

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BRIAN CORDERO, et al., :
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 Plaintiffs, :
 :
 v. : C. A. No. 3:CV-91-0791
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 PENNSYLVANIA DEPARTMENT OF : (Judge Rambo)
 EDUCATION and the COMMONWEALTH :
 OF PENNSYLVANIA, :
 :
 Defendants. :

ORDER

AND NOW, this 27th day of January, 1993, after review of the parties' proposed remedies to correct Defendants' violations of law as found by the Court in its Memorandum and Order dated June 23, 1992, the Court hereby ORDERS the following:

A. PRINCIPLES

1. Defendants are required to remedy the violations found in the Court's June 23, 1992 Memorandum. There, the Court found that Defendants had failed to ensure the provision of a full continuum of appropriate placements for students with disabilities, such that a placement meeting all statutory and regulatory requirements can be located for any student within a prompt and reasonable time, regardless of what region of the state is their home. The overall outcome constituting a remedy in this case therefore includes a sufficient array of placement options, and adequate state-level oversight procedures, to ensure that appropriate placements are made promptly.

2. The remedial steps in this Order, and Defendants' actions in pursuing those steps, are to be guided by and interpreted in the light of the following general principles:

a. In light of the evidence regarding the lack of uniformity of resources across the Commonwealth, Defendants must examine both what can be done to replicate successful program and placement options more widely and what can be done to create new and innovative options.

b. In light of this lack of uniformity, there is a need for training and technical assistance to school district personnel and other service providers, especially in promising practices and state-of-the-art techniques for meeting the needs of children with disabilities. The provision of assistance should have, as one of its goals, a greater capacity of school districts such that some children who would otherwise be referred for placement in restrictive and usually private facilities may be able to remain in the public schools.

c. In light of the fact that relevant programs and resources are distributed among Commonwealth agencies, Defendants must pursue an interagency approach to the remedy in this case. For some children, an appropriate public education must include services and/or placements currently associated with systems such as the mental health, mental retardation, and Children and Youth systems that are operated and supervised at the Commonwealth level by the Department of Public Welfare; in these instances, moreover, such services or placements must be provided at no cost to the family.

d. The range of options afforded to the class must be sufficient to allow for the placement of each child in the least restrictive environment appropriate to that child's needs. These options must therefore be based on the community and family of the student so that, to the maximum extent possible, programs are designed to maintain and support students in their home community and family setting.

e. In light of Defendants' general practice of relying on school districts to ensure that individual students' rights are fulfilled, Defendants must either reduce that degree of reliance or establish a system of funding, technical assistance, and sanctions that will ensure that school districts, and ultimately Defendants, succeed in fulfilling those rights.

3. Nothing herein regarding the obligations of Defendants shall be construed to alter, limit, or condition the obligations of school districts under state or federal law.

4. By prior action of the court, the plaintiff class consists of all Pennsylvania children with disabilities whose school districts have determined that they cannot currently be appropriately educated in a public educational setting and who waited or have been waiting for more than 30 days for the provision of an appropriate educational placement. A child is included in the class if he or she met the above criteria at any time on or after the date of filing of this action (March 14, 1991), or meets the criteria at any future date.

5. The interagency approach referred to above is unlikely to succeed if the agencies involved dwell solely on technical distinctions among the types of, or legal labels for, the needs of the children in question. Defendants are therefore encouraged to apply the principles and terms of this order beyond their narrowest confines. However, for purposes of this order, the following definitions apply:

a. As used herein, "children," "students," "class" or the like shall refer to ~~members~~ of the plaintiff class, including persons who are at substantial risk of being included in plaintiff class if appropriate action is not taken. (Thus, for example, a duty articulated in this Order to report the names of class members includes a duty to report the names of all persons who are at substantial risk of being included in the plaintiff class if appropriate action is not taken.)

b. As used herein, "needs," "services," "programs," "placements" and the like shall refer to those needs that are to be addressed, and the services, programs, and placements to which members of the class are entitled, under federal and state laws relating to the education of individuals with disabilities.

c. As used herein, the phrase "least restrictive environment" and the like shall refer to the least restrictive (i.e. most integrated or normalized) placement setting in which a particular student's needs can be met, consistent with federal and state special education placement rules.

6. Defendants in this action include the Commonwealth of Pennsylvania. Accordingly, all relevant agencies of the Commonwealth, including the Department of Public Welfare (DPW), shall cooperate in ensuring that the requirements of this Order are carried out.

