



**THE HOME & SCHOOL ASSOCIATION
OF THE
SOUTHBURY TRAINING SCHOOL**

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March 14, 2018

To: Chairman Steve King
Ranking Member Steve Cohen
U.S. House Committee on Judiciary | Subcommittee on Constitution and Civil Justice
Via Email

Re: March 6, 2018 Hearing - Class Action Law Suits against Intermediate Care Facilities for Individuals with Cognitive and other Developmental Disabilities (ICFs)

Dear Chairman King and Ranking Member Cohen:

We are writing you in connection with the March 6 hearing on class action lawsuits brought by federally funded entities against public and private Intermediate Care Facilities for Individuals with Cognitive and other Developmental Disabilities (ICFs) on behalf of The Home & School Association of the Southbury Training School. We are very grateful that the Subcommittee is considering VOR's proposal to ensure that individuals named as plaintiffs in such lawsuits are notified of the lawsuit and given the right to opt out.

Southbury Training School (STS) is an ICF operated by the Connecticut Department of Disabilities (DDS). STS has not been permitted to admit additional individuals since 1986 and the majority of STS's residents (presently 206 individuals) are elderly and have profound intellectual disabilities. Many also have severe physical disabilities. These individuals require a high level of care. In addition to a trained staff, doctors, including a psychiatrist, work at the facility, and there is a 24-hour nursing staff.

In 1996, a class action was brought in the US District Court, District of Connecticut, by various private groups which oppose congregate care¹ that named the approximately 700 individuals who then resided at STS against STS, its Director and the Commissioner of the Connecticut Department of Mental Retardation (DMR, now DDS). The plaintiffs made a number of claims regarding the care provided at STS and alleged that the defendants violated federal law by failing to place class members in community-based residential settings.

¹ It should be noted that this is not a suit brought by a federally funded entity. However, the nature of the suit and its result are similar to those brought by federally funded entities and should require notification of all stakeholders and provide them with the power to opt out of the class action.

An organization that acted as guardian for many STS residents sought to intervene in the action and many STS residents sought to opt out. Both attempts were denied.

After a lengthy trial, the Court determined that the claims regarding care were moot as resolved by previous actions taken, but that the procedures regarding placements in the community were inadequate. The settlement agreement required that an Interdisciplinary Team be appointed to advise families and guardians to make decisions as to the “most integrated setting” commensurate with the needs of an STS resident. According to the interdisciplinary team, nearly all STS residents have been determined can move into the community. Many guardians feel otherwise
It should be noted that once an STS resident moves into the community, they have 30 days to return to STS. Else they must remain in the community, regardless of changes in their condition or changes in the care provided in the community.

The procedures that have resulted from the Settlement Agreement have caused many guardians to fear that STS will be closed as the departure of many residents will cause STS to become too expensive to operate. Many guardians have been told that they should move their wards into the community as soon as possible in order that they will be able to choose a community home while there is still choice. This has resulted in undue pressure on guardians and many inappropriate moves into the community. A number of the individuals who have left STS have discovered that they do not receive the same level of care they received at STS or have been unhappy in the community, but have not been able to return to STS as it was too late.

This is a truly tragic situation.

Martha M. Dwyer, President

Hugo Dwyer, Treasurer