

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

CAPITOL PEOPLE FIRST et al., on behalf of themselves and all others similarly situated,
Plaintiffs

v.

DEPARTMENT OF DEVELOPMENTAL SERVICES, et al.,
Defendants

Case No. 2002-038715

CLASS ACTION

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT
AND HEARING DATE FOR FINAL COURT APPROVAL**

*The Superior Court of California for the County of Alameda has authorized this notice.
It is not a solicitation for a lawyer.*

**TO: ALL PERSONS WITH A DEVELOPMENTAL DISABILITY WHO RESIDE IN
CALIFORNIA AND NOW LIVE IN, OR HAVE LIVED DURING THE LAST
YEAR IN, A GOVERNMENT OR PRIVATELY OPERATED FACILITY WITH
16 OR MORE OTHER PEOPLE**

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL
RIGHTS**

**IF YOU WISH TO OBJECT TO THE SETTLEMENT AGREEMENT OR
APPEAR AT THE APRIL 24, 2009, COURT HEARING REGARDING FINAL
APPROVAL OF THE SETTLEMENT AGREEMENT, YOU MUST FOLLOW
THE DIRECTIONS IN THIS NOTICE**

Purpose of This Notice

This Notice sets forth the basic terms of the proposed Settlement Agreement in the case entitled *Capitol People First v. Department of Developmental Services* and advises class members of their procedural rights relating to the settlement. The certified class in the case is defined as follows:

All California residents with a developmental disability, as defined in Welfare and Institutions Code section 4512(b), who are (or become) institutionalized, and those who are at risk of being institutionalized, in congregate residential facilities having a capacity of 16 or more individuals.

Under this definition, “institutions” are public and private, licensed, or certified facilities, including but not limited to state developmental centers (DCs) including the state-owned-and-operated Sierra Vista and Canyon Springs facilities; state psychiatric hospitals; intermediate care facilities – developmentally disabled (ICF-DDs); and those skilled nursing facilities (SNFs), residential community care facilities (CCFs), or children’s shelters with a capacity of 16 or more. This definition refers to facilities on the same grounds or parcel, irrespective of whether the provider has one or more discrete licenses.

By statute, Welfare and Institutions Code section 4418.7, a person is “at risk” of institutionalization in a DC when “the regional center determines, or is informed by the consumer’s parents, legal guardian, conservator, or authorized representative that the community placement of [the] consumer is at risk of failing and that admittance to a state developmental center is a likelihood.” For purposes of the class definition, the same criteria apply to determine those at risk of institutionalization in institutions other than DCs. In addition, pursuant to Welfare and Institutions Code section 4508, individuals who are released from DCs may be on provisional placement for one year and have an “automatic right of return.” Under the class definition, therefore, persons at risk of institutionalization also include those who are within one year of release or discharge from a DC or other institution.

Description of the Case

Three organizations concerned with the rights of persons with developmental disabilities (Capitol People First, ARC of California, and California Alliance for Inclusive Communities) and 15 individuals with developmental disabilities (the Plaintiffs) have brought a lawsuit against the California Department of Developmental Disabilities (DDS), other State agencies, and the 21 Regional Centers located throughout California which arrange for services and supports to persons with developmental disabilities (the

Defendants). Two organizations concerned with the rights of persons with developmental disabilities (California Association of State Hospital Parent Councils for the Retarded, and California Association for the Retarded) intervened in the case.

In the lawsuit, the Plaintiffs contend that Californians with developmental disabilities, who live in government or privately operated facility with 16 or more persons, should have more information and choice about options for living in smaller homes in the community. The lawsuit asks the Court to issue an order requiring the Defendants to take steps designed to advance these objectives. The lawsuit does **NOT** seek an award of money damages for anyone.

The Defendants deny the allegations in the lawsuit.

Summary of the Proposed Settlement Agreement

In order to resolve the lawsuit, the Plaintiffs and the Defendants have successfully negotiated a proposed Settlement Agreement. On January 30, 2009, Alameda County Superior Court Judge Robert Freedman granted preliminary approval of the Settlement Agreement and approved this Notice.

What follows is a brief summary of the main terms of the proposed Settlement Agreement. If you want more information, please see the section of this Notice entitled “**Obtaining More Information**,” which is set forth below.

- Subject to Legislative approval, DDS will provide additional funds to each Regional Center to assist the Regional Center in arranging for a case worker to attend Individual Program Plan (IPP) meetings of persons residing in Developmental Centers (DC s).
- Regional Centers will provide information to persons living in certain large private facilities about possible living arrangements in smaller, community-based settings.
- DDS will provide training to DC staff about community living options.
- DDS will work with Disability Rights California and the State Council on Developmental Disabilities to provide information and training to class members about community living options.
- Regional Centers and DDS will continue to use the Community Placement Plan process to help class members move from the DC s to community settings.
- Regional Centers and DDS will develop new community programs and housing options.
- Subject to Legislative approval, DDS will continue to provide funds to Regional Centers to use to help large, private facilities which serve persons with developmental disabilities, to downsize to smaller community homes.

- The Settlement will remain in effect for three years. During this period, Disability Rights California, the attorneys for the Plaintiffs, will receive reports which will allow it to monitor the Defendants' performance under the Settlement Agreement.
- The Settlement Agreement does NOT provide for a monetary award to any plaintiff or class member.
- The Settlement Agreement does NOT provide for the payment of attorneys' fees or costs to the Plaintiffs or their attorneys.
- Nothing in the Settlement Agreement requires anyone to move from his or her current residence.

The Fairness Hearing

The next step in the case will be a hearing at which Judge Freedman will decide whether the proposed Settlement Agreement is fair and reasonable (the Fairness Hearing). The Fairness Hearing will be held on April 24, 2009, at 2:00 p.m. The location of the hearing is Department 20, Alameda County Superior Court, 1221 Oak Street, 4th Floor, Oakland, California 94612.

If, at the conclusion of the Fairness Hearing, Judge Freedman gives final approval to the Settlement Agreement, you, as a member of the class, will be bound by the Settlement Agreement. As a practical matter, this means that for the three years the Settlement Agreement is in effect, you cannot bring a lawsuit that makes claims which are the same or similar to the claims made by the Plaintiffs in this lawsuit. **Please note that the proposed Settlement Agreement does NOT affect or alter your right to have disputes which are specific to you resolved through an appropriate administrative hearing or court action.**

Comment and Objection Procedure

As a member of the class, you now have the following options:

- If you agree with the proposed Settlement Agreement, you do not need to do anything.
- If you oppose any of the provisions in the proposed Settlement Agreement:
 - You may submit a letter explaining your objection to the proposed Settlement Agreement. Your letter will be considered by Judge Freedman at the Fairness Hearing.

OR

- You may appear at the Fairness Hearing and explain your objections to Judge Freedman.

To do either of the above, you must send a letter containing the following information to **BOTH** of the addresses set forth below:

- The name and number of the case, i.e., *Capitol People First v. Department of Developmental Services*, No. 2002-038715.
- Your full name and address.
- An explanation of specific reasons for your objection to the proposed Settlement Agreement, including the identification of the particular provision(s) in the Settlement Agreement to which you object.
- A statement that you intend to appear at the Fairness Hearing, if that is your plan.

Your letter must be mailed to:

Clerk of the Court
Alameda County Superior Court
Rene C. Davison Courthouse
1225 Fallon Street
Oakland, CA 94612

AND

Barbara Dickey, Esq.
Disability Rights California
1330 Broadway, Suite 500
Oakland, CA 94612

**TO BE VALID, YOUR LETTER MUST BE POSTMARKED NOT LATER THAN
April 17, 2009.**

DO NOT TELEPHONE THE COURT.

Obtaining More Information

If you want more information, you may:

- Read the complete Settlement Agreement at the Clerk's Office at the above address.
- Find the complete Settlement Agreement on the internet at:
 - Alameda County Superior Court
 - California Department of Developmental Services
 - Disability Rights California
 - Regional Centers in California
- Call or email Barbara Dickey, the lead attorney representing the class, at:
 - Telephone – (888) 852-9241, TTY (800) 719-5798
 - Email – CPFinquiries@disabilityrightsca.org.