B DEFENDANTS' OVERALL OBLIGATIONS

Defendants shall:

1. Ensure that school districts or defendants themselves provide appropriate programs and placements in the least restrictive environment to those children who are currently known to be awaiting placement.

2. Identify, on an ongoing and statewide basis, all additional children who are experiencing placement delays, and ensure that such children are promptly provided with appropriate programs and placements in the least restrictive environment.

3. Determine, on an ongoing basis, which areas of the Commonwealth lack an adequate continuum of program and placement options, and the types of options that are lacking.

4. Enlarge the continuum of program and placement options in those areas in which it is found to be inadequate, in such a way as to ensure that children are placed in the least restrictive environment.

5. Utilize the expertise and resources of the Department of Public Welfare (DPW), as well as those of the Department of Education (PDE), in increasing program and placement options for children.

6. Provide compensatory education to named and class Plaintiffs.

In order to ensure that these objectives are accomplished, the Court further orders that Defendants take the actions set forth in the following sections.

C. IDENTIFICATION OF CLASS MEMBERS

Within 15 days of the date of this Order, Defendants shall implement a comprehensive system for identifying all children who are class members (including, as defined above, those who are at substantial risk of becoming class members). This system shall include at least the following minimum components.

1. Defendants shall require all school districts to identify, no less frequently than weekly, all children who are members of the class and all children who are at substantial risk of becoming class members. This category of children includes, but is not limited to: (a) all children for whom the district has not been able to implement the program and placement called for in the child's individualized education plan (IEP) within ten days after completing the IEP because of actual or anticipated problems in locating and securing an appropriate placement, and (b) all children for whom the district has failed to convene and conclude an IEP meeting in a timely fashion because of actual or anticipated problems in locating and securing an appropriate placement.

2. Defendants shall also require all school districts to identify, no less frequently than weekly, all children assigned to instruction in the home or homebound instruction for reasons other than physical illness or mobility or other problems that prohibit the student's departure from the home.

3. Defendants shall also require all school districts to identify all children who are "past" members of the class, in that they met the class definition at some point on or after March 14, 1991, but were subsequently provided with an appropriate program and placement.

4. Defendants shall require that districts report to Defendants the name of, and pertinent details concerning, every child identified pursuant to the preceding paragraphs, within five business days of such identification. Pertinent details shall include, at minimum, information concerning the student and the type of program/placement that he or she requires; the length of time that has elapsed since that program/placement was determined to be needed; and a copy of the current IEP. Defendants shall also require a monthly report from each district indicating the number of children so identified during the month. Reporting may be accomplished by electronic means at Defendants' option.

5. Defendants shall require that, whenever a school district concludes that a child cannot be appropriately educated in a public educational setting, the school district shall inform the child's parents of this conclusion, and shall inform the child's parents if the district will be seeking local inter-agency and state-level assistance in locating a placement.

6. Defendants shall also establish a procedure by which parents, guardians and surrogate parents of children with disabilities; advocates for such children; and agencies (public and private) serving such children may report to Defendants the names of, and pertinent details concerning, children who are members of the class. Defendants shall periodically publicize the availability of this procedure to all districts, intermediate units, other child-serving agencies (private and public, including state-operated facilities) known to Defendants, and to all advocacy groups known to Defendants which serve children with disabilities.

7. Defendants shall maintain an ongoing data system concerning all children identified pursuant to the preceding paragraphs.

8. Defendants shall adopt an ongoing system for monitoring districts' compliance with the reporting requirements set forth in the preceding paragraphs. This monitoring system may, at Defendant's option, become a part of an existing or other general monitoring system.

9. Defendants shall analyze the information collected through §C.2., above, for the purpose of ascertaining whether any children are assigned to instruction in the home or homebound instruction without adequate justification, and whether the school district is therefore improperly failing to include such child as a member of the class. Defendants shall ensure that, whenever Defendants conclude that a district is thus improperly failing to include such a child as a member of the class, the district and each relevant team shall actively treat the child as a member of the class.

D. PLACEMENT OF CLASS MEMBERS

1. Commencing on the date of this Order, Defendants shall ensure that every child identified pursuant to Section C, above, has access to, and is placed by the responsible school district in, an appropriate placement, in the least restrictive environment, as soon as possible after Defendants' receipt of information as set forth in section C.4., above. Defendants shall report on activities pursuant to this requirement, as provided in section J, below.

