assist in developing the standards and procedures. The Quality Assurance system will become effective upon adoption, however, complete enforcement will require adoption of the system in regulations.

H. Plaintiff's Counsel Will Monitor Progress Under the Settlement Agreement.

Plaintiffs' counsel will receive quarterly reports and statistics from the defendants demonstrating progress under each provision of the agreement. The Department will provide to plaintiffs' counsel names of deleted requests for fair hearings and fair hearing decisions of class members related to community placement.

CONSEQUENCES OF COURT APPROVAL

The settlement contemplates that upon Court approval of the written agreement, a class will be certified and judgment will be entered making the provisions of the agreement binding and enforceable for five years. The Second Cause of Action will be dismissed without prejudice, and the State of California and the Department of Finance will be dismissed as defendants in the lawsuit. During these five years, the defendants will take the actions necessary to meet their obligations under the agreement. Individual plaintiffs, organizational plaintiffs, and all class members, including those not receiving a community placement, are barred for the five years from filing a lawsuit on the allegations encompassed by the First, Third, Fourth, Fifth, and Sixth Causes of Action in the complaint. However, class members may, on consumer-specific disputes, request administrative fair hearings and appeal those decisions to court (see C.3 above). Upon successful completion by defendants of the terms of the agreement, the Court will issue an order stating that defendants are discharged from their responsibilities pursuant to the settlement agreement and judgment.