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA

16
17 **CAPITOL PEOPLE FIRST, et al.,**

18 Plaintiffs,

19 v.

20 **DEPARTMENT OF DEVELOPMENTAL**
21 **SERVICES (DDS), et al.,**

22 Defendants.

Case No. 2002-038715

Class Action

[PROPOSED]
SETTLEMENT AGREEMENT

Department 20
The Honorable Robert B. Freedman

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Trial Date April 20, 2009
Action Filed: January 25, 2002

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15 *Developmental Services Foundation, dba Frank D.*
16 *Lanterman Regional Center; San Gabriel/Pomona*
17 *Valleys Developmental Services, Inc., dba San Gabriel/*
18 *Pomona Regional Center; South Central Los Angeles*
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Attorneys for Intervenors

2 **PROPOSED SETTLEMENT AGREEMENT**

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2 **PROPOSED SETTLEMENT AGREEMENT**

3 **[EVIDENCE CODE § 1152]**

4 **I. INTRODUCTION**

5 A. In an effort to advance the Parties' common objectives of providing persons with
6 developmental disabilities with services and supports in the least restrictive environment and to
7 ensure a smooth transition to the community, the Parties to this action enter into the following
8 Settlement Agreement.

9 B. This class action, originally filed on January 25, 2002, is brought by 15 named
10 Plaintiffs, Adolph Angulo, Harry Asprey, Edson Cruz, David Kelty, Kimberly McAnnelly, Andre
11 Mills, Alana Ridgeway, Avery Russell, Jimmy White, Shawn Woodward-Katz, Lucien
12 Corpolongo, Sharon Forster, Jacob Ashbrook Myers, John Pineda¹, and Jane Schuster, all of
13 whom are persons with developmental disabilities; three organizational Plaintiffs (Capitol People
14 First, California Alliance for Inclusive Communities, Inc., and The Arc of California); and two
15 taxpayer Plaintiffs, Janice Lord-Walker and Curtis Kitty Cone.

16 C. Named as Defendants are the State of California; Department of Developmental
17 Services ("DDS"); Terri Delgadillo, Director of DDS; Department of Health Care Services
18 (DHCS); Sandra Shewry, Director of DHCS; and Department of Mental Health (DMH)
19 (collectively "State Defendants"); and the 21 private, nonprofit Regional Centers that contract
20 with DDS to provide services and supports to persons with developmental disabilities:

21 Alta California Regional Center, Inc. (ACRC); Central Valley Regional Center, Inc.
22 (CVRC); Eastern Los Angeles Regional Center, Inc. (ELARC); Far Northern Coordinating
23 Council on Developmental Disabilities, dba Far Northern Regional Center (FNRC); Los Angeles
24 County Developmental Services Foundation, dba Frank D. Lanterman Regional Center (FDLRC);
25 Golden Gate Regional Center, Inc. (GGRC); Harbor Developmental Disabilities Foundation, dba
26 Harbor Regional Center (HRC); Inland Regional Center, Inc. (IRC); Kern Regional Center

27 ¹Plaintiff John Pineda died on March 27, 2008. Plaintiffs will file a request to dismiss
28 Mr. Pineda from the case.

1 (KRC); North Bay Developmental Disabilities Services, Inc., dba North Bay Regional Center
2 (NBRC); North Los Angeles County Regional Center, Inc. (NLACRC); Redwood Coast
3 Developmental Services Corporation, dba Redwood Coast Regional Center (RCRC); Regional
4 Center of the East Bay, Inc. (RCEB); Regional Center of Orange County, Inc. (RCOC); San
5 Andreas Regional Center (SARC); San Diego-Imperial Counties Developmental Services, Inc.,
6 dba San Diego Regional Center (SDRC); San Gabriel/Pomona Valleys Developmental Services,
7 Inc., dba San Gabriel/Pomona Regional Center (SG/PRC); South Central Los Angeles Regional
8 Center for Developmentally Disabled Persons, Inc., dba South Central Los Angeles Regional
9 Center (SCLARC); Tri-Counties Association for the Developmentally Disabled, Inc., dba Tri-
10 Counties Regional Center (TCRC); Valley Mountain Regional Center, Inc. (VMRC); Coastal
11 Developmental Services Foundation, dba Westside Regional Center (WRC) (collectively
12 “Regional Center Defendants”).

13 D. On January 28, 2003, the Court issued an order allowing California Association of
14 State Hospitals/Parent Councils for the Retarded ("CASH/PCR") and the California Association
15 for the Retarded ("CAR") together with and on behalf of Colleen Cross, Brenan O'Hare, Farrell
16 Hicks, Matthew Preston, Linda Turner, Dale Donaldson, Marc Maden, Christi Houge, Michael
17 Patrick O'Riordan, and Andrea Walter to intervene in this action. Individual Intervenors are all
18 persons with developmental disabilities who reside in Developmental Centers.

19 E. The operative complaint is the Corrected Sixth Amended Petition for Writ of
20 Mandate (Code Civ. Proc., § 1085); Verified Complaint for Declaratory and Injunctive Relief
21 (“Complaint”). The gravamen of the Complaint is that persons with developmental disabilities in
22 California who reside in facilities with a capacity of 16 or more, and persons at risk of placement
23 in such facilities are illegally institutionalized in violation of their right to receive services and
24 supports in the least restrictive environment commensurate with their needs, health, and safety.
25 The Complaint contains the following Causes of Action:

26 1. Violation of the Lanterman Developmental Disabilities Services Act (“Lanterman
27 Act”) Entitlement To Non-Institutional Community Living Arrangements Based On Individual
28 Need – against all Defendants;

1 definition, the same criteria apply to determine those at risk of
2 institutionalization in institutions other than DCs. In addition, pursuant to
3 Welfare and Institutions Code section 4508, individuals who are released
4 from DCs may be on provisional placement for one year and have an
5 ‘automatic right of return.’ Under the class definition, therefore, persons
6 at risk of institutionalization also include those who are within one year
7 of release or discharge from a DC or other institution.”

8 C. “Choices Project material” means material designed by consumers to identify and
9 share their choices about home, family/friends and staff, fun, community, work, and health and
10 safety. The material includes: The Making My Own Choices booklet developed to help people
11 with developmental disabilities choose things that are important to them in their life; the Picture
12 Sticker Book developed to be used with the Making My Own Choices booklet; and a DVD. Once
13 completed by consumers, the material becomes a resource to guide their participation in the
14 development of Individual Program Plans.

15 D. “Clients’ Rights Advocates” or “CRAs” mean personnel employed by Disability
16 Rights California and the State Council on Developmental Disabilities to protect the rights of
17 consumers, investigate and take action necessary to resolve complaints from or concerning
18 consumers, provide training and technical assistance to consumers and families, and assist
19 consumers and families in exercising their rights pursuant to Welfare and Institutions Code
20 sections 4433 and 4433.5.

21 E. “Community Living Options” means homes and residences with fewer than 16 beds,
22 and includes but is not limited to: supports in the Class Member’s own or family home,
23 independent or supported living arrangements, foster family settings for children or adults, and
24 small (six beds or fewer) group living arrangements.

25 F. “Complaint” means the Corrected Sixth Amended Petition for Writ of Mandate (Code
26 Civ. Proc., § 1085); Verified Complaint for Declaratory and Injunctive Relief.

27 G. “Complaint in Intervention” means the Complaint filed by the Intervenors on
28 February 21, 2003, pursuant to an Order of the Court dated January 28, 2003.

1 H. “Consumer” means a person with a developmental disability, as defined in Welfare
2 and Institutions Code section 4512(a).