3. Defendants may fulfill this obligation by ensuring that the child's district offers such a placement, by assisting the district in increasing its capacity to serve and place the child, by arranging or providing services to the child directly, or by any other means.

3. To assist in achieving this goal, Defendants shall establish, within 60 days of the date of this Order, the following mechanisms. These mechanisms include local interagency teams; a state-level team; and a technical assistance program.

4. State-level interagency team. To assist in securing a placement for children whose needs appear to require an interagency response, Defendants shall create, within 21 days, and maintain a state-level interagency placement assistance team, for the purpose of assisting the responsible school district and the local teams described below in identifying or creating, for each student brought to the team's attention, a placement site or combination of sites adequate to meet the student's needs.

a. The team shall be created and maintained under the auspices of the Children's Cabinet created by the Governor.

b. Permanent members of the team shall include representatives of the Department of Education (chair), the Department of Public Welfare (including representatives of the Offices of Mental Health; Mental Retardation; Children, Youth and Families; and Medical Assistance), the Department of Labor and Industry, and the Department of Health. Permanent members shall be responsible for securing the attendance of their local counterparts (e.g. representatives of local education agencies, representatives of county mental health offices) when dealing with particular students, on their own initiative or at the request of the chair. Permanent members may agree to invite other informed persons, including representatives of plaintiffs or other advocacy groups, to participate on a case-by-case or an ongoing basis.

c. The primary responsibilities of the team will be to identify resources and placement options to fulfill the student's academic, residential, and related needs under state and federal law regarding the education of persons with disabilities, and to assist the overall effectiveness of the local teams described below. The team also may perform similar functions with regard to the student's needs as identified with regard to other state or federal statutes.

5. Local interagency teams. To assist in securing a placement for children whose needs appear to require an interagency response, Defendants shall establish, within 60 days of the date of this Order in each area of the Commonwealth, local interagency teams. These teams shall consist of local education personnel and personnel from other local agencies relevant to the child's needs, such as mental health and mental retardation agencies. To avoid duplication, Defendants may draw upon any existing resources (such as the Child and Adolescent Service System Program [CASSP] teams) in constituting these teams.

a. Children may be referred to the team by the responsible school district, by Defendants, or, after discussion regarding such referral with the responsible school district, by a parent, guardian, surrogate parent, or other agency serving the child. Nothing herein shall be taken to alter applicable rules concerning parental consent, or to alter the responsibilities of school districts under state or federal education laws.

b. The child's parents, guardian, surrogate parent and/or current caretaker shall be part of the team and be invited to meet with the team and participate actively in its work as it affects their child.

c. Records shall be kept concerning the work of the team with respect to each child referred, including information as to the services and/or placement sought, alternatives considered, conclusions reached, and any further recommendations. Defendants shall ensure that they are promptly informed of the results of the team's work.

d. The team can recommend services and placements, but cannot impose them on parents or responsible school districts. With regard to educational placements that are the subject of this Order, nothing herein shall be construed to alter placement processes applicable to school districts. Further, the child and his or her parents, guardian, surrogate parent or caretaker will retain all applicable legal rights to consent or not to consent to any offered service or placement that might be offered or recommended by the team, whether or not it relates to educational matters.

6. Technical assistance. To assist school districts in locating placements and developing the capacity to serve children within the public schools and home communities, Defendants shall make available to school districts throughout the Commonwealth, knowledgeable technical assistance personnel. The functions of technical assistance personnel will include gathering and disseminating information concerning promising practices and model programs, and providing hands-on training and consultation to personnel working with the child, including parents.

a. At Defendants' discretion, these personnel may be employees of school districts, intermediate units, Instructional Resource Centers, universities, the Commonwealth, or other agencies, or may be obtained under contract.

b. Technical assistance will be made available at the request of school personnel, and, whenever possible, at the request of a parent, guardian, surrogate parent or caretaker, or at the request of Defendants.

c. Through the technical assistance program, Defendants shall inform all districts, intermediate units, approved private schools, other child-serving agencies known to Defendants, and advocacy groups known to Defendants, concerning the existence of measures to be taken pursuant to this Order. This shall be accomplished through the dissemination of information concerning this Order and its principal components within thirty days of the date of this Order, and through the dissemination of information concerning the results of the needs assessment and systems analysis described in SE.

