IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

DWAYNE B., by his next friend, John Stempfle; CARMELA B., by her next friend, William Ladd; LISA J., by her next friend, Teresa Kibby; and JULIA, SIMON, and COURTNEY G., by their next friend, William Ladd; for themselves and others similarly situated, Plaintiffs, v. RICK SNYDER, in his official capacity as Governor of the State of Michigan, MAURA D. CORRIGAN, in her official capacity as Director of the Michigan Department of Human Services, et al, Defendants.	No. 2:06-cv-13548 HON. NANCY G. EDMUNDS Class Action **MODIFIED SETTLEMENT AGREEMENT AND CONSENT ORDER**

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GLOSSARY

APPLA-E (Another Planned Permanent Living Arrangement - Emancipation) – A subset of the federally approved permanency planning goal APPLA for youth at least 16 years old for whom there is no goal for placement with a legal, permanent family and is preparing to live independently upon his or her exit from foster care. APPLA-E is considered an acceptable designation only if there are compelling reasons that make the other permanency options unacceptable.

Corporal Punishment – Hitting, paddling, shaking, slapping, spanking, or any other use of physical force as a means of behavior management.

Flexible Funds – As used in this agreement, versatile financial resources available to allow caseworkers to arrange for special cash assistance and/or the purchase of specific goods and services in addition to those normally available through Department of Human Services' regular contracting processes.

High Risk Cases –

a. Children who have been the subject of an allegation of abuse or neglect in a residential care setting or a foster home, whether licensed or unlicensed, and who remain in the facility or home in which the maltreatment is alleged to have occurred;

b. Children who have been the subject of three or more reports alleging abuse or neglect in a foster home, and who remain in the foster home in which maltreatment is alleged to have occurred;

c. Children who have been in three or more placements, excluding return home, within the previous 12 months;

d. Children who are in an unlicensed, unrelated caregiver placement.

Michigan Counties Referenced in this Agreement –

Big 14 Counties – Berrien, Calhoun, Genesee, Ingham, Jackson, Kalamazoo, Kent, Macomb, Muskegon, Oakland, Saginaw, St. Clair, Washtenaw, and Wayne.

Big 14 Contiguous Counties – Allegan, Arenac, Barry, Bay, Branch, Cass, Clinton, Eaton, Gladwin, Gratiot, Hillsdale, Huron, Ionia, Isabella, Lake, Lapeer, Lenawee, Livingston, Mason, Mecosta, Midland, Monroe, Montcalm, Newaygo, Oceana, Osceola, Ottawa, Sanilac, Shiawassee, St. Joseph, Tuscola, and Van Buren.

Designated Counties – Genesee, Kent, Macomb, Oakland, and Wayne.

Northern Counties – Alcona, Alpena, Antrim, Benzie, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traverse, Iosco, Kalkaska, Leelanau, Manistee, Missaukee, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, and Wexford.

Upper Peninsula Counties – Alger, Baraga, Chippewa, Delta, Dickenson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.

MYOI (Michigan Youth Opportunities Initiative) – A partnership between the Department of Human Services and the Jim Casey Youth Opportunities Initiative that provides foster care youth training in leadership, advocacy, financial, literacy and independent living skills.

Non-Child Welfare Supervisor – A supervisor who does not supervise foster care, adoption, CPS, POS, or licensing caseworkers.

POS (Purchase of Service) Worker – A specialized child welfare position within the Michigan Department of Human Services assigned to monitor child welfare case management services administered by private child placing agencies.

University-Based Child Welfare Certificate – A certificate acquired after successful completion of a university program composed of a core child welfare courses and a child welfare field placement (in DHS or a contract agency) to assure that BSW and MSW graduates are able to successfully address Michigan's child welfare competencies. In addition to achieving competencies, this certificate program is embedded in the Michigan Schools of Social Work (accredited by the Council on Social Work Education) curriculum and is aligned with DHS pre-service training content and goals such that the DHS will accept this content as equivalent to a significant portion of the pre-service training.

I. PREAMBLE

A. The provisions of this Modified Settlement Agreement and Consent Order (Agreement) supersede and replace the October 24, 2008 consent decree and Settlement Agreement and satisfies and resolves the claims of the Named Plaintiffs and the Plaintiff class for injunctive and declaratory relief in the above entitled case. Pursuant to Fed. R. Civ. Pro. 25 (d), the individually named public officer defendants have been substituted as parties.

B. This Court has subject matter jurisdiction and personal jurisdiction over this action and therefore the authority to enter this Agreement.

C. This Court shall have continuing jurisdiction over this action to ensure compliance with the terms of this Agreement for as long as the Agreement remains in effect.

D. Any state agency responsible for the care, protection, and/or supervision of Plaintiff class members shall be bound by the provisions of this Agreement. For as long as this Agreement remains in effect, all provisions of this Agreement referring to the "Department of Human Services," "the Department," or "DHS," upon any subsequent changes to the current governmental organizational structure of the Michigan Department of Human Services concerning the children in the Plaintiff class as defined in this Agreement, shall apply with full force and effect to the State of Michigan and to any subsequent agency or agencies with any of the responsibilities that apply to the current Michigan Department of Human Services under this Agreement as of the date of this Agreement.

E. The term "DHS" as used in this Agreement refers to all Defendants in the case of *Dwayne B. v. Snyder*, Civil Action Number 2:06-cv-13548, including but not limited to Rick Snyder, in his official capacity as Governor of the State of Michigan; and Maura D. Corrigan, in her official capacity as Director of DHS.

F. The term "Plaintiffs" as used in this Agreement refers to all members of the class certified by Judge Nancy G. Edmunds on February 15, 2007 in the case of *Dwayne B. v. Snyder*, Civil Action Number 2:06-cv-13548.

G. This Agreement, along with any of its provisions, is not, and shall not be construed to be, an admission of any liability on the part of DHS concerning any of the claims and allegations in the complaint in this litigation.

H. Defendants do not speak for the Michigan Legislature, which has the power under Michigan law to determine the appropriations for the State's child welfare programs. However, at least annually after Court approval of this Agreement, and consistent with existing state budgetary practices and legal requirements, Defendants shall request State funds and any federal/special fund authorization sufficient to effect the provisions and outcome measures set forth in this Agreement in connection with any budget, funding, or allocation request to the executive or legislative branches of State government. To the extent that it is anticipated that the funding of critical needs shall be met, in whole or in part, by way of federal fund sources, Defendants shall request federal fund authorization in amounts which are determined to be realizable and consistent with regular budgetary needs assessments.

I. Such budgetary requests, which shall be provided to the Monitors, shall, among other things, identify for the executive and legislative branches of State government, with sufficient particularity, the known and anticipated costs to the State for the timely implementation of the reforms and outcome measures provided for herein. Defendants shall maximize available federal funding opportunities. Nothing in this paragraph limits Defendants' obligations under this Agreement.

J. The parties acknowledge that this Agreement shall be controlled by and implemented in accordance with the United States Constitution and federal law and subject to federal court supervision and enforcement. The parties further acknowledge that this Agreement shall be implemented consistent with the Michigan Constitution and State law insofar as the provisions of the Michigan Constitution and State law do not conflict with controlling federal law.

II. PRINCIPLES

Interpretation of the provisions of this Agreement shall be guided by the following principles:

A. *Safety:* The first priority of the Department of Human Services (DHS) child welfare system is to keep children safe.

B. *Children's Needs*: Whenever possible, children must have a voice in decisions that affect them, and DHS must consider the specific needs of each child as decisions are made on his or her behalf.

C. *Families and Communities*: Families must be treated with dignity and respect, and, whenever possible, included in decisions that affect them and their children. DHS must actively partner with communities to protect children and support families when determining the intervention plan for a child.

D. *Placement*: The ideal place for children is in their own home with their own family. When DHS cannot ensure their safety in the family home, it must place children in the most family-like and least restrictive setting required to meet their unique needs and must place siblings together whenever possible. DHS must strive to make the first placement the best and only placement.

E. *Reunification and Permanency*: DHS must reunify children with their siblings and families as soon as is safely possible. When reunification is not possible, DHS must provide children with a permanent home and/or permanent connection with caring, supportive adults as soon as possible. DHS must also ensure that children in its care are connected with the resources necessary for physical and mental health, education, financial literacy, and employment and that they acquire the life skills necessary to become successful adults.

F. *Services*: When DHS intervenes on behalf of children it must strive to leave children and families better off than if there had been no intervention. DHS must tailor services to meet the unique needs of each family member and provide those services in a manner

that is respectful of the child and the family. Services should be outcome-based, data-driven, and continuously evaluated.

III. OUTCOMES

A. *Changes in Federal Indicators*: The indicators set forth in this section were developed by the United States Department of Health and Human Services (HHS) as part of the Child and Family Services Review (CFSR) process. In the event that, during the term of this Agreement, HHS modifies these indicators or the methodologies underlying these indicators, the parties and the Monitors shall meet to determine whether to make corresponding changes in DHS's responsibilities under the Agreement.

B. *Content of Reports and Compliance Expectations*: DHS shall report on aggregate performance for the outcome indicators identified in subsections C and D below in each Reporting Period, as defined in Section XV(L), and shall comply with the identified interim measures. By December 2013, DHS shall meet or exceed the federal indicators for each outcome. Additionally, DHS shall report in each Reporting Period on its performance with regard to each of the component elements of the Permanency outcomes set forth in Section III(D) below, as such components are defined by HHS. Effective December 2013 and thereafter, DHS's performance shall exceed the median performance of all states with regard to each such component element.

C. *Safety*:

1. *Recurrence of Maltreatment within Six Months (%)*: By September 30, 2010, DHS was to achieve, and thereafter maintain, the national indicator of 94.6% or higher. DHS commits to maintaining or exceeding this percentage throughout the duration of this Agreement. DHS shall use the following definition to report on this measure: Of all children who were victims of a substantiated or indicated maltreatment allegation during the first six months of the applicable federal reporting period, what percent were not victims of another substantiated or indicated maltreatment allegation within a six-month period?
2. *Maltreatment in Foster Care (%)*: By September 30, 2009, DHS was to achieve, and thereafter maintain, the national indicator of 99.68% or higher. DHS commits

to maintaining or exceeding this percentage throughout the duration of this Agreement. DHS shall use the following definition to report on this measure: Of all children in foster care during the applicable federal reporting period, what percent were not victims of substantiated or indicated maltreatment by a foster parent or facility staff member?