3 I. “CPP” means the Community Placement Plan as defined in Welfare and Institutions
4 Code section 4418.25.

5 J. “DDS” means the California Department of Developmental Services.

6 K. “Defendants” means the State Defendants and the Regional Center Defendants.

7 L. “Developmental Center” or “DC” means the following State-operated facilities for
8 persons with developmental disabilities: Fairview Developmental Center, Lanterman
9 Developmental Center, Porterville Developmental Center, Sonoma Developmental Center,
10 Canyon Springs Community Facility, and Sierra Vista Community Facility.

11 M. “DHCS” means the California Department of Health Care Services.

12 N. “Disability Rights California” refers to Disability Rights California, lead counsel for
13 Plaintiffs in this case. In addition, Disability Rights California is the State of California’s
14 designated federal protection and advocacy agency for people with disabilities.

15 O. “DMH” means the California Department of Mental Health.

16 P. “Downsizing” means the process by which a Regional Center, for consideration of
17 DDS funding assistance, negotiates with a large (16-bed or more), licensed, residential service
18 provider to develop a written contract for: (1) development and use of smaller Community
19 Living Options, e.g., Community Care Facilities (CCFs), Supported Living Services (SLS),
20 Intermediate Care Facilities/Developmentally Disabled-Habilitation (ICF/DD-H), Intermediate
21 Care Facilities/Developmentally Disabled-Nursing (ICF/DD-N)) that are eligible for HCBS-DD
22 Waiver funding or Medi-Cal funding; or (2) restructuring a large licensed CCF in accordance
23 with approved criteria that would allow the large facility to be eligible for funding under the
24 Home and Community Based Services Waiver.

25 Q. “Dual diagnosis” means a diagnosis of a developmental disability and a mental health
26 disability.

27 R. “Effective date of the Judgment” means the date the Court approves the Settlement
28 Agreement pursuant to California Rules of Court, rule 3.769.

1 S. "Home and Community-Based Services Waiver" or "HCBS Waiver-DD" means the
2 Medicaid Home and Community Based Services Waiver for People with Developmental
3 Disabilities ("DD HCBS Waiver") under Section 1915(c) of the Social Security Act, 42 U.S.C.
4 section 1396n.

5 T. "ICF/DD" means "Intermediate Care Facilities/Developmentally Disabled."

6 U. "ICF/DD-H" means "Intermediate Care Facilities/Developmentally Disabled-
7 Habilitation."

8 V. "ICF/DD-N" means "Intermediate Care Facilities/Developmentally Disabled-
9 Nursing."

10 W. "Innovative Program Initiatives" means models, practices, and/or methods of service
11 provision intended to create successful community living for individuals with developmental
12 disabilities. Innovative Program Initiatives are designed to be evidence-based and can represent a
13 multi-year effort.

14 X. "Institutions," as defined by the February 14, 2008, Order Granting Plaintiffs'/
15 Petitioners' Motion for Class Certification, are "public and private, licensed or certified facilities,
16 including but not limited to state developmental centers (DCs), including the state-owned-and-
17 operated Sierra Vista and Canyon Springs facilities, state psychiatric hospitals; intermediate care
18 facilities-developmentally disabled (ICF-DDs); and those skilled nursing facilities (SNFs),
19 residential community care facilities (CCFs), or children's shelters with a capacity of 16 or more.
20 This definition refers to facilities on the same grounds or parcel, irrespective of whether the
21 provider has one or more discrete licenses."

22 Y. "Intervenors" means the organizational and individual Intervenors permitted to
23 intervene pursuant to the Court's Order of January 28, 2003.

24 Z. "IPP" means the Individual Program Plan as provided for in the Welfare and
25 Institutions Code and in applicable California Code of Regulations, Title 17 and Title 22.

26 AA. "Party" or "Parties" means Plaintiffs, State Defendants, Regional Center Defendants,
27 and Intervenors.

1 BB. "Plaintiffs" means the representative, organizational, and taxpayer Petitioners/
2 Plaintiffs described in paragraphs 9-64 of the Complaint.

3 CC. "Regional Center Defendants" means the Defendants identified in paragraphs 72-92
4 of the Complaint.

5 DD. "Regional Resource Development Project" or "RRDP" means regional resource
6 development projects as described in Welfare and Institutions Code sections 4418.2, 4418.25,
7 4418.3, and 4418.7.

8 EE. "SLS" means "Supported Living Services."

9 FF. "SNF" means "Skilled Nursing Facility."

10 GG. "State Council on Developmental Disabilities" or "SCDD" means the State Council
11 on Developmental Disabilities as described in Welfare and Institutions Code section 4521.

12 HH. "State Defendants" means the Defendants identified in paragraphs 65-70 of the
13 Complaint.

14 III. DENIAL OF LIABILITY

15 All Defendants deny any violation of any federal, state, or local law, whether based on the
16 constitution, statute or common law, including, without limitation, the Lanterman Act, the
17 Americans with Disabilities Act, Section 504 of the Rehabilitation Act, California Government
18 Code section 11135, the Medicaid Act, the California and United States Constitutions, and
19 California Business and Professions Code section 17200. All Defendants expressly deny any
20 liability to any named Plaintiff, any Member of the Class, any organizational Plaintiff, or any
21 taxpayer Plaintiff. This Settlement Agreement constitutes the settlement of disputed claims and
22 nothing contained herein is to be construed as an admission of liability on the part of any
23 Defendant. This Settlement Agreement does not constitute an adjudication or finding on the
24 merits of the claims alleged in the Complaint. Moreover, neither this Settlement Agreement nor
25 any provision therein shall be admissible in any proceeding as evidence that Defendants, or any
26 of them, have violated any federal, state, or local law, statute, or ordinance.

1 **IV. SPECIFIC TERMS**

2 Plaintiffs, Defendants, and Intervenors agree to the following specific terms:

3 **A. ENHANCED REGIONAL CENTER CASE MANAGEMENT.**

4 1. The State shall seek additional funding to increase Regional Center staff who shall
5 provide service coordination on behalf of residents of Developmental Centers who are consumers
6 of their centers. Subject to the Legislature's approval and inclusion in the annual Budget Act,
7 DDS shall provide funding necessary to enhance the core staffing formula to provide case
8 management resources to Regional Centers so they can participate in Developmental Center
9 residents' annual IPP meetings. The enhanced funding shall be allocated to each Regional Center
10 proportional to the number of Class Members each Regional Center has residing in the
11 Developmental Centers. The enhanced funding shall be built into the Regional Center base
12 budget. For fiscal year 2009-2010, the funding shall be \$3.136 million.

13 2. Except in unusual circumstances when Developmental Center and Regional Center
14 staff agree to a shorter time period, DDS shall provide 45-day notice to the appropriate Regional
15 Center of a Developmental Center Class Member's annual IPP meeting in order to facilitate the
16 Regional Center's attendance.

17 3. Regional Center staff shall use diligent efforts to attend, in person, the annual IPP
18 meetings of each Developmental Center Class Member. If Regional Center staff cannot attend in
19 person, then staff may attend via video conference or teleconference, or may designate a
20 representative from another Regional Center to attend on their behalf.

21 4. DDS shall schedule IPP meetings to permit the attendance of Developmental Center
22 Class Members at their IPP meetings. If a Developmental Center Class Member chooses not to
23 attend his/her annual IPP, the Regional Center service coordinator shall diligently seek to obtain
24 information from the Class Member about his/her needs and preferences to share with the team.
25 This information shall be considered in addition to information provided by other members of the
26 team.

27 5. DDS shall provide office space at each Developmental Center for Regional Center
28 staff to assist in their work with Developmental Center Class Members.

1 **B. TRAINING AND INFORMATION TO ENHANCE PERSON-CENTERED PLANNING.**

2 1. To enhance the active discussion and flow of information regarding Community
3 Living Options at Developmental Center Class Members’ annual IPP meetings, the DDS
4 Regional Resource Development Projects, in collaboration with Developmental Center and
5 Regional Center staff, shall conduct training for Interdisciplinary Team (IDT) members at each of
6 the Developmental Centers on the wide range of existing Community Living Options, community
7 transition services, and consumer choices, including materials from the Choices Project. All
8 Developmental Center staff who attend IPP meetings as IDT members shall receive the training.
9 The training shall be incorporated into the annual training offered at each Developmental Center,
10 and shall be completed within the first 18 months of the Effective Date of the Settlement
11 Agreement but no later than June 30, 2010, and annually thereafter. Regional Center staff who
12 work with Developmental Center Class Members shall attend a training once during the term of
13 the Settlement Agreement.

