

OVERVIEW

Assessment of the State's Efforts Related to the Felix Consent Decree

Report No. 98-20, December 1998

Summary

By legislative request, the Office of the Auditor conducted an assessment of the State's efforts to comply with the *Felix* consent decree. The decree is the outcome of a 1993 lawsuit in U.S. District Court that alleged that "qualified handicapped children" were not receiving mental health services necessary to enable them to benefit from their education. The State waived all rights to appeal and agreed to fully implement a system of care by June 30, 2000. The State agreed to the consent decree to preserve its autonomy and maintain control in the design and implementation of a system of care.

The scope of our work focused on the Departments of Education and Health, the two state agencies named in the consent decree. We also reviewed the operational manager position created in 1997 within the Office of the Governor to resolve problems of interdepartmental conflict and lack of coordination. We also reviewed the roles of other state agencies and entities involved with the decree. We found that the State failed several times to ensure that requirements of the *Felix* consent decree were clear and compliance has become a moving target. A primary problem is the State's failure to develop a working definition of the *Felix* class. Staff from the Departments of Education and Health interpret *Felix* differently. This leads to difficulties in consistently identifying which children should be served and whether children receiving *Felix* services are actually eligible for those services.

We also found that the State does not clearly and accurately identify funding related to the consent decree partly because affected agencies disagree on who makes up the *Felix* class and how to report *Felix*-related expenditures. This is complicated by the inconsistent reporting requirements established by the federal court monitor. The lack of complete and accurate cost figures prevents the Department of Budget and Finance from ensuring that public funds are expended effectively.

Finally, we found that the lack of effective leadership is a major cause of the State's continued failure to efficiently and effectively address the terms of the decree. Despite improvements in some areas, there are still delays in mental health evaluations, excessive paperwork, an insufficient care coordination policy, no coordinated management information system, and poor monitoring of service quality. Despite the creation of the operational manager position, the State's efforts are uncoordinated and poorly implemented. For the State to regain and maintain control over the system of care, the *Felix* operational manager and her office must have the authoritative direction for all state agencies involved with the decree.

Recommendations and Response

We recommend that the governor ensure that the *Felix* operational management team aggressively pursues clarification of (a) the working definition for the *Felix* class and (b) the maintenance of effort requirement. We also recommend that the governor



and the Board of Education report all funding for *Felix* services with the same definitions of budget and expenditure terms between departments from one year to the next. Additionally, we recommend that the governor ensure that the *Felix* operational manager and team carries out its role of ensuring that quality services are provided consistently and in a coordinated and timely manner.

Furthermore, we recommend that the *Felix* operational manager ensure the systematic pursuit of federal Medicaid/QUEST funding for *Felix* services provided to eligible children. Also, the Department of Health should establish uniform payment schedules for mental health services.

The *Felix* operational manager submitted an “integrated response” for most of the affected agencies. The response contends that our assessment shows a lack of understanding about the State’s specific compliance requirements, that the assessment fails to distinguish between impediments that can be addressed versus those over which the agencies have no control, and that the State has had much “catching up” to do.

In specific comments the response states that the working definition of the *Felix* class is clear; that there is no basis for concluding that the Comprehensive Student Support System (CSSS) of the Department of Education may potentially expand the *Felix* class; and that the identification of *Felix* funding is not an issue with the court monitor. Additional comments concerning remedial actions, and updated statistical information that pertains primarily to our comments on the Department of Health, were also submitted.

We note that the response contains no further clarification on the working definition of the *Felix* class and does not address the definitional concerns voiced by agency staff.

With respect to the relationship between the *Felix* implementation plan and CSSS, we point to the fact that CSSS is for *all* students and that *Felix* students should not be considered as separate from special and regular education students. Having already made CSSS a part of the *Felix* implementation plan, the departments may have committed the State to an expansion of the *Felix* class.

The response misses our point with respect to identification of *Felix* funding. Regardless of the maintenance of effort requirement, there is a fundamental need for oversight bodies such as the Legislature and the Department of Budget and Finance to know how much has been spent for the consent decree and how much will be needed in the future.

Finally, we note that the Department of the Attorney General reported that it was “inadvertently” omitted from the *Felix* operational manager’s integrated response and elected not to submit a separate response.