D. *Permanency*:

1. *Composite One: Timeliness and Permanency of Reunification*: By September 30, 2013, DHS shall achieve, and shall thereafter maintain, a score of 122.6 or greater on this composite. DHS shall meet interim targets as follows: by September 30, 2011, a score of 105; by September 30, 2012, a score of 113. DHS shall report the following individual component measures for Composite One:

   a. Of all children who were discharged from foster care to reunification in the target 12-month period, and who had been in foster care for eight days or longer, what percent were reunified in less than 12 months from the date of the latest removal from home?

   b. Of all children who were discharged from foster care to reunification in the 12-month target period, and who had been in foster care for eight days or longer, what was the median length of stay in months from the date of the latest removal from home until the date of discharge to reunification?

   c. Of all children who entered foster care for the first time in the 6-month period immediately prior to the target 12-month period, and who remained in foster care for eight days or longer, what percent were discharged from foster care to reunification in less than 12 months from the date of the latest removal from home?

   d. Of all children who were discharged from foster care to reunification in the 12-month period immediately prior to the target 12-month period, what percent re-entered foster care in less than 12 months from the date of discharge?

2. *Composite Two: Timeliness to Adoption*: By September 30, 2013, DHS shall achieve, and shall thereafter maintain, a score of 106.4 or greater on this composite. DHS shall meet interim targets as follows: by September 30, 2011, a

score of 100; by September 30, 2012, a score of 103. DHS shall report the following individual component measures for Composite Two:

a. Of all children who were discharged from foster care to a finalized adoption during the 12-month target period, what percent were discharged in less than 24 months from the date of the latest removal from home?

b. Of all children who were discharged from foster care to a finalized adoption during the 12-month target period, what was the median length of stay in foster care, in months, from the date of the latest removal from home to the date of discharge to adoption?

c. Of all children in foster care on the first day of the 12-month target period who were in foster care for 17 continuous months or longer, what percent were discharged from foster care to a finalized adoption by the last day of the 12-month target period?

d. Of all children in foster care on the first day of the 12-month target period who were in foster care for 17 continuous months or longer, and who were not legally free for adoption prior to that day, what percent became legally free for adoption during the first six months of the 12-month target period?

e. Of all children who became legally free for adoption during the 12 months prior to the target 12-month period, what percent were discharged from foster care to a finalized adoption in less than 12 months from the date of becoming legally free?

3. *Composite Three: Achieving Permanency for Children in Foster Care for Long Periods of Time*: By September 30, 2013, DHS shall achieve, and shall thereafter maintain, a score of 121.7 or higher on this composite. DHS shall meet interim targets as follows: by September 30, 2011, a score of 120; by September 30, 2012, a score of 121. DHS shall report the following individual component measures for Composite Three:

a. Of all children who were discharged from foster care during the 12-month target period, and who were legally free for adoption (i.e., there was a termination of parental rights for both parents) at the time of discharge,

what percent were discharged to a permanent home prior to their 18th birthday?

b. Of all children who were in foster care for 24 months or longer on the first day of the 12-month target period, what percent were discharged to a permanent home by the last day of the 12-month period and prior to their 18th birthday?

c. Of all children who either (1) were, prior to age 18, discharged from foster care during the 12-month target period with a discharge reason of emancipation, or (2) reached their 18th birthday while in foster care but had not yet been discharged from foster care, what percent were in foster care for three years or longer?

4. *Composite Four: Placement Stability While in Foster Care*: For all Reporting Periods, DHS shall maintain a score of 101.5 or higher on this composite. DHS shall report the following individual component measures for Composite Four:

a. Of all children in foster care during the 12-month target period, and who were in foster care for at least eight days but less than 12 months, what percent had two or fewer placement settings?

b. Of all children in foster care during the 12-month target period, and who were in foster care for at least 12 months but less than 24 months, what percent had two or fewer placement settings?

c. Of all children in foster care during the 12-month target period, and who were in foster care for at least 24 months, what percent had two or fewer placement settings?

In reporting on placement stability, DHS shall provide information separately stating scores for each stability measure for children placed in relative foster homes; children placed in non-relative foster homes; and children placed in residential care.

IV. ORGANIZATIONAL STRUCTURE

A. The DHS organizational structure shall be as follows:

1. There shall be established within DHS a Children's Services Administration (CSA), headed by a CSA Director, who shall be at the rank of Deputy Director of the Department of Human Services or higher.
2. DHS shall establish a CSA that shall develop child welfare policy and determine statewide standards. DHS's CSA shall take all reasonable steps necessary to ensure that statewide policies, standards and practices are implemented and maintained in each county of the state and each county uses uniform forms, data collection, and reporting.
3. Individuals within the Designated Counties of Wayne, Genesee, Kent, Macomb and Oakland, including but not limited to caseworkers, supervisors, and managers, shall be assigned full-time to children's services, and shall not hold responsibility for any of DHS's other functions, such as cash assistance, Medicaid, and adult services.
4. Within the CSA, and reporting directly to the CSA Director, there shall be a person responsible for all children's services field operations in Michigan (Director of Children's Field Services Operations).
5. The Quality Assurance (QA) unit shall be a permanent unit of the CSA. It shall continue to perform the functions described in this Agreement after full implementation and DHS exit from Court jurisdiction.
6. In the Designated Counties of Wayne, Genesee, Kent, Macomb and Oakland Counties, DHS offices providing children's services shall be distinct from those providing other services, and there shall be a county-level Administrator of Children's Services in each of the Designated Counties who reports directly to the Director of Children's Field Services Operations as described in paragraph 4, above.
7. Ingham County is not a Designated County, but shall maintain a bifurcated management structure.
8. The CSA shall include units containing a sufficient number of qualified staff to exercise their functions effectively.

9. Dedicated staff shall be responsible for child welfare data collection and analysis, and child welfare training.

10. The CSA shall hold responsibility for evaluating the performance of private Child Placing Agencies (CPAs) and Child Caring Institutions (CCIs). These duties include, but are not limited to, requiring and approving corrective action plans when necessary and making recommendations to the DHS Director concerning contract renewal, modification, and termination.

B. Nothing in this section prevents the Governor or DHS Director from proposing and implementing a stand-alone child welfare executive department.

V. RESPONDING TO REPORTS OF CHILD ABUSE AND NEGLECT

A. DHS shall ensure that its system for receiving, screening, and investigating reports of child abuse and neglect is adequately staffed and that investigations of all reports are commenced as required by state law and completed pursuant to policy requirements. Any extensions of the timeframes set forth in DHS policy for the completion of investigations are subject to the review and approval of the Monitors. DHS shall monitor commencement of investigations through regular review of DHS data-driven reports.

B. DHS shall establish a statewide centralized hotline, to be operated 24 hours per day. It shall be adequately staffed and supported by adequate telecommunications equipment and information technology, for the receipt, screening, and assignment for investigation of reports of abuse and neglect, as follows:

1. A phased, pilot implementation beginning October 2011, including but not limited to the following counties: Kalamazoo, Kent, Ottawa, Cass/St. Joseph.
2. A fully operational statewide centralized hotline by April 2012.

C. By December 31, 2011, DHS shall establish and implement a quality assurance process to ensure that reports of abuse and neglect are competently investigated and that, in cases in which abuse and/or neglect is indicated, actions are taken and services are provided appropriate to the circumstances.

D. DHS shall investigate all allegations of abuse or neglect relating to any child in the foster care custody of DHS (Maltreatment in Care).

1. In Designated Counties, DHS shall maintain separate Maltreatment in Care (MIC) units responsible for all MIC investigations.

2. In the non-designated counties:

   a. DHS shall maintain three separate regional MIC units responsible for all investigations of abuse or neglect occurring in child caring institutions.

   b. DHS shall provide specially trained local office and or regional Children's Protective Services (CPS) staff, responsible for conducting all investigations of abuse or neglect occurring in a foster home in the non-designated counties. No local office MIC investigation shall be conducted by an employee that has an established relationship with the foster family or alleged perpetrator.

3. DHS shall provide specialized supervision of all MIC investigations:

   a. For designated counties, MIC investigations shall be supervised by designated MIC supervisors who report to the county child welfare director.

   b. For non-designated counties, MIC investigations shall be supervised by three designated regional MIC supervisors who report to a Child Welfare Field Operations MIC manager.

4. DHS Child Welfare Field Operations shall ensure dedicated supervision, oversight and coordination of all MIC investigations.

VI. STAFF QUALIFICATIONS, TRAINING, CASELOADS, AND SUPERVISION

A. *Caseworker Qualifications and Training*: All provisions of this section shall apply to all DHS caseworkers for positions in CPS, foster care, and adoption, who are responsible for cases of Plaintiff class members either directly or as purchase of service (POS) workers, and any private agency caseworkers with corresponding responsibilities for class members.

1. Entry level caseworkers shall have a bachelor's degree in social work or a related human services field.

2. All caseworkers who do not possess the University-based Child Welfare certificate shall complete pre-service training that includes a total of 270 hours of competence-based training which shall be completed within 16 weeks from date of hire. The training shall include a minimum of four weeks' classroom instruction and five weeks' field instruction, and may include eLearning. The Department may modify the number of weeks in specific instructional settings upon consultation with the Monitors.
3. New caseworkers who possess the University-based Child Welfare certificate shall be required to complete program-specific training. The program-specific training curriculum for Child Welfare certificate holders shall be reviewed and approved by the Monitors.
4. Each trainee shall shadow an experienced child welfare caseworker and progressively build case practice knowledge through intensive classroom and field training. An experienced caseworker (mentor) shall also shadow each trainee as they complete key activities in a case. No mentor assigned to shadow a trainee shall have a caseload exceeding current caseload standards.
5. Each trainee shall also complete a competence-based performance evaluation, which shall include a written examination. As part of pre-service training, a trainee may be assigned specific tasks or activities in connection with a case that is the primary responsibility of an experienced caseworker and may, under appropriate supervision, be assigned responsibility for a "training caseload" with progressively responsible caseload assignments as follows:
    a. *Caseload Progression for CPS*:
        i. No cases shall be assigned until the completion of the first four weeks of pre-service training.
        ii. Upon completion of week four of pre-service training and successful completion of Competency Test One, up to five total cases may be assigned with supervisory approval using the Child Welfare Training Institute (CWTI) case assignment guidelines. The first five cases shall not include an investigation involving

children under eight years of age or children who are unable to communicate.

iii. Final caseload may be assigned after nine weeks of pre-service training, successful completion of Competency Test Two, and satisfactory review by the trainer and the supervisor.

b. *Caseload Progression for Foster Care and Adoption*:

i. Three training cases may be assigned on or after day one of pre-service training at the supervisor's discretion using CWTI case assignment guidelines.

ii. Upon completion of week three of pre-service training and successful completion of Competency Test One, up to five total cases may be assigned with supervisory approval using CWTI case assignment guidelines.

iii. Final caseload may be assigned after nine weeks of pre-service training, successful completion of Competency Test Two, and satisfactory review by the trainer and the supervisor.

6. All caseworkers shall receive a minimum number of hours of in-service training annually, as follows: for the state fiscal year beginning October 1, 2010, at least 16 hours; for the state fiscal year beginning October 1, 2011, at least 24 hours; for the state fiscal year beginning October 1, 2012, at least 32 hours. By October 2012, the Monitors shall meet with parties to discuss in-service training and in consultation with parties, shall establish the minimum number of in-service training hours.