d. The technical assistance program shall include information regarding all programs and services in the Commonwealth that may be relevant to meeting the needs of class members. All of the relevant departments of state government, including at minimum PDE, DPW, the Department of Health, and the Department of Labor and Industry shall be requested to contribute to a directory of such programs and services, which shall be compiled and distributed by Defendants. The directory shall contain a description of each program together with relevant addresses and contact persons. Services and programs not specifically labeled as educational (e.g., partial hospitalization services, intensive case management, family-based mental health services, and family preservation services) shall be included if they might assist in meeting the special educational needs of some children. Defendants shall update the directory at least annually.

e. The technical assistance program shall include the dissemination of information concerning the longer-range analysis, planning, and capacity-building efforts described below.

f. The technical assistance program shall include, within 30 days of the date of this Order, the issuance of a Basic Education Circular stating that "instruction in the home" (sometimes known as "homebound instruction") is not a permissible interim placement in situations in which the school district is unable to implement the program and/or placement determined to be appropriate for the child.

7. Timelines. Defendants may adopt specific timelines and procedures for implementing the three preceding paragraphs (paragraphs 4, 5, and 6). However, such procedures must be consistent with, and shall not in any way reduce, Defendants' obligation as set forth above to ensure that every child who is a class member or at substantial risk of becoming a class member is offered an appropriate program and placement, in the least restrictive environment, as soon as possible.

E. EXPANSION OF PLACEMENT OPTIONS

1. Needs Assessment and Systems Analysis. Within 120 days from the date of this Order, Defendants shall develop a needs assessment indicating the extent to which the Commonwealth lacks an adequate continuum of placements. Within 150 days from the date of this Order, Defendants shall develop an analysis of current systems of statutes, regulations, standards, policies, procedures, and practices (hereinafter "rules and practices") of Commonwealth agencies, indicating the extent to which such rules and practices impede or insufficiently foster the accomplishment of the requirements and goals of this Order.

In developing this needs assessment and systems analysis, Defendants shall be assisted by the Interagency Commission and the Consultant described below, and shall solicit the input of school districts, intermediate units, MH/MR agencies, Children and Youth Agencies, and advocacy groups serving children with disabilities.

2. Immediate Survey. Within thirty days of the date of this Order, Defendants will survey each school district, and other educational or other public entities at Defendants' option, to obtain information including:

- a. Any respects in which the continuum of placements currently available to the district is incomplete;
- b. Any respects in which particular types of residential or other services are not available to the district;
- c. Any identifiable subsets of the student population (for example, by category of condition or age) that are particularly likely to have members of the Plaintiff class;
- d. Any existing collaborative relationships with local child-serving agencies that the district finds to be effective;
- e. Any collaborative relationships with local or other child-serving agencies that do not currently exist in the district, but which the district believes would be useful in achieving the goals of this Order.

3. Assessment of Current Capacity and Gaps Therein. Defendants shall examine the capacity of current programs, for the purpose of determining the extent to which there are gaps in the continuum of placements, or a lack of availability of particular types of services that limits the ability of school districts to provide appropriate education in the least restrictive environment.

a. This examination will distinguish among geographic areas, and may also distinguish among categories of disabilities or other factors that Defendants deem relevant to understanding the reasons for and alleviating delays in the placement of students with disabilities.

b. Defendants shall identify those programs, placements and geographic areas that appear to be especially successful in meeting the needs of children such as those constituting the Plaintiff class, including programs involving collaborative relationships between education and other agencies (such as combination "school/partial hospitalization" programs).

c. Defendants shall review current statutes, regulations, standards, policies, procedures, and practices ("rules and practices"), including rules and practices related to funding, to identify impediments to the establishment or maintenance of a continuum of programs and placements sites allowing placement in the least restrictive environment that will meet each student's needs. The review will extend not only to education rules and practices but also to rules and practices affecting DPW and any other departments of state government that Defendants deem relevant. Possible impediments to be considered shall include, but not be limited to:

i. Obstacles to the development of consortia of school districts for the purpose of providing particular types of programs and services.

ii. Obstacles resulting from limitations on the amount of tuition one district is permitted to charge another when a child is placed in a district other than his or her own.

iii. Barriers to the establishment and funding of collaborative programs between education agencies and other systems, such as mental health/mental retardation.

iv. Underutilization of Medical Assistance and other sources of public funding to support some of the related and other services needed by class members.

v. Barriers to the provision of community-based (as opposed to institutional) options for children needing residential placement.

