

OVERVIEW

Follow-Up Review of the State's Efforts to Comply with the Felix Consent Decree

January 2001

Summary

By legislative request, the Office of the Auditor contracted with a consultant to undertake a follow-up review of the State's progress in implementing selected recommendations from the Auditor's Report No. 98-20, *Assessment of the State's Efforts Related to the Felix Consent Decree*. The consultant retained was the Center for the Study of Youth Policy, School of Social Work, University of Pennsylvania. Principal consultants for the Center are: Professor Ira M. Schwartz, Dean of the School of Social Work, a prominent scholar and consultant on child welfare and children's mental health; and Professor Richard J. Gelles, Ph.D., Welsh Chair of Child Welfare and Family Violence at the School of Social Work, an internationally recognized researcher and author on the subject of deviant behavior and children. The principal consultants have served as court monitor and/or expert witnesses in education/mental health cases. They also assembled a team with specialized expertise in *Felix* issues.

Findings of the follow-up review

The follow-up review focused on two recommendations from Report No. 98-20. The consultants evaluated the efforts to develop, implement and clarify a working definition of the *Felix* class and the maintenance of effort requirement. The consultants also examined whether funding for carrying out the decree is reported consistently by the Departments of Education and Health. The consultants also compared the State's efforts with those of other jurisdictions and reviewed the literature.

The consultants found that while the departments have made significant progress in establishing a system of care for *Felix* children, a working definition of the *Felix* class has still not been developed. A working definition is an "operational definition" that establishes comprehensive thresholds or boundaries for inclusion or exclusion from a group or category. It is also reliable—different evaluators using the working definition would arrive at the same conclusions. The lack of a working definition results in the departments' system of care that provides open-ended entitlements and inconsistent services, and lacks an ability to ensure that services provided are effective. There is no assurance that appropriate services are being provided to *Felix* class children or that these services result in improved school performance. The consultants also found that there is an appearance of a blurring of roles and responsibilities of the court monitor, a technical assistance panel, and psychologists who diagnose and provide services to children. As a result the system of care lacks independent oversight. All of these factors can contribute to a significantly higher financial burden to the State than necessary.

The consultants conducted a "best practices" review to compare Hawaii's efforts to other efforts nationally. They found that Hawaii's efforts focus on process and providing a continuum of services necessary to have the consent decree lifted. This has resulted in less concern over whether the services provided are effective and least restrictive and whether *Felix* children are actually making progress as a result. Case file reviews showed no ongoing assessment or concern for assessing whether services should be continued, modified or changed.



The consultants concluded that the individualized education program process is flawed. The process places too much responsibility and authority on psychologists to assess conditions and prescribe services at the expense of family and other appropriate agency involvement. Prescribed interventions are based on broad categories of disabilities rather than tailored to individual student needs.

The consultants found that the *Felix*-related costs and services continue to be inconsistently reported. The education department combines *Felix*-related administrative and service costs with other special education costs. The health department combines costs for compliance with the costs of delivery of services. The health department also combines costs for new and experimental services such as Multisystemic Therapy with the costs for traditional mental health services. As a result it is impossible to examine the budgets and determine the cost of core and essential services versus the costs of new, experimental, and non-essential services.

Finally, the consultants also found inconsistent coordination continues between the Department of Education and the Department of Health. The departments also lack the “seamless” management information system required by the consent decree. And neither department was able to quickly and correctly locate, retrieve, and deliver files for review. Personnel problems and the inability to obtain and retain necessary qualified personnel to provide and sustain *Felix*-related services also persist.

Recommendations and Response

The Center recommends that the Legislature consider establishing (1) a working definition for special education eligibility and (2) a credible and independent evaluation entity to evaluate services, programs, and alternatives such as the use of service vouchers to provide services to *Felix* class children. The consultants further recommend that the departments collaborate with the University of Hawaii to effectively address the personnel needs required to provide services to the *Felix* class, and that the departments develop mechanisms to ensure coordination at the agency and individual case level.

A unified response for the Departments of the Attorney General, Education and Health contends that a potentially useful document is flawed because the consultants and the Office of the Auditor are not sufficiently qualified in the areas of education, the Individuals With Disabilities Act, *Felix* class youths, and best practices in children’s mental health. As a result the departments claim that the report contains “many consecutive mistakes.” The response concludes that the consultant’s recommendations would amount to an effort to restrict the State’s ability to comply with the consent decree’s obligations and could result in further contempt of court issues being raised.

The consultants’ rebuttal is included in the report.

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