14 2. Disability Rights California shall provide DDS and Regional Centers with a poster
15 which describes Community Living Options, Class Member rights, and information about how to
16 contact an advocate for assistance in accessing Community Living Options. DDS shall display
17 the poster in each residential unit at each Developmental Center. Each Regional Center shall
18 provide to each non-Developmental Center institution where Class Members reside the same
19 poster, and request that they display it. For purposes of this section, non-Developmental Center
20 institutions include the following facilities which have a capacity of 16 or more beds: CCFs,
21 ICFs, ICF-DDs, SNFs (both nursing and psychiatric), Psychiatric Treatment Centers, Mental
22 Health Rehabilitation Centers, and Sub-acute Facilities (both adult and pediatric). Disability
23 Rights California will provide a copy of the poster to all Parties.

24 3. To enhance Class Member participation in the development of his/her IPP, including
25 providing information on Community Living Options, DDS shall include in its contract with
26 Disability Rights California and in its contract with the SCDD a requirement that Clients’ Rights
27 Advocates (CRAs) and, as appropriate, Volunteer Advocacy Services Staff provide information
28

1 and training to Class Members regarding Community Living Options. In addition, Disability
2 Rights California and SCDD shall, to the extent resources are available, use diligent efforts to
3 facilitate consumer-to-consumer training to meet this requirement. DDS shall provide training to
4 the Developmental Center and Regional Center CRAs utilizing available materials, such as the
5 Choices Project material.

6 4. DDS shall modify the Choices Project material, including the DVD, that was
7 prepared for Agnews Developmental Center closure, to enable its use, as appropriate, and use
8 diligent efforts to provide copies of the material by July 1, 2009.

9 **C. TRAINING, PLANNING, AND SERVICES FOR INDIVIDUALS WITH A**
10 **DUAL DIAGNOSIS.**

11 Using funding appropriated for this purpose in the annual budget, DDS, in consultation
12 with the DMH, shall identify best practice models, develop materials and provide training to
13 enhance the effectiveness of the Regional Center and county mental health service systems to
14 better identify and support consumers who are dually diagnosed with a developmental disability
15 and a mental illness. Additionally, DDS shall provide ongoing technical assistance for clinical
16 support, coordination of care and interagency collaboration for the purpose of improving timely
17 access to service and avoiding hospitalization in psychiatric facilities. There shall be three major
18 components to this effort:

19 1. Training for Families, Consumers, Regional Center Service Providers and Regional
20 Center Service Coordinators: In consultation with DMH, DDS shall develop and provide
21 materials and training for families, consumers, Regional Center service providers and Regional
22 Center service coordinators on early identification of problems resulting from mental illness;
23 coordination of care with local mental health professionals; day to day support; and, care giving
24 strategies for infants and young children served by a Regional Center who are traumatized by
25 abuse and neglect.

26 2. Regional Best Practices Training: DDS, in consultation with DMH, shall conduct a
27 series of training sessions on best practice models for Regional Center staff, community
28 clinicians, and county mental health staff to better serve consumers with a dual diagnosis.

1 3. Regional Planning Projects: DDS shall convene² three regional planning projects
2 with Regional Center representatives experienced in working with individuals with a dual
3 diagnosis, consumers and family members, community mental health professionals, and other
4 interested stakeholders, including Disability Rights California, to address opportunities and
5 obstacles toward improving the delivery systems at the local level. The two Consulting Clinical
6 Psychologists, in consultation with DMH and constituents from both systems, shall develop local
7 community needs assessments.

8 4. Dismissal of DMH from non-Lanterman Act Claims: DMH shall be dismissed
9 without prejudice as to the 2nd, 4th, 5th, 6th, 7th, and 9th Causes of Action in the Complaint.

10 **D. COMMUNITY PLACEMENT PLANS.**

11 1. Regional Centers shall use diligent efforts to continue, develop, implement, and
12 achieve their CPP goals in the areas of assessment, placement, deflection and resource
13 development (start-up projects) pursuant to applicable law and guidelines. Regional Centers shall
14 identify innovative community projects for Class Members, including Regional Center
15 collaborative projects.

16 2. A meeting attended by one staff member designated by each Regional Center shall be
17 held at least annually during the term of the Settlement Agreement to share resource development
18 ideas, experiences, and best practices regarding the CPP, and to discuss potential collaborations.

19 3. DDS shall review, negotiate, and approve Regional Centers' CPP proposals
20 consistent with the Welfare and Institutions Code and the CPP Guidelines. The State shall
21 request funding for the CPP through the budget process based on the approved Regional Center
22 CPP proposals. DDS shall fund, within funding appropriated in the Budget Act for this purpose,
23 Regional Center initiatives under the CPP.

24
25
26 _____
27 ² The term "convene" in this section means that DDS will arrange a date, time, and place
28 for three annual meetings, as well as provide timely notice of the meetings to the entities and
persons identified in the section.

1 4. In reviewing, negotiating and approving a Regional Center’s CPP proposal, DDS
2 shall consider any health and safety rate exception requests submitted by the Regional Center
3 related to the Regional Center’s CPP proposal, and approve the exception as appropriate.

4 5. For purposes of this section of the Settlement Agreement, the Agnews closure project
5 is not included.

6 6. During Fiscal Year 2008-2009, the State will fund, subject to funding appropriated in
7 the Budget Act, the following Regional Center initiatives:

8 a. ACRC will develop two, four-bed residential facilities to serve consumers with
9 forensic needs.

10 b. CVRC plans to initiate community projects to develop four new homes for
11 residents of the Developmental Center: a Juvenile Forensic Facility, a Prader Willi Home, a home
12 for Visually Impaired consumers, and a home for consumers with behavioral challenges. CVRC
13 also intends to expand its SLS through the enhancement of existing SLS or the development of a
14 new SLS.

15 c. ELARC will develop two, four-bed specialized residential facilities, one of
16 which will be developed with active parent involvement.

17 d. RCEB will develop an Adult Residential Facility (ARF) to serve consumers
18 involved with the criminal justice system, an SLS provider to serve consumers with a dual
19 diagnosis, and an integrated apartment project owned by the Housing Consortium of the East
20 Bay.

21 e. FNRC will fund the development of small employment pilot projects for Class
22 Members transitioning from Developmental Centers, as well as for those consumers currently
23 living in the community. FNRC will begin collaboration with an experienced provider to develop
24 specialized treatment services to minors with forensic issues, including those with a history or
25 risk of sexual offenses to others. The intent of this project is to intervene with youth to prevent
26 later admissions to the developmental center.

27 f. Subject to obtaining funding, GGRC shall make diligent efforts to acquire
28 during the term of the Agreement at least one of each of the following types of homes: a home for

1 children and adults with severe behavior challenges, a home for adults with behavior challenges
2 and nursing needs, and a home for adults with a dual diagnosis.

3 g. HRC will complete or initiate the development of the following homes for three
4 or four individuals: two extensively modified homes for individuals with severe sensory
5 challenges, two homes for individuals with substantial mental health challenges, two homes for
6 individuals with substantial medical challenges, two homes for individuals with substantial
7 medical and behavioral challenges, and one living arrangement for a consumer with co-occurring
8 mental illness and forensic involvement. HRC will also complete or initiate the following adult
9 day services: a minimum of eight, small community supports to assist small groups of consumers
10 to obtain meaningful work, participate in chosen activities, explore/expand interests, develop
11 relationships, and receive treatment/therapeutic interventions necessary to lead healthy, safe and
12 active lives in their community.