B. *Supervisor Qualifications and Training*: All provisions of this section shall apply to (1) all DHS supervisory positions in CPS, foster care, and adoption, who are responsible for cases of Plaintiff class members either directly or as POS workers, and (2) all private agency supervisors with corresponding responsibilities for class members.

1. *Supervisor Qualifications*: All staff either promoted or hired to a child welfare supervisory position shall possess one of the following qualifications:

a. A master's degree from an accredited college or university in a human behavioral science and three years of experience as a social service worker

in a child welfare agency, a child caring institution, or in an agency performing a child welfare function.

b. A bachelor's degree from an accredited college or university in a human behavioral science and four years of experience as a social service worker, three years of which shall have been in a child welfare agency, a child caring institution, or in an agency performing a child welfare function.

2. DHS shall implement a competency-based supervisory training program that is both consistent with the principles set forth in Section II of this Agreement and designed to serve the overall goals and purposes of this Agreement. This competency-based training shall address the work management skills, conceptual skills, interpersonal skills, self-management skills, and technical knowledge recognized among child welfare professionals as fundamental requirements for an effective child welfare agency supervisor. The supervisory training program shall be at least 40 hours. Nothing in this paragraph shall prohibit DHS from delegating the delivery aspect of training.

3. All staff either promoted or hired to a child welfare supervisory position shall complete the supervisory training program and pass a competency-based performance evaluation based on that training within three months of assuming the supervisory position. The competency-based performance evaluation shall include a written examination. Failure to achieve a passing grade on the competency-based performance examination as a whole, including a passing grade on its written portion, within two sittings shall require the subject individual to complete additional training before becoming eligible to sit for the performance evaluation again. The additional training shall occur within 45 days of the most recent failed exam. The failure to pass the performance evaluation in the third sitting shall render the subject individual ineligible for further service as a child welfare supervisor.

4. *University-Based Training Opportunities*: DHS shall continue to develop and maintain relationships, joint programs, and such other programs as are deemed worthwhile with the accredited schools of social work to enhance and improve

existing opportunities for the training and education of DHS and private CPA caseworkers and child welfare supervisors.

C. *Licensing Worker Qualifications and Training:* Licensing workers shall have a bachelor's degree in social work or a related human services field. DHS submitted a plan to the Monitors on March 5, 2009 identifying the type and amount of training to be provided to all licensing workers. The Monitors approved this plan. DHS shall continue to train licensing workers in accordance with this plan.

D. *Oversight of Training Requirements:* There shall be a designated individual within the DHS central office who is responsible for overseeing and ensuring compliance with all training requirements for both DHS and private CPA workers and supervisors. DHS county offices and private CPAs shall be required to submit records to this individual attesting to the completion of pre-service training requirements and satisfactory performance on competency-based performance evaluations.

E. *Caseload Standards*:

1. DHS shall achieve the caseload standards set forth in this section. These standards shall apply equally to both DHS caseworker and supervisor caseloads and caseloads of private CPA caseworkers and supervisors with comparable case responsibilities.

2. *Supervisors*:

   a. Each foster care, adoption, CPS, POS, and licensing supervisor shall be responsible for the supervision of no more than five caseworkers. This Agreement does not apply to non-child welfare supervisors. In addition, supervisors may provide supervision to administrative support staff associated with the caseworkers.

   b. DHS shall achieve this standard as follows:

      i. By January 1, 2012, 70% of foster care, adoption, CPS, POS, and licensing supervisors shall supervise no more than five caseworkers;

ii. By September 30, 2012, 80% of foster care, adoption, CPS, POS, and licensing supervisors shall supervise no more than five caseworkers;

iii. By December 31, 2013, 95% of foster care, adoption, CPS, POS, and licensing supervisors shall supervise no more than five caseworkers.

c. For purposes of applying this subsection to non-designated counties, "caseworkers" shall include child welfare caseworkers and any other caseworker, including but not limited to juvenile justice, mental health, cash assistance, and adult protective services caseworker.

d. By December 31, 2011, DHS shall submit to the monitors and plaintiffs a proposed formula for determining the ratio of caseworkers to supervisors in circumstances where supervisors provide supervision to both child welfare and non-child welfare caseworkers. The formula shall be subject to the Monitors' approval.

3. *Foster Care Workers*: Each Foster Care caseworker shall have a caseload of no more than 15 children. DHS shall achieve this standard as follows:

a. By January 1, 2012, 80% of foster care caseworkers shall have caseloads of no more than 15 children;

b. By September 30, 2012, 90% of foster care caseworkers shall have caseloads of no more than 15 children;

c. By September 30, 2013, 95% of foster care caseworkers shall have caseloads of no more than 15 children.

4. *Adoption Workers*: DHS reserves the right to alter the permanency model with agreement of the parties. Each adoption caseworker shall have a caseload of no more than 15 children. DHS shall achieve this standard as follows:

a. By January 1, 2012, 80% of adoption caseworkers shall have caseloads of no more than 15 children;

b. By September 30, 2012, 90% of adoption caseworkers shall have caseloads of no more than 15 children;

c. By September 30, 2013, 95% of adoption caseworkers shall have caseloads of no more than 15 children.

5. *CPS Investigation Workers*: Each CPS caseworker assigned to investigate allegations of abuse or neglect, including maltreatment in care, shall have a caseload of no more than 12 open investigations. DHS shall achieve this standard as follows:

   a. By January 1, 2012, 65% of investigation staff shall have no more than 12 open investigations;

   b. By September 30, 2012, 75% of investigation staff shall have no more than 12 open investigations;

   c. By December 31, 2013, 95% of investigation staff shall have no more than 12 open investigations.

6. *CPS Ongoing Workers*: Each CPS caseworker assigned to provide ongoing services shall have a caseload of no more than 17 families. DHS shall achieve this standard as follows:

   a. By January 1, 2012, 65% of CPS ongoing staff shall have no more than 17 families;

   b. By September 30, 2012, 75% of CPS ongoing staff shall have no more than 17 families;

   c. By December 31, 2013, 95% of CPS ongoing staff shall have no more than 17 families.

7. *POS Workers*: 95% of POS workers shall have a caseload of no more than 90 children.

   a. By September 30, 2011, DHS shall implement an interim POS monitoring model. As part of this model, the POS worker shall no longer:

      i. Review and approve assessments and case plans;

      ii. Attend court hearings unless ordered to do so by the court;

      iii. Enter social work contacts into SWSS/FAJ;

      iv. Attend quarterly visits with child placing agencies;

      v. Attend permanency planning conferences.

b. By December 31, 2011, DHS shall provide a plan to the Monitors, including an implementation schedule, for the revised POS monitoring model, subject to the review and approval of the Monitors.

8. *Licensing Workers*: Each licensing worker shall have a workload of no more than 30 licensed foster homes or homes pending licensure. DHS shall achieve this standard as follows:

   a. By January 1, 2012, 80% of licensing workers shall have a caseload of no more than 30 licensed foster homes or homes pending licensure;

   b. By September 30, 2012, 90% of licensing workers shall have a caseload of no more than 30 licensed foster homes or homes pending licensure;

   c. By September 30, 2013, 95% of licensing workers shall have a caseload of no more than 30 licensed foster homes or homes pending licensure.

   This workload standard may include the relevant licensing worker responsibilities of initial foster home studies, managing foster home licenses, special investigations, and recruitment activities.

9. *Mixed Caseloads*: A mixed caseload comprised of more than one program type shall not exceed the prorated total equal to one full caseload.

10. *Caseload Tracking and Reporting*: DHS shall provide quarterly reporting on the percentage of supervisors and caseworkers in each of the categories above whose workloads meet the standards set forth in this section. Upon implementation of Michigan's SACWIS, each worker's monthly average caseload shall be used to determine compliance.

VII. ASSESSMENTS, CASE PLANNING, AND PROVISION OF SERVICES

A. *Assessments and Service Plans*: DHS shall complete a written assessment of the child(ren)'s and family's strengths and needs, designed to inform decision-making about services and permanency planning, within 30 days after a child's entry into foster care, and shall update the assessment at least quarterly thereafter. Assessments shall be of sufficient breadth and quality to usefully inform case planning. DHS shall complete an Initial Service Plan within 30 days of placement, and an Updated Service Plan at least

quarterly thereafter. The written service plan shall accord with the requirements of 42 U.S.C. § 675(1), and shall indicate:

1. The assigned permanency goal;
2. How DHS, other service providers (including the private CPAs, where applicable), parents, and foster parents shall work together to confront the difficulties that led to the child's placement in foster care and achieve the permanency goal;
3. The services to be provided to the child(ren), parent(s), and foster parent(s);
4. Who is to provide those services and by when they are to be initiated; and
5. The actions to be taken by the caseworker to help the child(ren), parent(s), and foster parent(s) connect to, engage with, and make good use of services.

The service plan shall contain attainable, measurable objectives with expected timeframes, and shall identify the party or parties responsible for each task. Service plans shall be signed by the caseworker, the caseworker's supervisor, the parent(s), and the child(ren), if of age to participate. If the parent(s) and/or child(ren) are not available or decline to sign the plan, the service plan shall include an explanation of the steps taken to involve them and shall identify any follow-up actions to be taken to secure their participation in services. When a child is placed with a private CPA or CCI, the private CPA or CCI shall complete the assessment and the service plan in accordance with the provisions above.

B. *Supervisory Oversight of Assessments and Service Plans*: Supervisors shall meet at least monthly with each assigned worker to review the status and progress of each case on the worker's caseload. Supervisors shall review and approve each service plan. The plan can be approved only after the supervisor has a face-to-face meeting with the worker, which can be the monthly meeting.

C. *Provision of Services*: DHS shall ensure that the services identified in the service plan are made available in a timely and appropriate manner to the child and family, and shall monitor the provision of services to determine whether they are of appropriate quality and are having the intended effect. DHS is responsible for helping the parent(s) from whom the child has been or may be removed, the child(ren), and the foster parent(s)

identify appropriate, accessible, and individually compatible services; assisting with transportation when necessary; helping to identify and resolve any barriers that may impede parent(s), child(ren), and foster parent(s) from making effective use of services; and intervening to review and amend the service plan when services are not provided or do not appear to be effective.

D. *Family Engagement Model*: DHS shall develop the policies, procedures, and organizational structure necessary to implement a family engagement model, which shall include family engagement, child and family team meetings, and concurrent permanency planning. DHS shall implement the model under the timetables set in Section VII(D)(6) below.

