UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF RHODE ISLAND, Defendant.	)	C.A. No. 14-175-M-PAS

ORDER

After a review of all of the material submitted to the Court and after conducting status conferences and evidentiary hearings, the Court has concluded that the State of Rhode Island must take the following actions to ensure full compliance with the Consent Decree (ECF No. 5) in this matter.

It is hereby ORDERED that the State will:

1.) Appropriate the additional money contained in the Governor's budget for fiscal year 2017 in order to fund compliance with the Consent Decree.

2.) Create a live database that will allow for efficient and effective tracking of each member of each target population outlined in the Consent Decree and all related and required services and outcomes, including dates for assessment and the start of services related to Individual Plans for Employment ("IPEs"), Individual Support Plans ("ISPs"), Individual Education Plans ("IEPs") and/or Individual Learning Plans ("ILPs"), where applicable. For those individuals who receive IEPs, the database will track dates of each IEP meeting and whether the Department of Behavioral

Healthcare, Developmental Disabilities & Hospitals ("BHDDH") or the Office of Rehabilitation Services ("ORS") attended the meeting. The live database will also track, by individual: a) the date on which each Career Development Plan ("CDP") was finalized; b) each date on which a CDP was updated to demonstrate whether the CDP is being revised at least annually, as required by the Consent Decree; and c) the date(s) of benefits counseling and distribution of a written benefits plan for all individuals scheduled to transition to a Supported Employment Placement or Integrated Day Services, as well as for all members of the Rhode Island Youth Exit, Rhode Island Sheltered Workshop, and Rhode Island Day Program Target Populations who have received offers of employment. For Youth Exit and Transition Target Population members, the live database will also track the transition process, including the following dates: a) first contact with BHDDH; b) initial assessment; c) approval of services; d) Supports Intensity Scale ("SIS") assessment; e) tier assignment (and which tier was assigned); and f) date of start of services. The State must report to the United States and the Court Monitor on progress relating to the database on or before July 30, 2016.

3.) By July 29, 2016, provide the United States and the Court Monitor with either access to the database or a list of database entries from which the United States and the Court Monitor will select files at random for verification. The United States and the Court Monitor will each provide a selection of entries to the State on or before August 5, 2016. By August 12, 2016, the State will produce for verification

the Career Development and benefits plans associated with the files selected by the United States and the Court Monitor.

4.) From this date forward, comply with every deadline in the Consent Decree, with compliance measured, in part, by regular reports of supported employment placements filed with the Court by the Court Monitor.

5.) The State shall maintain sufficient records to document that the requirements of this Order are being properly implemented and shall file evidence of compliance with the Court through the ECF system in accordance with the following dates:

a. By July 1, 2016, finalize a project management plan for Consent Decree activities, developed and agreed to by BHDDH, ORS and RIDE, with enumerated goals, tasks, deadlines, interim deadlines, and names of project leads.

b. By July 1, 2016, finalize a transition timeline, developed and agreed to by BHDDH, ORS and RIDE, that identifies each agency's responsibility for engagement with individuals transitioning from the youth to adult service systems, including associated timelines for initial engagement, assessment, and start of services.

c. By July 1, 2016, finalize a communication plan. The communication plan will include a method of communicating to individuals and families the status of any pending BHDDH IDD services eligibility request, deadlines for any required actions by the individual, and expected dates for initial

assessment; approval of services; SIS assessment; tier assignment; and start of services.

d. As part of its communication plan, the State will outline its efforts to gather information from the community, including but not limited to: 1) specific dates and audiences for future community meetings; 2) proposed dates for two meetings with the Employment First Task Force attended by the Deputy Secretary of the Rhode Island Executive Office of Health and Human Services in the next six months; 3) updates to agency websites that provide individuals and families with practical information on services and deadlines to support seamless transitions; and 4) a specific Consent Decree update to be shared through the BHDDH newsletter by July 29, 2016.

e. By July 1, 2016, add to BHDDH Policy No. SIS-4 "Service Tier Policy/Assigning Resource Allocation," a provision requiring that all decisions involving SIS tier assignments and changes will be made by BHDDH staff in a manner that is consistent with individuals' support needs, separate and apart from resource allocation considerations.

