

MAR 26 1979

COPY

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FILED

APR 2 1979

W. J. FURSTENAU, CLERK  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

UNITED STATES DISTRICT COURT

BY DEPUTY CLERK

DISTRICT OF ARIZONA

10 NATHALIA GRISWOLD, et al. )

11 Plaintiffs, )

12 vs. )

13 JIM RILEY, et al. )

14 Defendants )

NO. CIV-77-144 PHX CAM

MOTION TO SET HEARING AND  
APPROVE NOTICE TO CLASS  
MEMBERS

15  
16 The parties request the Court to set a hearing date to  
17 determine whether the attached proposed settlement and judgment  
18 agreed to by the parties in the above-captioned matter is fair,  
19 reasonable and adequate and should be approved.

20 The parties additionally request that the attached notice  
21 be approved by the Court to be mailed to persons legally re-  
22 sponsible for the members of the plaintiff class.

23 RESPECTFULLY SUBMITTED this 26 day of March,  
24 1979.

25 Robert Beckett  
26 ROBERT BECKETT, Attorney for  
Plaintiffs

27  
28 Charleen H. Greer  
29 CHARLEEN GREER, Assistant Attorney  
General

30  
31  
32

1 ROBERT BECKETT  
2 Attorney at Law  
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6  
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8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF ARIZONA

10 NATHALIA GRISWOLD, et al.	)	
	)	
11 Plaintiffs,	)	NO. CIV-77-144 PHX CAM
	)	
12 vs.	)	NOTICE OF PROPOSED SETTLEMENT
	)	AND JUDGMENT AND HEARING
13 JIM RILEY, et al.	)	
	)	
14 Defendants.	)	
	)	

15  
16 TO ALL PERSONS, THEIR PARENTS AND GUARDIANS, WHO RESIDED AT THE  
17 TRAINING PROGRAM AT COOLIDGE ON OR AFTER FEBRUARY 28, 1977,  
18 REGARDLESS OF WHERE THEY MIGHT NOW, OR IN THE FUTURE, RESIDE.

19 NOTICE IS HEREBY GIVEN that a hearing will be held on  
20 Monday, June 4, 1979 at 10:AM o'clock, at the United  
21 States District Court, 230 North First Avenue, District of  
22 Arizona, Phoenix, Arizona 85025.

23 The purpose of the hearing is to determine whether a pro-  
24 posed settlement and judgment should be approved by the Court.

25 This law suit was filed by plaintiffs in an attempt to  
26 improve the care and treatment of residents of the Arizona Train-  
27 ing Program at Coolidge (ATPC). The case was approved by the  
28 Court as a class action composed of persons who resided at the  
29 Training Program at Coolidge on or after February 28, 1977, the  
30 date the suit was initiated, regardless of where they might now,  
31 or in the future, reside.

32 . . . .

1           The defendants in this action are officers and employees  
2 of the state of Arizona who have responsibility for the care and  
3 treatment of residents of the Training Program at Coolidge.

4           The parties have met monthly during the past eight (8)  
5 months to negotiate a settlement and have now entered into a  
6 stipulation to settle this case. The Court has examined the  
7 Settlement entered into between the parties and has provisionally  
8 determined that it appropriately protects the rights of the mem-  
9 bers of the class and is a fair and appropriate resolution of this  
10 cause.

11           A very general description of the settlement is as follows:  
12 The plaintiffs and defendants agree that state or federal laws  
13 establish rights for mentally retarded residents of the Arizona  
14 Training Program at Coolidge, including among others:

15           Every mentally retarded person who is provided re-  
16 sidential care by the state shall have the right  
17 to live in the least restrictive alternative, as  
determined after an initial placement evaluation  
has been conducted for such person.

18           Every school-age mentally retarded person shall  
19 have the right to receive publicly-supported edu-  
20 cational services in accordance with the applicable  
special education laws of the state.