13 h. Subject to obtaining funding, IRC shall make diligent efforts to acquire during
14 the term of the Agreement four, four-bed Specialized Residential Facilities (SRFs), a six-bed
15 SRF, and two four-bed CCFs to serve consumers with significant mental health/behavioral issues
16 who are transitioning from or at risk of placement into a Developmental Center. IRC will also
17 develop a day program to serve consumers with mental health/behavioral issues, and institute a
18 training program for providers regarding behavioral strategies and techniques to avoid psychiatric
19 admissions, and methods and strategies to help stabilize a consumer's community placement.

20 i. Subject to obtaining funding, FDLRC shall make diligent efforts to acquire,
21 during the term of the Agreement, a three-bed specialized home for male consumers with
22 complex behavioral issues, a four-bed specialized home for male consumers with sensory
23 deprivation, a three-bed specialized home for consumers with complex behavioral issues, and a
24 four-bed specialized home for individuals with complex behavioral issues. In addition, FDLRC
25 will expand a day/work program to serve consumers with complex behavioral issues.

26 j. Subject to obtaining funding, NBRC shall make diligent efforts to acquire
27 during Fiscal Year 2008/2009 a step-down facility for three children to transition from a crisis
28 facility to a less restrictive living arrangement, a home for three adults with behavioral and

1 medical needs, and a four-bed home for consumers with a forensic history. NBRC will also
2 contract with a SLS agency to serve consumers with a forensic history and/or difficult behaviors.
3 In addition, NBRC has contracted with Institute for Applied Behavior Analysis (IABA) to
4 provide intensive training for providers on how to work best with consumers with difficult
5 behaviors and to provide intensive crisis services when needed.

6 k. NLACRC will develop the following facilities: a four-bed home for consumers
7 who are blind and/or deaf with moderate health needs, a four-bed ARF for consumers diagnosed
8 with mental health issues, a four-bed ARF for adults with behavior challenges, and crisis services.

9 l. RCOC will begin development of three, four-bed homes to serve Class
10 Members transitioning into the community from a Developmental Center and deflected from
11 Developmental Center placement; one or two ICF/DD-H facilities for Class Members placed out
12 of Developmental Centers and deflected from Developmental Center placement; four apartments
13 for SLS for non-forensic consumers; and a three-bed home for SLS for forensic consumers.

14 m. SARC will work with an existing provider to develop an ICF offering
15 continuous nursing care which will facilitate transition from acute care or skilled nursing back to
16 community care. SARC will also work to develop a community facility with two beds, with the
17 goal of expanding it to six beds. In addition, SARC is partnering with local dentists and a health
18 care system to develop greater access to dental health care for its consumers.

19 n. SG/PRC will develop a residential facility for four Class Members with severe
20 behavior needs and a triplex that will provide affordable rental units for Class Members who will
21 receive SLS. In addition, SG/PRC will develop a day program to work with consumers with
22 severe behavioral challenges and a project to locate and match SG/PRC consumers with existing
23 affordable rental housing units in the SG/PRC catchment area.

24 o. SCLARC will develop a pilot program that will link consumers with inadequate
25 or no mental health services to mental health providers. In addition, SCLARC will develop an
26 Adult Family Home for women with impaired hearing, and a SRF for elderly men who exhibit
27 severe behaviors and have intermittent medical issues.

28

1 **E. INNOVATIVE PROGRAM INITIATIVES.**

2 Regional Centers shall identify, and DDS will encourage and support, innovative regional
3 initiatives designed to address the needs of consumers with complex needs in the community
4 (dual diagnosis, behavioral, and/or complex medical issues) with funds appropriated in the
5 Budget Act. DDS has approved the following projects:

6 1. The development of an Assertive Community Treatment (ACT) team by Telecare
7 Corporation vendored by ACRC to serve Class Members identified as being in crisis and at risk
8 of admission to a Developmental Center.

9 2. The development of a Specialty Assessment Team (SAT) vendored in the SDRC area
10 to create key linkage across systems for consumers to receive eligible services, and to provide
11 extensive training, consultation and education regarding dual diagnosis to all community partners.

12 3. The development of a delayed egress Mental Health Rehabilitation Center vendored
13 by ACRC to serve adult consumers with a dual diagnosis living in the community who have been
14 identified as being in crisis.

15 4. The development of a small residential facility, vendored by FNRC, for children
16 whose needs cannot be appropriately met in their family homes or other residential facilities.

17 5. The development of a small residential home with one bed for respite and/or
18 emergency placement vendored by VMRC to serve consumers living in the community who have
19 been identified as being in crisis.

20 6. The development of a secure Mental Health Rehabilitation Center for consumers with
21 a dual diagnosis who are in crisis and are served by RCEB, GGRC, and SARC.

22 7. The development of a new facility vendored in the SDRC area for sub-acute
23 psychiatric care (step-down from acute care) to serve consumers identified as having intensive
24 mental health needs.

25 8. The development of GGRC's Anchor, Bridge, and Puente Projects to provide
26 comprehensive mental health services to its consumers who need them and its joint program with
27 Marin County Mental Health which provides psychiatric assessments for medication and follow-
28 up for consumers who have a mental health diagnosis and may require medication.

1 In addition, subject to legislative budget approval, DDS will continue to fund collaborative
2 projects among Regional Centers which are approved by DDS. Examples of possible
3 collaborative projects include those proposed by the Southern California Integrated Health and
4 Living Project, formed by FDLRC, HRC, IRC, NLACRC, RCOC, SG/PRC, SCLARC, TCRC,
5 and WRC.

6 **F. HOUSING INITIATIVES.**

7 1. The State (by means to be determined by the State) and Regional Centers shall
8 continue to support the development of integrated, affordable, sustainable, and accessible housing
9 for consumers in the community, including Class Members, within funds approved by the
10 Legislature or available from other sources. DDS and Regional Centers agree to give
11 consideration for these initiatives to Class Members, as appropriate.

12 2. DDS shall provide ten acres at Fairview Developmental Center (commonly referred
13 to as the Shannon's Mountain Project) to offer as a long-term ground lease for the development of
14 affordable housing, similar to the successful Harbor Village Project. This housing project shall
15 set aside up to 20% of the units for consumers. DDS will work with the Department of General
16 Services to implement the project under existing statutory authority.

17 3. Regional Centers are engaged in the following efforts to develop housing for
18 consumers in their catchment areas and pledge to make diligent efforts to develop integrated,
19 affordable, sustainable, and accessible housing for consumers.

20 a. ACRC has worked collaboratively with a nonprofit housing corporation and has
21 assisted in developing and providing housing options for persons with developmental disabilities
22 in the ten-county area served by ACRC. ACRC in partnership with the housing corporation had
23 arranged for carve-outs in apartment complexes to provide integrated and accessible housing in
24 the community, and has obtained Section 8 vouchers for consumers. ACRC will continue to use
25 diligent efforts to develop integrated, affordable, sustainable, and accessible housing for its
26 consumers.

27 b. CVRC has assisted in the development of a housing project to be leased for a
28 term of 55 years to a private nonprofit housing entity for its consumers. The project, a tri-plex, is

1 designed for Class Members transitioning from a Developmental Center who can benefit from
2 SLS. CVRC will use diligent efforts to develop similar housing projects to serve its consumers.

3 c. ELARC founded a nonprofit housing corporation in 2006 to develop and
4 increase the availability of integrated, affordable, sustainable and accessible housing for
5 consumers. Over the past five years, ELARC has developed a number of resources to offer
6 consumers an array of living arrangements, and will use diligent efforts to continue to develop
7 facilities in its catchment area.

8 d. RCEB has worked collaboratively with a nonprofit housing consortium which
9 was established in 1996 and has assisted in developing and providing housing options for several
10 hundred consumers in the Bay Area. RCEB, in partnership with the consortium, developed 15
11 homes through the Bay Area Housing Project to serve Class Members moving from Agnews
12 Developmental Center. RCEB will continue to use diligent efforts to develop integrated,
13 affordable, sustainable, and accessible housing for consumers.