1. *Family Team Meetings*: Family Team Meetings shall be utilized to engage families in case planning, service identification, assessing progress, and safety planning. A Family Team Meeting (FTM) shall be offered to make or recommend critical case decisions. Should the family decline to attend, the meeting shall proceed with the other participants in attendance. FTMs shall be led by a trained facilitator, and shall include written invitations in advance of the FTM whenever possible to the parent(s) of the child; foster parent(s); child(ren) if of age to participate; family, friends, or other supports identified by the parent(s) and child(ren); other service providers as appropriate; Lawyer Guardians Ad Litem (LGALs), parents' attorneys and the caseworker, with supervisory participation when necessary.

   a. At a minimum, the following events shall trigger Family Team Meetings for in-home cases:

      i. CPS case opening/transfer to ongoing worker

      ii. Case service plan development/identification of safety issues

      iii. Prior to removal or at the earliest date possible after removal

      iv. Case closure

   b. At a minimum, the following events shall trigger Family Team Meetings for out-of-home cases:

      i. Case service plan development

      ii. Permanency goal change

iii. Placement preservation/disruption

iv. Permanency Planning at six months in care

v. Annual Transition Planning for Youth – every six months from age 16 to case closure

vi. 90-Day Discharge Planning for Youth

vii. Case closure

2. At the conclusion of each FTM, the facilitator shall prepare a written report detailing the decisions and recommendations emerging from the meeting. The report shall be provided to the worker, family, the worker's supervisor, and other appropriate team members and shall include a section identifying areas in which follow-up is needed.

3. *Transition from PPC to FTM*: PPCs shall continue to occur at three trigger points in the case until full implementation of the FTM:

   a. Removal

   b. Re-placement

   c. Six months in care to review permanency plan

4. Concurrent planning shall continue in Clinton, Gratiot, and Ingham counties and shall be fully implemented in the Family Engagement Model.

5. *Pre-Implementation*: Prior to full implementation of the FTM, the State shall engage in the following activities:

   a. Finalization of the Family Engagement Model by March 2012.

   b. Policy development surrounding the Family Engagement Model by June 2012.

   c. Communication of model to all counties, private CPAs, and key stakeholders by June 2012.

   d. Identification of Peer Coaches in county offices and private CPAs – ongoing.

   e. Conduct training for peer coaches, management, and caseworkers – ongoing.

6. *Implementation:* The FTM model, including concurrent planning, shall be implemented in phases as follows:

   a. Big 14 counties by March 2013.

   b. Big 14 contiguous counties by February 2014.

   c. Northern Michigan counties by August 2014.

   d. Upper Peninsula counties by December 2014.

E. *Additional Provisions Regarding Certain Permanency Planning Goals*:

1. *Maintaining a Permanency Goal of Reunification Beyond 12 Months*: For any child who has a permanency goal of return home for more than 12 months, the child's worker, with written approval from the supervisor, shall include in the record a written explanation justifying the continuation of the goal, and identifying the additional services necessary or circumstances which must occur in order to accomplish the goal. No child shall have a permanency goal of return home for more than 15 months unless there are documented in the record and approved by the child's worker's supervisor compelling reasons to believe that the child can be returned home within a specified and reasonable time period.

2. *Concurrent Planning*: Strategic planning and preparation for possible alternate permanency placement of a child shall occur concurrently with the delivery of reunification services to the child's birth parent(s), unless clearly inappropriate for case-specific reasons that are documented in the child's record. DHS shall implement concurrent planning in the schedule set forth in Section VII(D)(6)

3. *Change of Goal to Adoption*: In the event that a child's primary permanency goal is changed to adoption, DHS, or the assigned private CPA, shall within 30 days of the goal change:

   a. Assign a worker with adoption expertise to the case;

   b. Determine whether the child's foster parent(s) or relative(s) are prepared to adopt the child and, if so, take appropriate steps to secure their consent to adoption;

   c. If no adoptive family has been identified, register the child on national, regional, and local adoption exchanges and develop and implement a child-specific plan to recruit an adoptive family for the child.

d. The child-specific recruitment plan shall be reviewed in a face-to-face case review meeting at least quarterly following the primary goal change until the child is placed in the home of a family that plans to permanently care for the child as follows:

(i) in the first six months following the child's goal becoming adoption or guardianship, in a face-to-face meeting between the Adoption worker and the Adoption supervisor;

(ii) in cases where a permanent home has not been identified within six months of the child's permanency goal becoming adoption or guardianship, in a face-to-face meeting attended by the Adoption worker, the Adoption supervisor and a person designated by the central office, not previously involved in the case, who is specially trained in permanency and adoption processes and planning;

(iii) in cases where a permanent home has not been identified within one year of the child's permanency goal becoming adoption or guardianship, in a face-to-face meeting attended by the Adoption worker, the Adoption supervisor, and an outside expert engaged by DHS with expertise in permanency and adoption processes and planning.

4. *Preparation and Filing of Petition for Termination of Parental Rights*: The process of freeing a child for adoption/guardianship and seeking and securing an adoptive/guardianship placement shall begin as soon as the child's permanency goal becomes adoption/guardianship, but in no event later than as required by federal law.

5. *Placement with a Fit and Willing Relative*: DHS, and the assigned contract agency where applicable, shall not assign a permanency goal of placement with a fit and willing relative to a child for whom it has not made adoption efforts unless:

a. An appropriate relative has been identified and has cleared all background checks required for placement of a child in the home;

b. The relative is willing to assume long-term responsibility for the child but has legitimate reasons for not adopting the child or pursuing permanent legal guardianship;

c. It is in the child's best interests to remain in the home of the relative rather than be considered for adoption by another person; and

d. The permanency goal receives the documented approval of the following:

i. In a Designated County, by the county Child Welfare Director;

ii. In any other county, by the County Director.

DHS and the relative shall execute an agreement that ensures the permanency and stability of this placement.

6. *Another Planned Permanent Living Arrangement*: DHS, and the assigned private CPA where applicable, shall not assign the permanency goal of Another Planned Permanent Living Arrangement (APPLA) unless:

a. The child is at least 14 years old;

b. Every reasonable effort has been made, and documented in the record, to return the child home, to place the child with appropriate family members, or to place the child for adoption/guardianship;

c. The foster parent(s) caring for the child has agreed in writing to continue to do so until the child is emancipated; and

d. The permanency goal receives the documented approval of the Children's Services Administration designee.

e. *Immediate Action Steps For Children With APPLA Goals:*

i. By September 30, 2012, DHS shall:

1) Conduct a review for each child who had an unapproved goal of APPLA or Another Planned Permanent Living Arrangement-Emancipation (APPLA-E), as of July 1, 2011;

2) Determine the appropriateness of the permanency goal for each child reviewed; and

3) Ensure that no child shall have a recommended goal of APPLA or APPLA-E without DHS approval, unless ordered by the court.

ii. By December 31, 2011, DHS shall provide to the Monitors a report regarding the status of the case reviews.

iii. By September 30, 2012, DHS shall reduce the number of children with a goal of APPLA or APPLA-E to 9% of the total foster care population on September 30, 2012, excluding youth over 18 years of age with a voluntary foster care agreement.

7. *Immediate Action Steps For Children With A Goal Of Adoption Or Guardianship*:

a. By September 30, 2012, DHS shall finalize 70% of adoptions for children with a goal of adoption on September 30, 2011. By September 30, 2013, DHS shall finalize 77% of adoptions for children with a goal of adoption. To determine the percentage of adoptions to be finalized in a fiscal year, DHS shall utilize the number of adoptions completed (i.e. final order of adoption) as of the last date of the Fiscal Year divided by the number of youth available for adoption who have a goal of adoption as of the last day of the previous Fiscal Year.

b. DHS shall finalize 150 juvenile guardianships for calendar year 2011 and shall finalize 165 juvenile guardianships for each calendar year 2012, 2013, and 2014.

8. *Adoption Subsidies*: Upon identification of an adoptive family for a child legally freed for adoption, DHS shall within 14 days provide the prospective adoptive family with an adoption subsidy application and explanatory materials regarding the adoption subsidy program in Michigan and related federal Title IV-E regulations and HHS policies. DHS shall include a written record of delivery of such materials in the child's file.

9. *Disrupted Pre-Adoptive Placements*: DHS shall monitor the number of cases in pre-adoptive placement that disrupt before adoption finalization. A sample of these cases shall be reviewed annually by the Quality Assurance unit.

F. *Special Reviews for Children Legally Free / In Care More Than One Year:*

1. The provisions of this section shall apply to all children in DHS foster care custody, including those children placed through private CPAs, who, at any time from the date of execution of this Agreement (a) have had the parental rights of their parents terminated and have been legally free for adoption for more than 365 days or (b) have a goal of reunification and have been in care for more than 365 days.
2. DHS shall maintain an adequate number of Permanency Resource Manager (PRM) positions to review cases for children in care more than one year. PRM staff shall:
   a. Receive specialized PRM training;
   b. Raise awareness of the importance of establishing permanency for children in foster care;
   c. Possess expertise and knowledge of community resources and new approaches to planning for children who have been in the system for extended periods; and
   d. Collaborate with case managers and supervisors to identify new strategies to focus on permanency through case reviews and Family Team Meetings.

G. *Caseworker Contacts and Visits*:

1. The provisions of this section shall apply to all children in DHS foster care custody, including those children placed through private CPAs.
2. *Worker-Child Contacts*: By October 2011, each child in foster care shall be visited by the assigned foster care case manager at least two times during the child's first month of placement, and at least one time per month thereafter. At least one visit each month shall take place at the child's placement location and shall include a private meeting between the child and the case manager. By October 2012, the requirement of two visits per month shall apply for the first two months following an initial placement or a placement move.
3. *Worker-Parent Visits*: For each child in foster care with a permanency goal of reunification, the child's caseworker shall have face-to face contacts with the child's parent(s) as follows: (a) for the first month the child is in care, two face-to-

face contacts with each parent, at least one of which must occur in the home; (b) for each subsequent month, at least one face-to-face contact with each parent and phone contact as needed, with at least one contact in each three-month period occurring in the parent's place of residence.

4. *Parent-Child Visits*: DHS shall take all reasonable steps to assure that children in foster care with a goal of reunification shall have at least twice-monthly visitation with their parents. Reasonable exceptions to this requirement shall include cases in which: (a) a court orders less frequent visits; (b) the parents are not attending visits despite DHS taking adequate steps to ensure the parents' ability to visit; (c) one or both parents cannot attend the visits due to exigent circumstances such as hospitalization or incarceration; or (d) the child is above the age of 16 and refuses such visits. All exceptions, and all reasonable steps to assure that visits take place, shall be documented in the case file. If such exceptions exist, DHS shall review the appropriateness of the child's permanency goal.