21           Clients shall have the right to be free from mis-  
treatment, neglect and abuse by service providers.

22           Each client shall have the right to be free from  
23 unnecessary and excessive medication. Medication  
24 shall not be used as punishment, for the con-  
25 venience of the staff, as a substitute for an in-  
26 dividual program plan, or in quantities that inter-  
27 ferewith the client's individual program plan.  
Prescription-only medication for each client shall  
be authorized only by the prescription of a physician  
and the administration of such medication shall be  
directed by a physician.

28           Mentally retarded persons who are residents in  
29 residential programs operated or supported by the  
30 department shall have the right to a humane and  
clean physical environment, the right to communi-  
cation and visits and the right to personal pro-  
perty.

31           No otherwise qualified handicapped individual in  
32 the United States, shall, solely by reason of his  
handicap, be excluded from the participation in,

1 be denied the benefits of, or be subjected to dis-  
2 crimination under any program or activity receiving  
Federal financial assistance.

3 The plaintiffs and defendants agree that the following descrip-  
4 tion of what the state is doing and will be doing furthers the  
5 protection of these rights of residents at ATP-C:

6 A. Physical Structures

7 1. The State agrees to request funds from the Arizona  
8 Legislature to remodel ATPC cottages over the next three years  
9 in a manner comparable to the remodeling which has occurred  
10 in Pine Cottage.

11 2. The State agrees to provide sufficient day program  
12 space by June, 1981 for a 6-hour program day for each resident.

13 3. The State agrees to have no locked doors on cottages.

14 4. The State agrees to request funds from the legislature  
15 to continue to remove architectural barriers.

16 B. Less Restrictive Environment

17 1. By fiscal year 1981, the population of ATPC will be  
18 down to 321 residents.

19 2. The State agrees to increase the opportunities for  
20 residents of ATPC to attend community day programs.

21 C. Physical and Chemical Restraints

22 1. The State agrees to adopt rules and regulations for  
23 both physical and chemical restraints pursuant to Arizona Re-  
24 vised statutes (ARS) 36-561 which provide that physical and  
25 chemical restraints will be administered only after approval of  
26 the individual program planning team and review by the Human  
27 Rights and Ethics Committee.

28 2. The State agrees to reduce the use of physical and  
29 mechanical restraints.

30 3. The state agrees to reduce the use of behavior-con-  
31 trolling medications.

32 4. The State agrees to hire, prior to July, 1979, an

1 outside medical consultant to review medications for 10 ATPC  
2 clients.

3 5. The State agrees to request funds for fiscal year 1979-80  
4 to expand medical consultancy for second level medication reviews  
5 statewide.

6 6. The State will assure that the ATPC District Program  
7 Manager will review monthly the use of behavior-controlling  
8 medications.

9 7. The State agrees to request funds for fiscal year  
10 1979-80 to hire a behavior management consultant to train staff.

11 8. The State agrees to request funds for fiscal year 1979-  
12 80 to hire two staff trainers.

13 D. Habilitation Programs

14 1. The State assures that all ATPC residents will receive  
15 a 6-hour day program by June 1982; children will continue to  
16 receive a 5-1/2 hour day special education program. Achieving  
17 this objective is dependent upon maintaining current number of  
18 staff and upon reaching the deinstitutionalization goal of 321  
19 residents by June, 1981.

20 2. The State will assure that all school-age ATPC residents  
21 will receive a State-supported educational program funded by the  
22 Division of Special Education in either a public school or at  
23 ATPC.

24 3. The State agrees, that as a part of an increase in  
25 overall training for staff, ATPC will provide staff with increased  
26 training in behavior management and in the teaching of self-help  
27 skills.

28 4. The State will assure that rules and regulations will  
29 be adopted for the following statutory areas: ARS 36-551.01,  
30 Client Rights; ARS 36-560, Admission; ARS 36-560, Placement  
31 Evaluation; ARS 36-563, Review and Appeal; ARS 36-565, Periodic  
32 Evaluation.