14 e. In 1997, FNRC created a nonprofit housing corporation to develop integrated,
15 affordable, sustainable, and accessible housing for consumers. Since then, the nonprofit and
16 FNRC have worked with local government housing agencies to purchase 16 homes and duplexes,
17 develop and build two accessible duplex units, work with community apartment complexes for
18 access by consumers with low incomes/HUD qualifications, and construct a fully-accessible,
19 specialized four-bed facility designed for individuals with health care needs. FNRC will continue
20 to work with the nonprofit on projects for consumers currently living in the community and for
21 Class Members transitioning from the Developmental Centers to the community.

22 f. GGRC is working with a nonprofit housing corporation that was established in
23 2004 to develop affordable housing in the Bay Area for consumers. GGRC will use diligent
24 efforts to continue to develop integrated, affordable, sustainable, and accessible housing for
25 consumers.

26 g. In 1994, HRC created a separate housing corporation for the purpose of
27 developing stable, affordable housing for its consumers. Since then, HRC has developed 30
28 homes for 90 consumers, including consumers transitioning from Developmental Centers. HRC

1 will continue to use diligent efforts to develop integrated, affordable, sustainable, and accessible
2 housing for its consumers.

3 h. For many years, IRC has been working with its housing corporation to develop
4 housing options for its consumers. Currently, IRC and the housing corporation are developing
5 several bungalow housing projects which will provide low-cost housing options for consumers in
6 Riverside and San Bernardino Counties. In addition, IRC will continue to use diligent efforts to
7 develop integrated, affordable, sustainable, and accessible housing for its consumers.

8 i. KRC has formed a nonprofit housing corporation which currently has an
9 application pending with the United States Department of Housing and Urban Development
10 (HUD) to assist 13 consumers to purchase their own homes with funds obtained through the City
11 of Bakersfield.

12 j. FDLRC is an active member of the Southern California Association of
13 Nonprofit Housing. It has partnered with United Cerebral Palsy in the development of affordable,
14 integrated housing in its catchment area, and is currently developing a project in the Glendale
15 area. FDLRC also currently has a project under review with California Lutheran Homes whereby
16 families of consumers and other community members can donate a home which California
17 Lutheran Homes will hold in their foundation with the restriction that the home or proceeds from
18 selling the home will be used for affordable, integrated, and sustainable housing for consumers.

19 k. NBRC has contracted with a nonprofit housing corporation to purchase three,
20 single-family residences or duplexes to develop affordable housing for its consumers. In
21 addition, NBRC will continue to use diligent efforts to develop integrated, affordable, sustainable,
22 and accessible housing for its consumers.

23 l. NLACRC is recruiting staff to provide assistance to consumers and families in
24 identifying permanent, affordable, and accessible housing options. NLACRC will use diligent
25 efforts to network with ARCA, other Regional Centers, its nonprofit housing corporations,
26 developers and vendors in its catchment area to locate and create housing for its consumers.

27 m. RCOC has implemented a rental assistance pilot program that helps consumers
28 get into their own apartments while on the HUD waiting list and prior to getting HUD funds.

1 Approximately ten years ago, RCOC provided start-up money for a local nonprofit housing
2 corporation. Within the last year, the RCOC Board of Directors created a Board-level housing
3 committee, which will provide an even higher level of coordination between RCOC and the
4 nonprofit. The nonprofit, with support from RCOC, is currently pursuing a variety of sustainable
5 affordable housing options throughout Orange County, including three, single-family homes; two,
6 three-bedroom apartment units in Brea; and ten to 12 apartment units in unincorporated Orange
7 County.

8 n. RCRC has created an Advisory Committee to study the prospect of starting a
9 nonprofit housing corporation.

10 o. SARC is working collaboratively with two nonprofit housing corporations to
11 develop affordable housing, including partnering with developers to set aside units for consumers.
12 In addition, SARC has contracted with one nonprofit to provide liaisons between consumers and
13 their landlords.

14 p. SDRC is in the process of developing a not-for-profit organization (NPO) to
15 specifically target affordable housing for consumers in its catchment area. Specifically, SDRC is
16 assembling a Board of Directors for that NPO whose mission will be to develop affordable
17 housing in collaboration with MHA and HUD, including partnering with developers to set aside
18 units for consumers. This would be accomplished by securing incentive loans offered by various
19 community sources, including federal and state fund initiatives, such as Proposition 1C dollars
20 and HUD and municipal funding for affordable housing. SDRC is also currently working to
21 secure a project with the City of San Ysidro, Chelsea Development Corporation, and the Southern
22 California Housing Collaborative whereby SDRC will secure 28 apartments (two- and three-
23 bedroom apartments) for its consumers. Letters of intent have been exchanged, and although
24 contracts have not yet been executed, SDRC expects that after an agreement is reached and
25 funding secured, the project will be completed within 18 months.

26 q. Through agreements with a nonprofit housing corporation, SG/PRC plans to
27 develop approximately four community properties that will be available to Class Members
28 transitioning from Developmental Centers or at risk of admission to a Developmental Center. In

1 addition to these projects, SG/PRC will use diligent efforts to develop integrated, affordable,
2 sustainable, and accessible housing for its consumers.

3 r. SCLARC has partnered with nonprofit housing entities to create integrated and
4 affordable housing for its consumers. SCLARC will continue to use diligent efforts to develop
5 integrated, affordable, sustainable, and accessible housing for its consumers.

6 s. TCRC has formed a nonprofit housing corporation which is considering
7 creating housing for its consumers over a five-year period.

8 t. WRC has been providing affordable housing to its consumers through its
9 nonprofit housing corporation for the last 20 years. WRC will continue to use diligent efforts to
10 develop integrated, affordable, sustainable, and accessible housing for its consumers.

11 **G. DOWNSIZING INITIATIVES.**

12 Regional Centers will use diligent efforts to encourage private vendors of large facilities in
13 their catchment areas to participate in the State's downsizing program. Within funds available in
14 the Budget Act for this purpose, the State will continue to fund DDS-approved downsizing
15 incentives for development of small Community Living Options for consumers living in large
16 licensed facilities of 16 or more residents, including Class Members living in private ICF/DDs
17 and large CCFs similar to the following:

18 1. The development of six CCFs of six-beds or less and other unlicensed living
19 arrangements to downsize CLIMB Inc. #2, a 41-bed CCF in the ELARC catchment area.

20 2. The development of 17, six-bed ICF/DD-Ns to downsize Friendship Developmental
21 Services, Inc., a 99-bed ICF/DD facility in the SDRC catchment area.

22 3. The development of three ICFs and eight CCFs of six beds or less to downsize Salem
23 Christian Home, an 84-bed facility in the IRC catchment area.

24 4. The development of three, six-bed ARFs to downsize St. Sharbel's Residential Care,
25 a 44-bed facility in the SG/PRC catchment area.

26 5. The development of six, six-bed ICFs; four, three-bed SLS; and two, four-bed CCFs
27 to downsize Hillside House, a 59-bed facility in the TCRC catchment area.

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1 **H. ADDITIONAL CONSIDERATION FOR NON-DEVELOPMENTAL CENTER CLASS**
2 **MEMBERS.**

3 The Parties understand that Section IV.H. is not outcome-based, and that in committing to
4 the process identified in this Section, the Regional Centers cannot guarantee the placement of any
5 individual Class Member. The Parties further agree and acknowledge that the Regional Centers’
6 performance under this Section shall not be measured for successful placement of any individual
7 Class Member. Section IV.H. applies only to those Class Members who reside in licensed or
8 certified, non-State-owned, non-Waiver-eligible residential Community Care Facilities (CCF) and
9 Intermediate Care Facilities-Developmentally Disabled (ICF-DD) with a capacity of 16 or more
10 beds in a single building, and those Class Members who reside in SNFs as set forth in Section
11 IV.H.2.