vi. Limitations on the use of out-of-state placements, in situations in which such a placement might be less restrictive and/or closer to the home community than an in-state placement.

vii. Procedures requiring parents to give up custody of their child in order for the child to receive necessary services.

d. The review described in subparagraph "c" immediately above shall include an analysis of:

i. whether there are rule-related barriers to full access to existing public sector or private sector resources;

ii. whether there are policy-related barriers to full access to existing public sector or private sector resources;

iii. whether there are information-related barriers to the replication, in additional geographic areas, of successful practices; and

iv. whether there are payment system-related barriers to full access to a complete continuum of placements throughout the Commonwealth.

e. This review also shall include an analysis of the feasibility of placing children in less restrictive environments than the approved private school placements that traditionally have been sought and used, by moving to increased use of, for example:

i. residential services associated with the Department of Public Welfare and residential services not connected to institutions.

ii. existing and future educational classroom services provided by school districts, consortia, or intermediate units.

f. This review shall also include an analysis of the extent to which the current plan process in 22 Pa. Code Chapters 14 and 342 is sufficient to ensure that a continuum of alternative placements is developed and maintained in all geographic areas of the state. To the extent that such analysis reveals an insufficiency, the analysis shall include a statement as to whether the insufficiency is caused by: (i) the text of Chapters 14 and 342; (ii) the interpretation or implementation of what the current regulatory language requires of districts; and/or (iii) the Department of Education's plan and budget review procedures.

g. This review shall also include an analysis of the extent to which 22 Pa. Code Ch. 171 unnecessarily or improperly restricts the options open to school districts under the enabling legislation.

h. This review shall also include an analysis of the need for technical assistance and training of state and local personnel so as to fulfill the goals of this Order (See §D.6.).

4. Further Action Plan. The survey, assessment, and analytical activities described above (throughout § E) shall lead to and include, within 150 days of the date of this Order, a comprehensive set of conclusions, recommendations, and a plan of action for each area of assessment and analysis. Such plans of action shall specify, for each area, the steps, if any, in terms of statutory change, regulatory change, written policy change, dissemination of information, training of state and local staff, and other steps that are necessary to achieve the purposes of this Order. Defendants shall take all feasible steps in pursuit of this comprehensive action plan.

F. INTERAGENCY COMMISSION

Defendants shall create an interagency commission for the purpose of implementing this Order, including particularly section E of this Order, and carrying out the resulting comprehensive plan of action.

1. The Commission shall be created and be operated under the auspices of the Children's Cabinet and its membership shall include, at a minimum:

- a. Department of Education (Chair)
- b. Department of Public Welfare
- c. Office of the Attorney General
- d. Department of Health

2. The Commission shall encourage the participation, as invited consultants, of counsel for plaintiffs as well as representatives of parents, school districts, service providers, and other knowledgeable persons, in the functioning of the Commission.

3. The Commission is not, by virtue of this Order, empowered to replace or interfere with the powers or duties of school districts, their IEP teams, or the individual executive agencies of Defendants. The Commission shall function as an analytical, recommending, and advisory body to assist Defendants in carrying out this order.

4. The Commission may, at the discretion of Defendants, be the same body as the state-level interagency placement team described above (SD.4.).

G. CONSULTATION

Defendants shall appoint a primary consultant to assist with and coordinate the implementation of this Order. The consultant shall be experienced in: the design and operation of special education programs at the local and state level; the development of program and placement options for children such as class members herein; and the use of interagency approaches in serving such children. The consultant shall: advise Defendants and the interagency Commission with regard to the implementation of this Order and any subsequent Orders; advise and seek the advice of counsel for plaintiffs with regard to the implementation of this Order and any subsequent Orders; and advise the court with regard to the implementation of this Order and any subsequent Orders in the event of either a court request or a dispute between the parties. The consultant shall also have the duty to make independent assessments of the extent to which additional resources are needed in order to implement this and subsequent Orders, and to so advise the parties in writing.

H. RESPONSIBILITY

Defendants shall ensure that they have sufficient capacity to effectuate and supervise a system of prompt placements of students. To the extent that state law or practice relies on school districts to effectuate such placements, Defendants shall ensure Defendant Department of Education's supervision of local implementation by:

1. ensuring that there is a capacity and a procedure for withholding special education funds from any school district that fails to ensure the prompt placement of a student in its jurisdiction, for the purpose of redirecting those funds to the placement of the student by Defendants, in a manner consistent with the procedures of 20 USC §1414(d); provided, however, that the existence of such a procedure will not relieve Defendants of any of their responsibilities under this and subsequent Orders in this case.