5. *Sibling Visits*: DHS shall take all reasonable steps to assure that children in foster care who have siblings in custody with whom they are not placed shall have at least monthly visits with their siblings who are placed elsewhere in DHS foster care custody. Reasonable exceptions to this requirement shall include cases in which: (a) the visit may be harmful to one or more of the siblings; (b) the sibling is placed out of state in compliance with the Interstate Compact on Placement of Children; (c) the distance between the children's placements is more than 50 miles and the child is placed with a relative; or (d) one of the siblings is above the age of 16 and refuses such visits. All exceptions, and all reasonable steps taken to assure that visits take place, shall be documented in the case file.

VIII. SERVICES AND PLACEMENT RESOURCES DEVELOPMENT AND UTILIZATION

A. *Access to Services:* DHS shall ensure that children in foster care have access to appropriate services sufficient in range and quantity to meet their service and placement needs, including medical and dental care, mental health services, and appropriate educational services. Consistent with the provisions of Section VII(C), DHS shall ensure

that appropriate action is taken in each case to assist the child(ren), parent(s), and foster parent(s) in connecting to, engaging with, and making use of these services.

DHS shall be responsible for helping the parent(s), child(ren), and foster parent(s) identify appropriate, accessible, and individually compatible services; assisting with transportation when necessary; helping to identify and resolve any barriers that may impede parent(s), child(ren), and foster parent(s) from making effective use of services; and intervening to review and amend the service plan when services are not provided or do not appear to be effective.

DHS shall monitor the provision of services to determine whether they are of appropriate quality and are having the intended effect.

B. *Provision of Health Services*

1. *Health Services Plan*: By September 30, 2011, DHS shall submit to the Monitors a detailed Health Services Plan, which shall set forth the specific action steps DHS shall implement in order to ensure that each child entering foster care receives medical, dental, and mental health services as described in Section VIII(B)(2). The Health Services Plan shall be subject to the approval of the Monitors. DHS shall implement the plan after the Monitors' approval.

2. *Medical, Dental, and Mental Health Services*: DHS shall take all necessary and appropriate steps to ensure that each child entering foster care receives each of the following:

   a. Any needed emergency medical, dental, and mental health care.

   b. A full medical examination and screening for potential mental health issues within 30 days of the child's entry into care and a referral for a prompt further assessment by an appropriate mental health professional for any child with identified mental health needs. DHS shall implement this provision as follows:

      i. By December 31, 2011, 75% of children shall have the initial medical and mental health examination within 45 days of the child's entry into foster care.

ii. By June 30, 2012, 95% of children shall have the initial medical and mental health examination within 45 days of the child's entry into foster care.

iii. By December 31, 2012, 75% of children shall have the initial medical and mental health examination within 30 days of the child's entry into foster care.

iv. By June 30, 2013 and thereafter, 95% of children shall have the initial medical and mental health examination within 30 days of the child's entry into foster care.

c. An initial dental examination within 90 days of the child's entry into care unless the child has had an exam within six months prior to placement or the child is less than four years of age. DHS shall implement this provision as follows:

i. By December 31, 2011, 40% of children shall have a dental examination within 90 days of the child's entry into foster care.

ii. By June 30, 2012, 60% of children shall have a dental examination within 90 days of the child's entry into foster care.

iii. By September 30, 2012, 80% of children shall have a dental examination within 90 days of the child's entry into foster care.

iv. By June 30, 2013, and thereafter, 95% of children shall have a dental examination within 90 days of the child's entry into foster care.

d. All required immunizations, as defined by the American Academy of Pediatrics, at the appropriate age.

e. Periodic and ongoing medical, dental, and mental health care examinations and screenings, according to the guidelines set forth by the American Academy of Pediatrics. DHS shall implement this provision as follows:

i. By December 31, 2011, the Monitors, in consultation with DHS, shall determine the baseline for periodic medical, dental, and

mental health examinations and set an interim target to be met by September 30, 2012.

ii. By June 30, 2013, DHS shall ensure 80% of children have received periodic medical, dental and mental health care examinations.

iii. By December 31, 2013 and thereafter, DHS shall ensure 95% of children have received periodic medical, dental and mental health care examinations.

f. Any needed follow-up medical, dental, and mental health care as identified.

3. *Medical Files:* DHS shall maintain an up-to-date medical file for each child in care, including medical history information reasonably available to DHS.

a. At the time a child is placed in a foster home or residential care facility, the foster care provider receives specific written information about the child's present health status and any present medical needs or health concerns, as well as any medical history of which DHS is aware, that is reasonably necessary for the foster care provider to responsibly care for the child.

i. By December 31, 2011, the Monitors, in consultation with DHS, shall determine the baseline for foster care providers receiving specific written health information about the child entering their care and set interim targets to be met by September 30, 2012 and June 30, 2013.

ii. The Monitors, in consultation with DHS, shall also set the final standard, which shall not be later than December 31, 2013, or less than 95%.

b. In maintaining medical records, DHS shall ensure that it is in compliance with MCL 722.954c(2) by preparing, updating, and providing medical passports to caregivers. In addition, DHS shall ensure that the medical passport, or some other DHS document inserted in each child's file, includes a complete and regularly updated statement of all medications prescribed to and given to the child. All such information shall be

provided to all medical and mental health professionals to whom the child is referred and accepted for treatment, as well each foster care provider with whom a child is placed.

i. By December 31, 2011, the Monitors, in consultation with DHS, shall determine the baseline for foster care providers receiving specific written health information about the child in their care and set interim targets to be met by September 30, 2012 and June 30, 2013.

ii. The Monitors, in consultation with DHS, shall also set the final standard, which shall not be later than December 31, 2013, or less than 95%.

4. *Medical Care and Coverage:*

a. Each child entering foster care shall be provided access to medical care immediately upon placement. The foster parent or other placement provider shall receive a Medicaid card, or an alternative verification of the child's Medicaid status and number as soon as it is available, but in no case later than 30 days of the child's entry into foster care.

i. By December 31, 2011, DHS shall assure 90% of children have access to medical coverage within 30 days of entry into foster care.

ii. By June 30, 2012 and thereafter, DHS shall assure 95% of children have access to medical coverage within 30 days of entry into foster care.

b. For any subsequent placement during the same episode of care, the foster parent or other placement provider shall receive the child's Medicaid card or alternative verification of Medicaid status and number upon the child's placement.

i. By October 31, 2011, the Monitors, in consultation with DHS, shall determine the baseline for foster children to have access to

medical coverage upon the child's placement for any subsequent placement during the same episode of care.

ii. If the baseline determines that DHS's compliance is at 85% or greater, then, by June 30, 2012 and thereafter, DHS shall assure 95% of children have access to medical coverage upon subsequent placement.

iii. If the baseline determines that DHS's compliance is less than 85%, then, by December 31, 2012 and thereafter, DHS shall assure 95% of children have access to medical coverage upon subsequent placement.

5. *Psychotropic Medications*:

a. DHS shall maintain a full-time Health Unit Manager, with appropriate qualifications, who shall, among other things, be responsible for overseeing the implementation of policies and procedures concerning the use of psychotropic medications for all children in DHS foster care custody. The Health Unit Manager shall have the authority to recommend corrective actions. The Health Unit Manager shall report directly to the Children's Services Administration. DHS shall hire or contract for the services of a medical consultant who shall be a physician. The medical consultant shall provide consultation on all health related matters required under this Agreement. The medical consultant shall report to the Health Unit Manager. The duties and responsibilities of the medical consultant and the hours required to fulfill those duties and responsibilities shall be set forth in the health services plan required in Section VIII(B)(1) and subject to approval of the Monitors.

b. When possible, parents shall consent to the use of medically necessary psychotropic medication. In the event that a parent is not available to provide consent for psychotropic medication, DHS shall comply with applicable sections of state law.

c. DHS shall maintain processes to ensure documentation of psychotropic medication approvals, documentation of all uses of psychotropic

medication, and review of such documentation by appropriate DHS staff, including the Medical Consultant. The Medical Consultant and the Health Unit Manager shall take immediate action to remedy any identified use of psychotropic medications inconsistent with the policies and procedures approved by the Monitors.

6. *Reconfiguration of Mental Health Services Spending*: Beginning October 2008, DHS was to redirect at least $3 million to fund mental health services. In order to help ensure that children in foster care in each county have access to the range of mental and behavioral health services and supports necessary to address their needs, including behavior management training and supports for caregivers working with children with behavioral problems, DHS shall gather and analyze data on the way in which DHS funds are utilized to provide mental health services. DHS shall determine whether the allocation of these funds matches the priority needs of the children served, and if not, shall implement a plan to reallocate those funds to support the development and provision of services to meet the priority needs.

Mental Health Services Spending has been reconfigured using the SED waiver and implemented as follows:

a. By October 2009, in Wayne, Kent, Oakland, Genesee, and Macomb Counties;
b. By October 2010, in Ingham, Kalamazoo, and Saginaw Counties; and
c. By October 2011, in Muskegon, Washtenaw, Eaton, and Clinton Counties.
d. For all remaining counties, DHS shall continue to engage the Michigan Department of Community Health, Community Mental Health Service Providers, and Medicaid Health Plans to ensure that all children with mental health needs are assessed and served.

This paragraph is not intended to limit any other obligations under this Agreement.

C. *Additional Supports for Foster Youth:*

1. *Supports for Youth Transitioning to Adulthood*:

a. *Immediate Action Steps for Youth Transitioning To Adulthood:* DHS shall continue to seek expansion of foster care options for state wards up to age 21 as follows:

i. By December 31, 2011, DHS shall ensure for each youth age 16 and older, a Family Team Meeting shall be held to address issues of support, housing, education, employment, transportation, financial management and health. These meetings shall occur 90 days before planned discharge from care or within 30 days after an unexpected discharge.

ii. By March 31, 2012, in Wayne, Clinton/Gratiot, and Ingham Counties, the Michigan Youth Opportunities Initiative (MYOI) shall be implemented and youth leadership boards shall be created or sustained that meet quarterly to provide information, training, and supportive services to youth.

iii. By March 31, 2012, in Wayne, Clinton/Gratiot, and Ingham Counties where MYOI is being implemented, Individual Development Accounts (IDAs) shall be established for youth attending youth leadership board meetings enrolled in MYOI.

iv. By September 30, 2012, an additional 12 counties shall begin implementation of MYOI, including IDAs.

v. By December 31, 2011, DHS, in consultation with the Monitors, shall establish a baseline and the Monitors, in consultation with DHS, shall establish targets in the Big 14 counties for 2012, to increase the number of youth 18 and older leaving the foster care system with a high school diploma, and for those without a diploma, to increase the number of youth who are 18 or older with GEDs.

vi. DHS shall support the Michigan Fostering Connections legislation (SB 435–440) and implement as applicable upon passage.

vii. DHS shall support higher education for older foster youth through partnerships with Michigan colleges and universities and through collaboration with community partners to create and expand scholarships and onsite programs, supports, and mentorships.

viii. DHS shall support the Seita Scholars program at Western Michigan University.

b. DHS shall ensure that youth age 16 and older in foster care with a permanency goal of APPLA, APPLA E, or goal of adoption without an identified family have access to the range of supportive services necessary to support their preparation for and successful transition to adulthood, including but not limited to independent living services eligible for federal reimbursement under the Chafee program, which in part promote employment or remove barriers to employment and shall maintain sufficient resources to deliver independent living services to all youth described above.

c. DHS also shall develop and implement the following policies, services, and programs focused on meeting the needs of foster children who are 16 years and older with a permanency goal other than a goal of reunification:

i. DHS shall continue to implement policy and the necessary resources to extend all foster youths' eligibility for child foster care custody until age 20 and to make available independent living services through the age of 21;

ii. DHS shall continue to implement a policy and process by which all youth emancipating from the foster care system at age 18 or beyond are enrolled for Medicaid managed care coverage so that their coverage continues without interruption at the time of emancipation;

iii. Beginning September 30, 2011, DHS shall refer all youth without an identified housing situation at the time of emancipation from the foster care system at age 18 or beyond to community partners for

housing, rental assistance, and services under the Homeless Youth Initiative; and

iv. DHS shall maintain 14 regional Education Planners who shall provide consultation and support to youth age 14 and older in accessing educational services and in developing individualized education plans, including identifying all available financial aid resources.