f. By July 29, 2016, file with the Court agendas or meeting minutes that demonstrate training of all SIS Interviewers and Assessors on the above listed change to BHDDH Policy No. SIS-4.

g. By July 1, 2016, finalize a plan for ensuring consistent attendance by individuals employed by BHDDH or ORS at IEP meetings for transition age individuals.

h. By July 29, 2016, BHDDH, ORS and RIDE must implement ongoing training on the use of career development plans and provide regular supervision to ensure all relevant agency staff are using the plans as contemplated by and required in the Consent Decree.

i. By July 29, 2016, RIDE must train all census clerks to accurately report the number of career development plans in place.

j. By July 29, 2016, hire a Program Developer and Employment Specialist.

k. By August 1, 2016, implement a new reimbursement model for services that is sufficiently flexible to allow providers to be reimbursed for services rendered, including, but not limited to career exploration discovery services, vocational situational assessments, work trials, development of job seeker profiles, job search and placement, job training and support, support coordination, and transportation services.

l. By August 1, 2016, implement a new service package design that includes service authorizations for Supported Employment Services.

m. By August 1, 2016, implement performance-based contracts to provide Supported Employment Services to individuals in the Target Populations that link funding to graduated levels of providers' achievement of quality numerical targets and implementation timelines, with evidence that all remaining providers have signed such a contract by December 31, 2016.

n. By August 1, 2016, appropriately increase salaries, benefits, training, and supervision for Direct Support Professionals and Job Coaches.

o. By December 31, 2016, file with the Court examples of weekly activity plans used by each Integrated Day Services provider that has received increased funding for services required by the Consent Decree, demonstrating adherence to the definitions and standards set forth in Sections V-VI of the Consent Decree.

6.) By May 30, 2016, compensate the Court Monitor for all monies owed as of the date of this Order under the relevant employment contract. Continue to compensate the Court Monitor in the amount and on the schedule outlined in the relevant employment contract throughout the entire term of the contract or this Consent Decree, whichever comes later.

7.) By May 30, 2016, compensate the Consent Decree Coordinator for all monies owed as of the date of this Order under the relevant employment contract. Continue to compensate the Consent Decree Coordinator in the amount and on the schedule outlined in the relevant employment contract throughout the entire term of the contract or this Consent Decree, whichever comes later.

8.) In the event of any violation of this Order, including any violation of a deadline imposed by this Order, upon motion by the United States or upon notice by the Court Monitor, the Court will forthwith conduct a show cause hearing as to why the State should not be held in contempt and why the following sanctions should not be imposed:

a. The State to contribute to a Consent Decree Compliance Fund $5,000 per day for each provision violated until the violations are remedied and the State is in compliance.

b. The State to make additional payments of $100 per day for each member of the target populations whose employment or integrated day services are delayed or interrupted as a result of violation of this Order.

c. The Court Monitor to track compliance with any Order of this Court arising from the show cause hearing, and to notify the Court, State, and the United States of any noncompliance, and calculate the appropriate amount due to the Consent Decree Compliance Fund.

d. The State to pay the amount due into the Fund within 14 days of the Court Monitor's notification. Total monies paid as a result of an Order of this Court will not exceed $1,000,000 per year.

e. The Consent Decree Compliance fund will be used to fund Consent Decree activities that directly benefit target population members. The Court Monitor is charged with making recommendations to the Court, in consultation with the State and the United States, as to how the fund will be used. Disbursement form the Fund will be subject to a Court order after hearing from the parties.

9.) In the event that the State believes that any term in this Order is ambiguous or any mandate ill defined, it shall immediately consult with the United States and Court Monitor in order to seek clarification and consensus on the term or

mandate. In the event that the State continues to believe that any term is not sufficiently defined or any mandate not clear, the State shall immediately seek a hearing with the Court.

IT IS SO ORDERED.

John J. McConnell, Jr.
United States District Judge

May 18, 2016