2. ensuring that the special education planning process outlined in 22 Pa. Code 14.6, 14.8, 342.6, and 342.8 is sufficient to identify and plan for the correction of any gaps in the continuum of placements available to the local education agency; and

3. taking all reasonable steps to ensure that special education funds are distributed among the geographic areas of the Commonwealth so as to promote the development and maintenance of a full continuum of placements available to each school district.

I. COMPENSATORY EDUCATION

1. Defendants shall inform each school district that has a member of the class, including past members as described above, within its jurisdiction of the necessity to determine the degree to which compensatory education is warranted. Where compensatory education is an issue, it must be addressed through the IEP process. Defendants shall inform each school district of the sources of funds available to support such compensatory services, including funds available through 24 P.S. §2509.8.

2. Defendants shall ensure that each school district that has a member of the class promptly convenes a multidisciplinary team for the purpose of recommending services reasonably calculated to compensate the student for any delay experienced in obtaining proper placement, unless the student's parents indicate in writing that they do not seek compensatory services.

3. The district's IEP team, which includes parental participation, shall prescribe compensatory education, subject to the limitation that: in cases involving homebound instruction during a delay in placement, the student shall be offered compensatory education services comparable in nature and duration to the services that were recommended for the child but not promptly provided while the child was on homebound instruction. Even in such cases, the district may also offer alternatives for more immediate compensatory services.

4. Disagreements over whether a district's proposal for compensatory education meets the standards in paragraphs 2 and 3, immediately above, shall be resolved through the customary special education due process procedures.

J. REPORTING

1. Defendants shall provide the court with a monthly report on each child who was reported to Defendants under §C.4 more than thirty days prior to the date of the monthly report and who has not been appropriately placed. For each such child, the monthly report shall include: (a) the date that Defendants received information under §C.4; (b) information provided by the district concerning the type of program/placement that the child requires; (c) information provided by the district concerning the length of time that has elapsed since that program/placement was determined to be needed; and (d) information regarding the efforts of Defendants to locate and implement an appropriate placement. Copies of each such report, together with identifying information concerning each student being reported on for the first time, shall be sent to counsel for plaintiffs. Counsel for plaintiffs shall not release such identifying information to other persons.

2. Commencing no more than 90 days from the date of this Order, Defendants shall provide quarterly reports to Plaintiffs and the Court concerning their compliance with this Order. Each report shall include, inter alia, information concerning the numbers of children identified during the quarter, broken down by disability, location, type of program/placement required, and length of delay in obtaining that program/placement. The reports shall follow a uniform format so as to permit comparisons over time, and shall contain Defendants' assessment of whether the problem of children experiencing delays in obtaining appropriate placements appears to be increasing or decreasing. Each report shall also detail Defendants' activities in implementing each provision of this Court's Order.

3. Defendants' reporting obligation shall continue until six consecutive quarterly reports demonstrate that: no or virtually no students continue to be identified as entering the class; that the action plans resulting from the systems analysis have been implemented; or that the violations identified in the Court's opinion have been fully corrected and are unlikely to recur.

4. Up to and including one year after the publication of the analysis and comprehensive action plan (see SE), the primary consultant shall issue to Plaintiffs and Defendants his or her own commentary on Defendants' quarterly reports.

5. Immediately upon completion, Defendants shall provide Plaintiffs with the analysis and comprehensive action plan required by SE, above. Defendants shall offer to meet with Plaintiffs promptly thereafter, for the purpose of discussing Plaintiffs' comments, if any, on the analysis and comprehensive action plan. Defendants may thereafter amend or revise their comprehensive action plan.

6. If, after meeting with Defendants pursuant to paragraph 5, immediately above, Plaintiffs believe that the comprehensive action plan is not reasonably calculated to achieve the objectives and requirements of this Order, and/or to remedy the violations established in this case, Plaintiffs shall have leave to move the Court for modification of the action plan. Any such motion shall be filed within 90 days of Defendants' adoption of the action plan; however, this provision shall not affect Plaintiffs' right, at any time and upon an appropriate showing, to obtain enforcement of this Order or further relief.

BY THE COURT:

Sylvia H. Rambo /s/

SYLVIA H. RAMBO

United States District Judge

For additional information, contact:

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