

FILED

2010 JUL 15 A 9:29

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

U.S. DISTRICT COURT
NEW HAVEN, CT

RICHARD MESSIER, ET. AL.,	:	CASE NUMBER
	:	3:94CV01706 (EBB)
v.	:	
	:	
SOUTHBURY TRAINING SCHOOL, ET AL.	:	2010

ORDER

The Court, after reviewing the Settlement Agreement negotiated by the parties as well as the Notice of Settlement that has been agreed upon by the parties, finds preliminarily that the Settlement Agreement is a fair and reasonable resolution of the issues raised by this lawsuit which were not resolved by Court's Ruling of June 4, 2008. The Court also enters the following orders relating to providing notice of the Settlement to the class and of the process through which a final determination will be made as to whether the Settlement Agreement will be approved and entered by the Court:

1. The content of the Notice of Settlement agreed to by the parties is hereby approved.
2. Defendants are ordered to notify each class member of the Settlement by:
 - 1) mailing a copy of the attached Notice of Settlement to each Southbury Training School resident and his/her parent or guardian; and 2) publishing the attached Notice of Settlement on one occasion in the Hartford Courant, New Haven Register, Waterbury Republican, New

London Day, Connecticut Post, Danbury News Times, and Stamford Advocate.

3. Defendants are ordered to certify to the Court as to the manner in which the notification process was completed.

The District Court will receive written comments from interested persons until August 6, 2010. Written comments should be addressed to:

The Honorable Ellen Bree Burns
United States District Judge
United States District Court, District of Connecticut
141 Church Street
New Haven, CT 06505

A fairness hearing will be held on Aug. 30, 2010 at 10:00 a.m. in Courtroom 3, United States District Court, 141 Church St., New Haven, Connecticut to consider comments and objections to the Settlement Agreement and to determine whether the Settlement will be approved and entered as a fair and reasonable resolution of the lawsuit for the class.

BY THE COURT,

/s/ Ellen Bree Burns, SUSDJ
Hon. Ellen Bree Burns
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RICHARD MESSIER, ET AL.

PLAINTIFFS

v.

SOUTHBURY TRAINING SCHOOL, ET AL.

DEFENDANTS

NO. 3:94-CV-1706(EBB)

NOTICE OF SETTLEMENT AGREEMENT
RESOLVING PENDING REMEDIAL PHASE OF CLASS ACTION

ATTENTION: RESIDENTS OF THE SOUTHBURY TRAINING SCHOOL,
THEIR GUARDIANS, FAMILIES AND OTHER PERSONAL AND LEGAL
REPRESENTATIVES

The United States District Court has received a Settlement Agreement negotiated by the parties to this class action civil rights lawsuit concerning a remedy in accordance with the Court's *Memorandum of Decision and Order* of June 4, 2008.

The Court requested that the parties submit procedures to be implemented to address the Court's finding that the process of considering Southbury Training School (STS) residents for community placement did not comply with the Americans with Disabilities Act. Following both litigation activities and negotiations regarding a remedy, the parties have reached a Settlement Agreement for which this Notice is issued.

By Ruling dated July 8, 1996 the District Court certified a "plaintiff class to include all current STS residents, persons who might be placed at STS in the future, and persons who were transferred from STS but remain under the control of the STS Director." *Memorandum*, at 1. Since new admissions to STS were closed via District Court Order in 1986, and via state statute in 1997, and since no person transferred from STS remains "under the control of the STS Director", this Settlement Agreement is directed toward the individuals who are residents of STS at the time of approval by the District Court.

The major components of the Settlement Agreement include the following:

1. The training of relevant Interdisciplinary Team (IDT) staff regarding the exercise of “professional judgment” in recommending the “most integrated setting” commensurate with a class member’s needs.
2. The implementation, following training, of the process for recommending the “most integrated setting”, based upon the professional judgment of the IDT.
3. The provision of information to residents, guardians and families, about, and exposure to, community-based alternatives to assure that informed choices are made.
4. The recognition in DDS policy that the concept of “portability” – the re-allocation of funding from STS, and from any publicly operated ICF/MR, to the DDS Regions to support community-based alternatives – applies to STS residents, and residents of publicly operated ICF/MR facilities.
5. Assessment, evaluation and recommendations in the exercise of professional judgment regarding community transition services and support.
6. Transition planning and resource identification and development for STS residents for whom there is a professional judgment/recommendation that the individual can be supported in a more integrated setting and for whom informed consent to community placement has been provided by the resident or guardian, as applicable.
7. Community transition for such STS residents identified in accordance with the Settlement Agreement, including timelines for effecting such transition.
8. The retention of a “Remedial Expert” to assist in the training curriculum, the IDT process, the informational efforts, and in effecting the community placement of STS residents for whom the IDT has recommended community placement and the resident or guardian, as applicable, does not oppose such recommendation.
9. Regular meetings of the parties and the Remedial Expert to assess progress under the terms of this Settlement Agreement and resolve disputes associated with this Settlement Agreement.

The complete text of the Settlement Agreement is posted on the DDS website (www.ct.gov/dds) and copies may be obtained by calling the DDS Division of Legal & Government Affairs ((860) 418-6085). The District Court will receive written comments from interested persons until Aug. 6, 2010. Written comments should be addressed to:

The Honorable Ellen Bree Burns
United States District Judge
United States District Court
District of Connecticut
141 Church Street
New Haven, CT 06505

A hearing will be held before the Honorable Ellen Bree Burns, United States District Judge, on Aug. 20, 2010, at 10:00 a.m., United States District Court, 141 Church Street, New Haven, Connecticut, relating to the fairness of the Settlement Agreement to the class.

If you have any questions about the Settlement Agreement or about the process for reviewing the fairness of the Settlement Agreement, you may contact David C. Shaw, Esq., Attorney for the Plaintiff Class, at (860) 242-1238.

SO ORDERED

Honorable Ellen Bree Burns

United States District Judge

/s/ 7/14/10

/s/ Ellen Bree Burns, SUSDJ