12 1. At least once during the term of the Settlement Agreement, for each Class Member
13 who resides in a CCF or ICF-DD as set forth above, the responsible Regional Center shall
14 convene an IPP and shall do all of the following:

15 a. Provide, during the IPP process (either prior to or at the IPP meeting),
16 information to Class Members in a manner that enables the Class Member to participate in the
17 planning process and the development of the IPP. The Regional Center shall provide and review
18 with all Class Members, and upon request, with his or her parent (if the Class Member is a
19 minor), authorized representative, and/or conservator, a full range of Community Living Options
20 appropriate to the Class Member’s needs and preferences. Regional Centers shall provide the
21 Choices Project material as appropriate.

22 b. Provide at least 30 days’ notice to the Class Member and to his or her parent (if
23 the Class Member is a minor), authorized representative, and/or conservator, of the meeting to
24 develop the IPP. The notice shall state that the IPP team will review the IPP, including whether
25 the current placement is appropriate to the Class Member’s needs, preferences, and life choices,
26 and whether it provides opportunities for the Class Member to live as independently as possible in
27
28

1 a Community Living Option. The notice shall also contain information about how the Class
2 Member can contact his/her Clients' Rights Advocate for assistance.

3 c. Review, during the IPP meeting, the information gathered, including
4 information from the Choices Project material, where appropriate, and answer questions
5 regarding Community Living Options. Regional Center staff shall discuss with the Class
6 Member, and his or her parent (if the Class Member is a minor), authorized representative, and/or
7 conservator, whether a Community Living Option would meet the Class Member's needs,
8 preferences and life choices, and should be explored.

9 d. If the planning team concludes that a Community Living Option would meet
10 the Class Member's needs, preferences, and life choices, if the Class Member is inappropriately
11 placed, or if the Class Member indicates a desire to move to a Community Living Option, the
12 planning team shall follow the IPP planning process, explore Community Living Option
13 alternatives with the goal that the Class Member reside in the least restrictive setting appropriate
14 to meet the Class Member's needs, preferences, and life choices, and include in the IPP the steps
15 to be taken to achieve that goal.

16 2. For Class Members residing in SNFs: If, as part of the regularly scheduled IPP
17 process, a planning team determines that a Class Member residing in a SNF may be
18 inappropriately placed, the Regional Center shall use the process set forth in Section IV.H.1.a.-d.
19 above. In making this determination, the planning team shall consider, for example, the length of
20 the Class Member's stay, the age of the Class Member, whether the Class Member expresses a
21 desire to move, or whether the Class Member leaves the facility during the day.

22 3. Each year, based on the list provided by the Regional Center pursuant to Section V.G.
23 (Exh. "A," Item 30), Disability Rights California shall be entitled to review a random sample of
24 files of 7% of the Class Members identified in each Regional Center's list. The review shall
25 include only those records which were created during the term of the Settlement Agreement, are
26 located in the Class Member's file, and are relevant to the Regional Center's implementation of
27 the Settlement Agreement. The review shall occur onsite at the Regional Center or the location(s)
28 in which the Class Member's file is maintained. The random sample of 7% shall be selected by

1 Disability Rights California using an agreed upon method of selection. If a Regional Center
2 conducts at least one IPP during the year, Disability Rights California is entitled to review at least
3 one file, even if a sample of 7% would yield less than one file. If 7% results in a fractional
4 number of IPPs, the number available for Disability Rights California review shall be rounded up
5 to the nearest whole number. Disability Rights California may request photocopies of the records
6 reviewed be made by the Regional Center. The Regional Center may bill Disability Rights
7 California for the reasonable costs of photocopying if the requested number of copies exceeds 20
8 pages.

9 **I. RELIEF FOR INDIVIDUAL NAMED PLAINTIFFS.**

10 1. Jimmy White. Mr. White continues to reside at the Sonoma Developmental Center.
11 RCEB shall take appropriate steps to engage Mr. White in a range of activities leading to a
12 comprehensive assessment of his interest in Community Living Options. Such steps shall
13 include, but not be limited to, providing him with additional information about appropriate
14 existing Community Living Options, including visits to appropriate residential settings and
15 arranging for a Whole-Person Assessment by a mutually agreeable contractor. Upon completion
16 of those activities, should Mr. White choose to move to a Community Living Option, additional
17 steps shall be taken to seek all resources necessary to develop an appropriate Community Living
18 Option with the necessary transition and all ongoing support services through RCEB's approved
19 Community Placement Plan proposal. Upon approval by DDS of a CPP proposal that includes all
20 necessary resources, RCEB will develop the new resource(s). Should RCEB include Mr. White
21 in its CPP proposal, DDS shall not unreasonably deny RCEB's request consistent with the
22 Welfare and Institutions Code and the CPP Guidelines applicable at the time of the request.

23 2. Kimberly McAnnelly. Ms. McAnnelly moved to a community setting in September
24 2008. Should Ms. McAnnelly return to an institutional setting during the term of this Settlement
25 Agreement, NBRC shall take all appropriate steps to provide Ms. McAnnelly with supports to
26 make a choice about moving to a Community Living Option with appropriate supports, and to
27 effect such move.
28

1 G. Defendants shall provide reports and documents identified in Exhibit "A" to
2 Disability Rights California by the method and in the time-frame indicated. Reports and
3 documents available on the DDS website shall be accessed by Disability Rights California
4 directly. Reports that are not posted on the DDS website shall be provided to Disability Rights
5 California electronically or in hard copy. If a report or document is no longer posted by DDS on
6 its website, but continues to be published, DDS shall provide a copy of the report or document to
7 Disability Rights California within 45 days of its publication. Nothing in this section shall limit
8 DDS's authority to modify or cease publication of a particular report or document that is
9 identified as available on the website. Should DDS cease to produce a report or document
10 identified in Exhibit "A" as available on the website, DDS shall notify Disability Rights
11 California. However, DDS shall continue to produce the Monthly Admissions, Transfers, and
12 Placement Reports (Exh. "A," Item 22) during the term of the Settlement Agreement.

13 H. The Settlement Agreement shall not limit or broaden the entitlement to services or
14 restructure the provision of services to individuals with developmental disabilities under the
15 Lanterman Act, under other provisions of the Welfare and Institutions Code that apply to the
16 provision of services to individuals with developmental disabilities, or under any other provision
17 of state or federal law.

18 I. The Settlement Agreement shall not limit or restrict the right of any Class Member to
19 request an administrative fair hearing pursuant to Welfare and Institutions Code sections 4710 et
20 seq. to resolve a Class Member-specific dispute subject to those fair hearing provisions, to seek
21 an associated writ pursuant to Code of Civil Procedure section 1094.5, or to make a compliance
22 complaint pursuant to Welfare and Institutions Code section 4731. The Settlement Agreement
23 can neither be enforced in, nor used as a defense in, a fair hearing or associated writ hearing. The
24 Settlement Agreement shall not limit or restrict the right of any Class Member to file a writ under
25 Welfare and Institutions Code section 4800 et seq. for release from a Developmental Center.

26 J. The Complaint does not seek damages. This Settlement Agreement cannot be raised
27 as a defense to any future tort action or other damages claim by an individual class member
28 against one or more of the Defendants in this action.

1 K. The Settlement Agreement does not require, and shall not be construed as requiring,
2 State Defendants to seek to amend the Medicaid State Plan or any of the State's Waivers thereto.

3 L. This Settlement Agreement does not, and shall not be construed as, altering the
4 legally required content or format of IPPs, or the process for developing IPPs.

5 M. If, during the term of the Settlement Agreement, DDS proposes to adopt, amend,
6 modify, or alter the guidelines applicable to IPPs at the Developmental Centers, DDS shall give
7 counsel for Plaintiffs and counsel for Intervenors prior notice of, and an opportunity to comment
8 on, the proposed adoption, amendments, modifications, or alterations.

9 N. State Defendants' responsibilities relating to the monitoring of Regional Centers are
10 solely those monitoring responsibilities as currently set forth in state and federal statute and
11 regulation, and related to the applicable contracts between DDS and Regional Centers. The
12 Settlement Agreement does not, and shall not be construed as, altering, modifying, or adding to
13 those responsibilities. In particular, except to the extent the monitoring responsibility may be
14 imposed by the Lanterman Act, the State Defendants have no responsibility to monitor the
15 performance by one or more Regional Center of any matter agreed to by a Regional Center in the
16 Settlement Agreement.