2. *Provision of Educational Services*:

a. DHS shall take reasonable steps to ensure that school-aged foster children receive an education appropriate to their needs.

b. DHS shall take reasonable steps to ensure that school-aged foster children are registered for and attending school within five days of initial placement or any placement change, including while placed in child care institutions or emergency placements. No child shall be schooled pursuant to MCL 380.1561(3)(f).

c. DHS shall make reasonable efforts to ensure the continuity of a child's educational experience by keeping the child in a familiar or current school and neighborhood, when this is in the child's best interests and feasible, and by limiting the number of school changes the child experiences.

3. *Improved Utilization of Existing Sources of Funding for Child/Family-Specific Goods and Services*: In order to ensure that the range of funds, including "flexible funds", available to meet individualized needs of families and children can be readily accessed by case managers working with those families and children, DHS shall continue to implement a system that designates appropriate and knowledgeable staff, rather than the case managers, as the staff responsible for determining the specific funding source to be drawn upon for the provision of goods and services identified as needed by the case manager and for coding and processing the necessary paperwork.

D. *Foster and Adoptive Home Recruitment, Retention, and Support:*

1. *Immediate Action Steps For The Recruitment Of Foster And Adoptive Homes:* DHS shall license 1,300 new non-relative foster homes by June 30, 2012 and an additional 1,450 new non-relative foster homes by June 30, 2013.

2. *Foster Home Capacity and Placement Selection:*

   DHS shall:

   a. Ensure that each county has a sufficient number and adequate array of foster homes capable of serving the needs of those children coming into care for whom foster home placement is appropriate.

   b. Ensure that relatives of children in foster care and non-relatives with whom a child has a family-like connection are identified and considered as potential foster home placements for children; where a relative or non-relative with whom the child has a family-like connection is an appropriate foster home placement for a child, DHS shall ensure that appropriate steps are taken to license the relative or non-relative as a licensed foster home as set forth in Section VIII(D)(6) below; and

   c. Develop a placement process in each county that ensures that a child entering foster care for whom a suitable relative foster home placement is not available is placed in the foster home that is the best available match for that child, irrespective of whether that foster home is a DHS- or private CPA-operated foster home.

3. *Foster and Adoptive Home Capacity for Special Populations:*

   a. Recruitment of Placement Resources for Adolescents, Sibling Groups, and Children with Disabilities: In June 2012 and June 2013, DHS shall for the Big 14 counties continue to develop and provide to the Monitors and Plaintiffs recruitment plans, to increase the number of available placements for adolescents, sibling groups, and children with disabilities. The recruitment plan shall include, for each category of placements, the number of placements to be developed; the strategies to be followed in developing such placements; and specific timetables with interim targets.

DHS shall implement each county recruitment plan consistent with the requirements set forth above.

b. Development of Treatment Foster Homes: DHS shall maintain 200 treatment foster home beds.

c. By June 30, 2013 and thereafter, DHS, in consultation with the Monitors, shall develop for each county, annual foster home targets based on need and number of children in care. DHS shall implement and meet those targets.

4. *State Oversight of Foster Home Recruitment*: A designated unit or person within the DHS central office shall be responsible for monitoring the development and implementation of the foster and adoptive home recruitment and retention plans by county offices; providing or arranging for technical assistance to the county offices concerning recruitment and retention; and reporting to the Children's Services Administration Director on progress and problems in achieving the goals set forth in the recruitment and retention plans.

5. *Adequacy of Foster Home Board Payments and Maximization of Title IV-E Reimbursements*:

a. In order to ensure that payments to foster parents are sufficient to meet the needs of the children in foster care, DHS shall ensure that the Determination of Care (DOC) process is applied consistently and appropriately across all counties and offices. DHS shall identify, after consultation with the Monitors and Plaintiffs, a state office responsible for ensuring that DOCs are made uniformly across the state and in accordance with DHS policy. DHS shall also establish procedures by which a foster parent or CPA may obtain review by a designated official in the central office of a DOC decision; and

b. DHS shall maintain a unit within the Children's Services Administration charged with maximizing Title IV-E reimbursements from the federal government.

6. *Licensing of Relative Foster Homes*:

a. *Immediate Action Steps for Licensing Relative Foster Homes:*

i. DHS shall reduce the days required to license new relative foster parents as follows:

1) By June 30, 2012, 55% of new relative foster parents shall be licensed within 180 days from the date of placement.

2) By December 31, 2012, 65% of new relative foster parents shall be licensed within 180 days from the date of placement.

3) By June 30, 2013, 75% of new relative foster parents shall be licensed within 180 days from the date of placement.

4) By December 31, 2013, 85% of new relative foster parents shall be licensed within 180 days from the date of placement.

ii. DHS shall reduce the number of pending relative foster home licenses as follows: By August 30, 2011, DHS shall complete a review of current relative foster homes pending licensure, as of July 1, 2011, to determine the number of days since enrollment. The Monitors shall immediately thereafter set targets for the resolution of the pending applications to be met by December 31, 2011, June 30, 2012, and December 31, 2012.

b. With regard to all children entering DHS foster care custody, all foster parents shall be licensed except in the following situations:

i. The child, placed with a relative, achieves permanency prior to issuance of a foster home license or approved waiver;

ii. The child, placed with a relative, moves to a new placement prior to the issuance of a foster home license or approved waiver;

iii. A relative foster home is granted a licensing waiver as identified in sub-section (c) below;

iv. The child is placed in an unlicensed, unrelated foster home pursuant to an order of the court that the child be so placed.

c. When placing a child with a relative who has not been previously licensed as a foster parent, DHS shall:

   i. Prior to placement, visit the relative's home to determine that it is safe;

   ii. Within 72 hours following placement, check law enforcement and central registry records for all adults residing in the home; and

   iii. Within 30 days, complete a home study determining whether the relative should, upon completion of training and submission of any other required documents, be licensed as a foster parent.

d. All licensed relative foster care providers shall receive the same foster care maintenance rates paid by DHS to similarly situated unrelated foster care providers, including the ability to qualify for enhanced DOC rates.

e. All permanent wards living with relative caregivers shall be provided foster care maintenance payments equal to the payments provided to licensed foster caregivers.

f. If the foster care provider is related to the child, and exceptional circumstances exist such that it is in the child's best interest to be placed with the relative despite the relative's desire to forego licensing, such exceptional circumstances for foregoing licensing must be documented in the child's record, and must be approved by:

   i. In a Designated County, the county Child Welfare Director;

   ii. In any other county, the County Director.

   In such instances, the relative caregiver and the other adult household members must meet the same safety standards as non-relative providers; the relative caregiver must be fully informed of the benefits, including the exact amount of monetary benefits, of licensure; and the relative caregiver must sign a waiver stating understanding that he or she is foregoing the benefits, including the exact amount of monetary benefits of licensure.

The Monitors shall report on the percentage of relative caregivers who elect to waive licensing. In the event that more than 10% of unlicensed relative caregivers decline to be licensed, the Monitors shall conduct a review and report on whether DHS has adequately instituted and followed the procedures set forth in this section.

g. DHS shall continue to implement the form waiver letter used, consistent with the requirements of this section. This waiver must be re-signed by the relative caregiver annually and a copy must be placed in the child's record. The relative caregiver may change his or her mind and choose to undergo licensing at any time, and when this occurs, DHS must allow the relative caregiver to undergo the licensing process.

h. DHS shall prepare and make public the procedures on obtaining variances from standard foster care licensing requirements for purposes of licensing relative homes. DHS shall not waive any licensing standards that are essential for the safety and well-being of the child.

i. DHS shall require:

    i. Pre-service and in-service foster parent training be provided to relative caregivers pursuing licensure and that the content of the training include those parts of the general foster parent training curriculum that are relevant to relative caregivers;

    ii. The designation of sufficient licensing staff to complete the licensing process for each family within 180 days from the date of placement;

    iii. The designation of sufficient staff to ensure that all mandatory training is provided to newly licensed relative care foster parents;

j. DHS shall continue to implement the policies, procedures, and organizational structures required to license all unlicensed relative caregivers. Included within this effort, DHS shall maintain a position of Relative Licensing Coordinator with overall responsibility for development of a combined/coordinated Family Home Assessment for relative providers, family foster care, and adoption; monitoring and

reporting on the number of unlicensed relative homes and the foster children in those homes, broken down by county and private CPA, where applicable; and ensure the availability of adequate training staff to develop curriculum and training for and to train Relative Licensing staff.

7. *Implementation of an Adequate Child Placement Process*: Upon statewide implementation of SACWIS, DHS shall develop an adequate child placement process in each county or region, subject to the approval of the Monitors in consultation with the Plaintiffs. DHS shall implement the process after the Monitors' approval.

8. *Provision of Post-Adoption Services*: DHS shall develop and implement a full range of post-adoption services to assist all eligible special needs children adopted from state foster care and their permanent families (including, but not limited to, physical therapy, counseling, and other services required to address the developmental and/or physical disabilities of an adopted child) and shall maintain sufficient resources to deliver such post-adoption services to all children in the Plaintiff class who qualify for these services, along with their permanent families.

IX. NEEDS ASSESSMENT

A. In May 2009, DHS issued a comprehensive Needs Assessment, conducted by an independent expert, which detailed additional services and placements needs. The Needs Assessment was comprehensive in scope and recommendations, and remains a reliable and valid assessment to determine additional child welfare services.

B. DHS shall make available an additional $4 million in FY12, plus any unspent FY11 Needs Assessment funds, for services and placements identified in the 2009 Needs Assessment. DHS shall, in consultation with the Monitors, submit a plan for the expenditure of the $4 million for FY12.