1           5. The State agrees to pay for accreditation surveys for  
2 three Arizona Training Program facilities in Phoenix, Tucson  
3 and Coolidge.

4           E. Insufficient Staff

5           The State agrees to maintain overall 1:1 staff/client ratios  
6 in each residential unit by July 1, 1981.

7           F. Named Plaintiffs

8           1. The State has submitted current individual program  
9 plans (IPP) for the named plaintiffs.

10          2. The State agrees to a yearly review of the named  
11 plaintiffs' IPP Status by the Review Panel.

12          3. The State agrees to add additional names of ATPC  
13 residents, up to a total of three, if less than three named  
14 plaintiffs remain at ATPC.

15          G. Human Rights Committee

16          1. The State agrees to adopt rules and regulations for  
17 the Human Rights Committees.

18          2. The State agrees to create a review panel to monitor  
19 the progress of the State in complying with the following sec-  
20 tions of the Agreement: Addendum C, Physical Structure; Adden-  
21 dum D, Least Restrictive Environment; Addendum G. Insufficient  
22 Staff; Addendum H, Named Plaintiffs; Addendum I, Human Rights  
23 Committee; and Addendum J, Arizona Association for Retarded  
24 Citizens Monitoring.

25          H. AARC Monitoring

26          1. The State agrees to recognize the Arizona Association  
27 for Retarded Citizens as an on-going advocacy group which may  
28 inspect ATPC or any other state operated or contracted program  
29 serving ATPC clients pursuant to A.R.S. §36-567.F.5.

30          I. Investigating Neglect and Abuse

31          1. The State agrees to adopt rules and regulations on  
32 investigating neglect and abuse, which rules are to be consistent

1 with A.R.S. §36-551 et seq.

2 Changes in the above description can only be made by the  
3 state when such a change is in the best interests of ATPC re-  
4 sidents and is due to unforeseen conditions. Further the Review  
5 Panel established under the settlement must be notified of  
6 changes.

7 The Court will continue to have authority in this case  
8 until the provisions of the settlement are substantially met.


9 7. Inspection of documents, papers and pleadings in-  
10 cluding a copy of the settlement and judgment filed in this case  
11 may be inspected and copied at the United States District Court,  
12 District of Arizona, 230 North First Avenue, Phoenix, Arizona  
13 85021, during regular working hours or at the office of the  
14 Arizona Association for Retarded Citizens, 5610 South Central  
15 Avenue, Phoenix, Arizona 85040 (243-1787 or toll free 800-352-  
16 3257.)

17 8. Please direct any questions concerning this notice  
18 or the proposed settlement to Lorraine Stenz, attorney for the  
19 Legal Services Project for Persons with Developmental Disabi-  
20 lities sponsored by the Arizona Association for Retarded Citizens.  
21 (243-1787 or toll free 800-352-3257) or your own attorney, and  
22 not to this court.

23 9. Any person who wishes to be heard in objection to  
24 or support of the Proposed Settlement or Judgment must file a  
25 written statement with the Clerk of the Court, United States  
26 District Court, District of Arizona, 230 North First Avenue,  
27 no later than 20 days before the hearing. A copy of this  
28 objection should be mailed to Robert Beckett, Attorney for the  
29 plaintiffs, 101 North First Avenue, Phoenix, Arizona 85003 and  
30 to Charleen Greer, Assistant Attorney General, Attorney for  
31 the defendants, 1700 West Washington, Phoenix, Arizona 85005.  
32 Any papers filed with this Court, must comply with the local

1 rules and the Rules of Federal Procedure. No person shall be  
2 heard, and no briefs or papers received or considered, unless  
3 served and filed as indicated, except as the Court, in its  
4 discretion may otherwise direct.

5 BY ORDER OF THE COURT.

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7   
8 Clerk of the United States District Court  
9 For the District of Arizona  
10 230 North First Avenue  
11 Phoenix, Arizona 85021  
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