17 O. State Defendants shall not be liable for, and no enforcement action pursuant to the
18 Settlement Agreement or otherwise, shall lie against any State Defendant for an alleged failure by
19 one or more Regional Center(s) to comply with the Settlement Agreement.

20 P. Regional Center Defendants shall not be liable for, and no enforcement action
21 pursuant to the Settlement Agreement or otherwise, shall lie against any Regional Center
22 Defendant for any alleged failure by any State Defendant to comply with the Settlement
23 Agreement. The failure of any Regional Center to perform its obligations under this Settlement
24 Agreement shall not impact the full force and binding effect of this Settlement Agreement as it
25 relates to the remaining Parties, including without limitation, the dismissal as to each Party who
26 performs its obligations herein, pursuant to Section VI.B. No Party will be held liable for any
27 aspect of the performance, or lack of performance, by any other Party of the other Party's
28 obligations under this Settlement Agreement.

1 Q. Any and all obligations of the Regional Center Defendants herein are expressly
2 contingent upon sufficient funding for said obligations within the applicable Budget Act, both
3 with respect to the Regional Centers' Direct Services Budget as well as their Operations Budget.

4 **VI. TERM OF THE SETTLEMENT AGREEMENT**

5 A. The Settlement Agreement shall become effective on the date the Court approves the
6 Settlement Agreement and enters Judgment pursuant to California Rules of Court, rule 3.769.

7 B. The parties agree that should this Agreement be approved by the court, a judgment
8 will be entered that expressly incorporates this Agreement in its entirety. The parties waive any
9 right to appeal or to seek review of this judgment by a higher court.

10 C. Defendants' obligations under Section IV. of this Settlement Agreement shall
11 terminate as of June 30, 2012; however, nothing shall prevent the Parties from agreeing to, or the
12 Court from ordering, continued performance by a Defendant beyond June 30, 2012, if that
13 Defendant has failed to perform as required prior to that date. The Settlement Agreement shall
14 remain in effect until all reports set forth in Section V.G. and Exhibit "A" have been made
15 available to Disability Rights California, and Disability Rights California, after receipt of these
16 reports, has had 60 days to initiate the Dispute Resolution Procedures as set forth in Section
17 VIII.A. of the Settlement Agreement. The Settlement Agreement shall terminate in its entirety on
18 the last day for instituting the Dispute Resolution Procedures if proceedings are not initiated, or
19 upon the completion of the Dispute Resolution Procedures if proceedings are initiated.

20 D. The Court shall retain jurisdiction during the term of the Settlement Agreement.

21 E. Upon the Settlement Agreement's termination, the Complaint, in its entirety, shall be
22 dismissed with prejudice.

23 **VII. ATTORNEYS' FEES AND COSTS**

24 Without exception, each Party shall bear its own attorneys' fees and costs for each and
25 every aspect of this case, whether incurred before or after entry of this Settlement Agreement,
26 including, without limitation, fees and costs incurred in the underlying litigation, the settlement
27 process, the implementation of the Settlement Agreement, the monitoring of the Settlement
28

1 Agreement, or any enforcement of the Settlement Agreement. For purposes of this Section, costs
2 include expert costs.

3 **VIII. DISPUTE RESOLUTION PROCEDURES**

4 A. If Disability Rights California has a claim, dispute, or matter in controversy
5 (“dispute”) arising out of or in any manner related to this Settlement Agreement, including,
6 without limitation, any change in legislative authority or appropriation, Disability Rights
7 California shall give written notice to the Party or Parties with whom the dispute arises. The
8 notice shall explain in detail the nature of the dispute, the facts deemed relevant to the dispute,
9 and a proposed resolution of the dispute.

10 B. In response to the notice, each Party shall, within 14 days of receipt of the notice (or
11 such longer period as agreed to in writing by the Parties), provide a written response. The
12 response shall explain in detail the Party’s position on the dispute.

13 C. After the expiration of the response period, the Parties involved in the dispute shall
14 meet and confer in good faith in an effort to resolve the dispute.

15 D. If the dispute is not resolved through the meet and confer process within 20 days (or
16 such longer period as agreed to in writing by the Parties), the dispute shall be referred to
17 mediation before Judge Steven Brick. If Judge Brick is unavailable, the dispute shall be referred
18 to a judge of the Alameda Superior Court designated by Judge Brick, or by the Court if Judge
19 Brick is unable to make a timely designation. Judge Brick or other judge shall establish the
20 procedures for the mediation.

21 E. If Judge Brick or other judge finds that the mediation has failed to resolve the dispute,
22 Judge Brick or other judge shall certify to the Court the issue(s) to be resolved. The Court shall
23 then conduct such hearings as it deems necessary to resolve the certified issue(s). The Court may
24 issue orders containing relief deemed necessary to resolve the issue(s).

25 **IX. ADDITIONAL PROVISIONS**

26 A. The Parties agree to file a joint application with the Court, and to take all other steps
27 necessary, to request a fairness hearing and to seek the Court’s preliminary approval of this
28 Settlement Agreement. If the Court withholds its approval of this Settlement Agreement or the

1 settlement for any reason, the Parties shall meet and confer to determine whether this Settlement
2 Agreement and/or settlement can be amended or modified in a manner so as to secure the Court's
3 approval, failing which, this settlement and the Settlement Agreement shall be null and void.

4 B. Upon the Court's granting preliminary approval of the settlement and the Settlement
5 Agreement, Disability Rights California and Defendants shall provide notice to the Class in a
6 manner agreed upon by Disability Rights California and Defendants and/or ordered by the Court
7 pursuant to Rules of Court 3.769 and 3.771(b).

8 C. Following approval of the Settlement Agreement by the Court, the Settlement
9 Agreement may be amended, modified, or supplemented only by an executed writing which has
10 been presented to and approved by this Court.

11 D. This Settlement Agreement shall be effective as to and binding upon the Parties and
12 their successors and assigns.

13 E. This Settlement Agreement represents the entire integrated Agreement of the Parties.

14 F. This Settlement Agreement may be executed in counterparts. The counterparts shall
15 have the same force and effect as if a single document had been signed.

16 G. Nothing in the Settlement Agreement as entered shall affect the rights of class
17 representatives, organizational Plaintiffs, taxpayer Plaintiffs, Intervenors, or Class Members with
18 respect to any claims that arise after entry of a Dismissal with Prejudice pursuant to Section VI.E.

19 H. The Parties agree that this Settlement Agreement is the product of mutual negotiation
20 and preparation and, accordingly, this Settlement Agreement shall not be deemed to have been
21 prepared or drafted by a particular Party. The Parties further agree that any court seeking to
22 interpret this Settlement Agreement should construe it as the product of mutual negotiation and
23 preparation.

24 I. Plaintiffs, Defendants, and Intervenors represent, warrant and agree as follows:

25 1. No Party (nor any officer, agent, partner, employee, representative, or attorney of or
26 for any Party) has made any statement or representation to any other Party regarding any fact
27 relied upon in entering into this Settlement Agreement, and no Party is relying upon any
28 statement, representation or promise of any other Party (or of any officer, agent, employee,

1 representative, or attorney for any other Party) in executing this Agreement, except as expressly
2 stated in this Settlement Agreement.

3 2. Each Party to this Settlement Agreement has made such investigation of the facts
4 pertaining to this Settlement Agreement and of all the matters pertaining thereto as it deems
5 necessary.

6 3. Each Party or responsible officer or agent thereof has read this Settlement Agreement
7 and understands the contents hereof.

8 J. For purposes of communication under this Settlement Agreement, including, but not
9 limited to, submission of reports and documents under Section V.G. and notice under Section
10 VIII.A., the Parties have designated in Exhibit "B" their representatives and the contact
11 information. Notwithstanding Section IX.C., the contents of Exhibit "B" shall be updated as
12 appropriate by written notice to all Party representatives.

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