C. In order to fund the POS positions needed to meet the caseload standards set forth in this Agreement, the State allocated $2 million of additional state funds. In the event that the review of the POS monitoring function set forth in this Agreement leads to a revised staffing plan that allows some or all of this $2 million in additional funding to be saved,

such savings shall be re-allocated to funding the items and services identified in the 2009 Needs Assessment, supplementing the amount of funding provided pursuant to Section IX(A) above.

X. PLACEMENT STANDARDS AND LIMITATIONS

A. *General Standards*:

DHS shall place children according to the following standards:

1. All children shall be placed in accordance with their individual needs, taking into account a child's need to be placed as close to home and community as possible, the need to place siblings together, and the need to place children in the least restrictive, most home-like setting.
2. Children for whom the permanency goal is adoption should, whenever possible, be placed with a family in which adoption is a possibility.
3. Race and/or ethnicity and/or religion shall not be the basis for a delay or denial in the placement of a child, either with regard to matching the child with a foster or adoptive family or with regard to placing a child in a group facility. Race and/or ethnicity shall otherwise be appropriate considerations in evaluating the best interest of an individual child to be matched with a particular family. DHS shall not contract and shall immediately cease contracting with any program or private CPA that gives preference in its placement practices by race, ethnicity, or religion.
4. Children in the foster care custody of DHS shall be placed only in a licensed foster home, a licensed facility, or, subject to the requirements of Section VIII(C)(6) of this Agreement, an unlicensed relative home.

B. *Placement Limitations*: DHS shall make placement decisions pursuant to DHS placement selection criteria.

1. *Limitations on Placements Outside a 75-Mile Radius*: DHS shall place all children within a 75-mile radius of the home from which the child entered custody unless:

a. The child's needs are so exceptional that they cannot be met by a family or facility within a 75-mile radius;

b. The child needs re-placement and the child's permanency goal is reunification with his/her parents who at that time reside out of the 75-mile radius;

c. The child is to be placed with a relative/sibling out of the 75-mile radius; or,

d. The child is to be placed in an appropriate pre-adoptive or adoptive home that is out of the 75-mile radius.

If a child is placed outside the 75-mile radius:

a. In a Designated County, the county Child Welfare Director shall be specifically required to certify the circumstances supporting the placement in writing, based on his or her own examination of the circumstances and the child's needs and best interests;

b. In any other county, the County Director shall be specifically required to certify the circumstances supporting the placement in writing, based on his or her own examination of the circumstances and the child's needs and best interests.

2. *Limitations on Separation of Siblings*: Siblings who enter placement at or near the same time shall be placed together, unless doing so is harmful to one or more of the siblings, one of the siblings has exceptional needs that can only be met in a specialized program or facility, or the size of the sibling group makes such placement impractical notwithstanding efforts to place the group together. If a sibling group is separated at any time, except for reasons set forth above, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. These efforts shall be documented and maintained in the case file and shall be reassessed on a quarterly basis.

3. *Limitations on Number of Children in Foster Home*: No child shall be placed in a foster home if that placement will result in more than three foster children in that foster home, or a total of six children, including the foster family's birth and/or adopted children. No placement shall result in more than three children under the

age of three residing in a foster home. Exceptions to these limitations may be made, on an individual basis, documented in the case file, when in the best interest of the child(ren) being placed, as follows:

a. In a Designated County, by the county Child Welfare Director;

b. In any other county, by the County Director.

4. *Limitations on Use of Emergency or Temporary Facilities*:

a. *Time limit for placement in emergency or temporary facility*:
Children shall not remain in emergency or temporary facilities, including but not limited to shelter care, for a period in excess of 30 days. An exception to this limitation may be made for:

i. Children who have an identified and approved placement but the placement is not available within 30 days of the child's entry to an emergency or temporary facility.

ii. Children whose behavior has changed so significantly that the County Director or his/her manager designee has certified that a temporary placement for the purposes of assessment is critical for the determination of an appropriate foster placement. In no case shall a child remain in an emergency or temporary facility more than 45 days.

b. *Number of placements in an emergency or temporary facility*:
Children shall not be placed in an emergency or temporary facility, including but not limited to shelter care, more than one time within a 12-month period. An exception to this limitation shall be made for:

i. Children who are absent without legal permission;

ii. Children facing a direct threat to their safety, or who are a threat to the safety of others such that immediate removal is necessary; or

iii. Children whose behavior has changed so significantly that the County Director or his/her manager designee has certified that a temporary placement for the purposes of assessment is critical for the determination of an appropriate foster placement.

Children experiencing a second emergency or temporary-facility placement within one year shall not remain in an emergency or temporary facility for more than seven days.

5. *Limitations on Placement in Jail, Correctional, or Detention Facility*: No child in DHS foster care custody shall be placed, by DHS or with knowledge of DHS, in a jail, correctional, or detention facility unless such child is being placed pursuant to a delinquency charge. DHS shall notify the State Court Administrative Office and the Michigan State Police of this prohibition, and provide written instructions to immediately notify the local DHS office of any child in DHS foster care custody who has been placed in a jail, correctional, or detention facility.

   If it comes to the attention of DHS that a child in DHS foster care custody has been placed in a jail, correctional, or detention facility, and such placement is not pursuant to a delinquency charge, DHS shall ensure the child is moved to a DHS foster care placement as soon as practicable, and in all events within five days, unless the court orders otherwise over DHS objection.
   If a child in DHS foster care custody is placed in a jail, correctional, or detention facility pursuant to a delinquency charge, and the disposition of such a charge is for the child to return to a foster care placement, then DHS shall return the child to a DHS placement as soon as practicable but in no event longer than five days from disposition, unless the court orders otherwise over DHS objection.

6. *Limitations on Placement of High Risk Youth*: DHS shall not place any child determined by a clinical assessment to be at high risk for perpetrating violence or sexual assault in any foster care placement with foster children not so determined without an appropriate assessment concerning the safety of all children in the placement.

7. *Limitations on Residential Care Placements*: No child shall be placed in a child caring institution unless there are specific findings, documented in the child's case file, that: (1) the child's needs cannot be met in any other type of placement; (2) the child's needs can be met in the specific facility requested; and (3) the facility

is the least restrictive placement to meet the child's needs. A description of the services available in the facility to address the individual child's needs must also be documented in the case file. The initial placement must be approved as follows:

a. In a Designated County, the county Child Welfare Director;

b. In any other county, the County Director.

The need for a residential placement shall be reassessed every 90 days. Children shall not be placed in a residential placement for more than six months without the express authorization, documented in the foster care file, of:

a. In a Designated County, the county Child Welfare Director;

b. In any other county, the County Director.

No child shall be placed in a residential placement for more than 12 months without the express authorization, documented in the foster care file, of Child Welfare Field Operations.

XI. LIMITATIONS ON USE OF PSYCHOTROPIC MEDICATIONS, CORPORAL PUNISHMENT, AND SECLUSION/ISOLATION

A. *Psychotropic Medications*:

1. Psychotropic medication shall not be used as a method of discipline or be used in place of psychosocial or behavioral interventions that the child requires.

   a. By September 30, 2011, DHS shall provide the Monitors with a draft policy, including a timetable for implementing this Section.

   b. By October 31, 2011, the Monitors shall respond to DHS's proposed policy and timetable for implementation.

   c. When the Monitors have approved DHS's proposed policy and timetable for implementation, DHS shall implement the policy according to the timetables set by the Monitors.

B. *Corporal Punishment and Seclusion/Isolation*:

1. DHS shall prohibit the use of Positive Peer Culture, peer-on-peer restraint, and any other forms of corporal punishment in all foster care placements. All uses of corporal punishment in any placement, and all uses of seclusion/isolation in child caring institutions shall be reported to the Quality Assurance (QA) unit. Such reports shall be made available to the state's licensing agency for appropriate action.
    a. By September 30, 2011, DHS shall provide the Monitors with a draft policy, including a timetable for implementing this Section.
    b. By October 31, 2011, the Monitors shall respond to DHS's proposed policy and timetable for implementation.
    c. When the Monitors have approved DHS's proposed policy and timetable for implementation, DHS shall implement the policy according to the timetables set by the Monitors.
2. The state's licensing agency and Child Welfare Contract Compliance unit shall be responsible for monitoring the implementation of policies and procedures surrounding all forms and use of corporal punishment and seclusion/isolation of children in DHS foster care custody, and shall issue and impose corrective actions.

XII. DHS SUPERVISION OF CONTRACT AGENCIES

A. *Contract Requirements:* DHS's contracts with private CPAs and CCIs shall be performance-based and shall include all of the following requirements:

1. Compliance with performance goals as set forth in this Agreement;
2. Compliance with all aspects of all DHS policies and procedures that apply to the provider;
3. Any reports of suspected abuse or neglect of any Plaintiff class member while receiving such contracted placements or services shall be reported to DHS for investigation;

4. All placement providers for foster children in DHS foster care custody are prohibited from using or authorizing the use of corporal punishment for children under the care and supervision of DHS or the private CPA or CCI;
5. Any reports of suspected corporal punishment while in that provider's care shall be reported to DHS for investigation, as necessary; and
6. All CCIs or private CPAs that provide placements and child welfare services to Plaintiff class members report to DHS accurate data on at least a six-month basis in relation to the requirements of this Agreement.

DHS shall independently monitor and enforce these contracts. Further, DHS shall maintain a set of enforcement measures to be imposed in the event that a contract agency fails to comply with material terms or requirements of the performance-based contract.

B. *Substantiated Incidents of Abuse, Neglect, and Corporal Punishment:* DHS shall give due consideration to any and all substantiated incidents of abuse, neglect, and/or corporal punishment occurring in the placements licensed and supervised by a contract agency at the time of processing its application for licensure renewal. The failure of a contract agency to report suspected abuse or neglect of a child to DHS shall result in an immediate investigation to determine the appropriate corrective action up to and including termination or modification of relevant portions of a contract, or placement of the provider on provisional licensing status. A repeated failure within one year shall result in a review of the contract agency's violations by a designated Administrative Review Team, which shall include the Director of CSA, the Director of BCAL or its successor agency, or the Manager of Child Welfare Contract Compliance Unit, that shall consider mitigating and aggravating circumstances to determine the appropriate corrective action up to and including license revocation and contract termination.

C. *Contract Evaluations:* DHS shall conduct contract evaluations of all CCIs and private CPAs providing placements and services to Plaintiff class members to ensure, among other things, the safety and well-being of Plaintiff class members and to ensure that the contract agency is complying with the applicable terms of this Agreement. At least once each year:

1. DHS shall inspect each private CPA to review all relevant aspects of the agency's operations;
2. DHS shall visit a random sample of each agency's foster homes as a part of the annual inspection. Agencies with less than 50 foster homes shall have three foster homes visited. Agencies with 50 foster homes or more shall have 5% of their foster homes visited; and
3. DHS shall conduct an unannounced inspection of each CCI.

DHS shall prepare written reports of all inspections and visits, detailing findings. DHS shall require corrective actions and require private CPAs and CCIs to report to DHS on the implementation of these corrective action plans, and shall conduct follow-up visits when necessary. Such reports shall routinely be furnished to the Monitors.

D. *Resources:* DHS shall maintain sufficient resources to permit its staff to undertake timely and competent contract enforcement activities as set forth in this section.

XIII. MANAGEMENT INFORMATION SYSTEM

A. Until the full implementation of the statewide automated child welfare information system (SACWIS), DHS shall generate from automated systems and other data collection methods accurate and timely data reports and information regarding the requirements and outcome measures set forth in this Agreement. Upon implementation of the SACWIS, DHS shall generate from the SACWIS accurate and timely data reports and information regarding the requirements and outcome measures set forth in this Agreement.

B. By October 2012, DHS shall implement a pilot of the SACWIS with the components and functionality as described in the purchase contract executed between DHS and Unisys on March 22, 2011. By October 2013, DHS shall have an operational SACWIS in all counties, with the functionality as described in the purchase contract executed between DHS and Unisys on March 22, 2011. DHS shall promptly seek, and take necessary steps to secure, federal approval of the SACWIS upon completion of the full rollout to all counties.

C. DHS shall maintain a permanency tracking system and associated reports. Until October 2013, SWSS shall be the permanency tracking system. After October 2013, the SACWIS shall be the permanency tracking system. The permanency tracking system shall, at a minimum, be capable of reporting pertinent status information sorted by individual child, DHS worker/CPA, and county, for all children in foster care.

D. Both leading up to and subsequent to the full implementation of a SACWIS, DHS shall at all times satisfy all federal reporting requirements and shall maintain data integrity and accuracy on a continuous basis.

XIV. QUALITY ASSURANCE

A. DHS shall, in consultation with and subject to the approval of the Monitors, develop and implement a statewide Quality Assurance program that shall be directed by the QA Unit identified in Section IV(A)(5). DHS shall ensure accurate data collection and data verification. In administering the QA program, the QA Unit shall develop an internal DHS capacity to undertake data analysis, case record or qualitative service review and other such oversight and reporting functions that, in coordination with the Monitors and any external data review processes undertaken by the Monitors, shall facilitate ongoing assessment of DHS child welfare performance in relation to the performance requirements and goals contained in this Agreement. The QA unit shall support the DHS Director and DHS management in identifying areas of systemic strengths and weaknesses and in formulating strategies to improve in areas of substandard performance. The QA unit shall provide ongoing critical evaluation and oversight of the strategies designed and undertaken to improve substandard services and outcomes.

B. By December 31, 2011, DHS shall provide a QA plan subject to the approval of the Monitors that shall define the process for the ongoing assessment of DHS child welfare performance in relation to the performance requirements and goals contained in this Agreement. DHS shall address in the QA plan a mechanism for the consideration of high risk cases, as defined in the Glossary. DHS shall implement the QA plan pursuant to timetables established in agreement with the Monitors.

C. The CSA Director shall appoint a director to administer the QA unit who possesses the necessary qualifications and experience to conduct competent data collection, evaluation, as well as the management skills necessary to manage a staff tasked to perform QA functions encompassing DHS state, regional, and county offices. The director of the QA unit shall report directly to the Children's Services Administration Director. The QA unit shall be adequately staffed, and its staff shall receive specialized training to fulfill all unit responsibilities.

D. All reports provided by the QA unit shall be public record so long as any individually identifying information in relation to the temporary or permanent wards in DHS foster care custody is redacted from such report consistent with applicable state and federal confidentiality laws.

XV. MONITORING

A. The parties agree that Kevin M. Ryan and Eileen Crummy of the Public Catalyst Group shall be the Monitors of DHS's compliance with the terms of this Agreement.

B. Neither party, nor any employee or agent of either party, shall have any supervisory authority over the Monitors' activities, reports, findings, or recommendations. The retention of the Monitors shall be conducted solely pursuant to the procedures set forth in this Agreement and shall not be governed by any formal or legal procurement requirements. The Monitors shall hire such staff as the Monitors deem necessary to discharge their responsibilities under this Agreement.

C. The Monitors shall have free and complete access to records maintained by DHS, its divisions and any successor agencies or divisions, and by its private CPAs and CCIs. The Monitors shall also have free and complete access to the staff of DHS; its divisions and any successor agencies or divisions; persons within the executive branch; private CPAs and CCIs; children in the care of DHS and of private CPAs and CCIs; and other individuals that the Monitors deem relevant to their work. DHS shall direct all employees and contract providers to cooperate fully with the Monitors and shall assist the Monitors in gaining free access to other stakeholders in the child welfare system.

D. All non-public information obtained by the Monitors shall be maintained in a confidential manner. In providing the public reports described in Section XV(L), and consistent with applicable state and federal confidentiality requirements, the Monitors shall not identify public or private staff or private agencies, except to the extent that such information about public or private staff and private agencies has already been made public. The parties shall have access, through the Monitors, to all information made available to the Monitors, subject to the existing protective order in effect in this case.

E. The Monitors shall have the authority to conduct, or cause to be conducted, such case record reviews, qualitative reviews, and audits as the Monitors reasonably deem necessary. In order to avoid duplication and build capacity within the agency, DHS shall provide the Monitors with copies of all state-issued data reports regarding topics covered by this Agreement. Notwithstanding the existence of state data, data analysis or reports, the Monitors shall have the authority to prepare new reports on outcome measures and all other terms of this Agreement to the extent the Monitors deem necessary.

F. The Monitors and Plaintiffs shall receive, and the Monitors shall review (and, for data, verify the accuracy of) all written processes, programs, procedures, statements of work, formal analyses, system designs, and data reports developed pursuant to this Agreement. The Monitors shall take into account the timeliness, appropriateness, and quality of these work products in reporting on the State's compliance with the terms of this Agreement.

G. Reporting on DHS Performance: By April 2014, the QA unit shall, within 60 days following the end of each Reporting Period as defined in Section XV(L) of this Agreement compile and analyze, in consultation with the Monitors, all pertinent information regarding statewide performance in relation to the requirements and outcome measures contained in this Agreement. This data shall be furnished to the Monitors and Plaintiffs.

H. The Monitors may grant extensions to due dates outlined in this Agreement after consultation with Plaintiffs.

I. In addition to the requirements set forth above, the Monitors' duties shall be to: confirm independently the data reports and statistics provided pursuant to this Agreement; conduct independent case record or other qualitative reviews or audits; review and approve plans, documents, and data reports agreed to be developed and produced by DHS pursuant to this Agreement; and report on DHS's progress in implementing the terms of this Agreement and the achievement of the outcomes set forth herein.

J. For the purposes of determining compliance with requirements of this agreement, DHS and the Monitors shall meet at least 30 calendar days before the end of each reporting period to ensure methods of data collection and data definitions are consistent with the expected reports for that period.

K. Within three months from the date of court approval of this Modified Settlement Agreement, the Monitors shall provide the parties with a written monitoring plan setting forth the methodologies by which the Monitors shall measure DHS's progress in implementing the terms of this Agreement and achieving the outcomes set forth herein. Specifically, the Monitors' methodologies may include, but are not limited to, analyses of information collected: (1) by DHS's management and information systems if and when available and accurate; (2) from a review of relevant case records; (3) from the production of data aggregated by the Monitors or third parties; and (4) from interviews with DHS staff, resource families, class members or prior class members and their families, contract agency staff, service providers, and other child welfare stakeholders. The Monitors shall make best efforts to specify the methods they will utilize to perform their duties as to each and every section of this Agreement. The plan may be periodically revised by the Monitors, after consultation with the parties, particularly if and when DHS data becomes more available and accurate and when a QA unit becomes functional. Nothing in this paragraph is intended to in any way limit the scope of the Monitors' access to information and individuals as otherwise set forth herein.

L. For each Reporting Period, the Monitors shall issue a report setting forth the measurable progress made by DHS in relation to each of the performance (process and outcome) requirements contained in this Agreement. Reporting Period One of the Modified

Settlement Agreement (MSA 1) shall begin on October 1, 2011, and end on December 31, 2011. Each subsequent Reporting Period shall be six-month periods of time beginning on the day following completion of the previous Reporting Period.

M. The Monitors' reports shall be public documents upon formal submission to the Court.

N. The Monitors' reports shall set forth the steps taken by DHS, the reasonableness of these efforts, and the adequacy of support for the implementation of these steps; the quality of the work done by DHS in carrying out those steps; and the extent to which that work is producing the intended effects and/or the likelihood that the work will produce the intended effects. Such reports shall be issued every six months, unless the parties agree otherwise.

O. The Monitors and the parties shall develop a plan to transfer the primary monitoring function to DHS's QA unit upon the termination of this Agreement, or at such earlier time as the parties may agree. The Monitors shall work in collaboration with DHS in building its QA capacity.

P. The Monitors shall not express any conclusions as to whether DHS has reached legal compliance on any item or items required under this Agreement.

Q. If at any time the Monitors can no longer serve, the parties shall agree on another Monitor, with input and recommendations from the outgoing Monitors.

R. DHS shall enter into a contract to secure the services of the Monitors. The Monitors shall have a budget and staff sufficient to allow the Monitors to carry out the responsibilities described in this Agreement, and may contract with such experts or consultants as he or she may deem appropriate, in consultation with the parties. Experts or consultants hired by the Monitors may initiate and receive *ex parte* communications with the parties.

S. Other than as expressly provided in this Agreement, this Agreement shall not be deemed a waiver of any privilege or right DHS may assert, including those recognized at common law and created by statute, rule, or regulation against any other person or entity with respect to the disclosure of any information.

T. The Monitors shall be permitted to engage in *ex parte* communications with all parties. The Monitors may periodically meet privately with the Court concerning issues related to this case, provided the parties are made aware of the occurrence of such a meeting.

U. Unless such conflict is waived by the parties, the Monitors and any expert hired by the Monitors shall not accept employment or provide consulting services that would present a conflict of interest with the Monitors' responsibilities under this Agreement, including being retained (on a paid or unpaid basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in connection with a claim or suit against the state of Michigan or its departments, officers, agents, or employees.

V. The Monitors are not a state or local agency or an agent thereof, and accordingly the records maintained by the Monitors shall not be deemed public records subject to public inspection. Neither the Monitors nor any person or entity hired or otherwise retained by the Monitors to assist in furthering any provision of this Agreement shall be liable for any claim, lawsuit, or demand arising out of the Monitors' good-faith performance pursuant to this Agreement. This paragraph does not apply to any proceeding before a court related to performance of contracts or subcontracts for monitoring this Agreement.

W. For provisions of this Agreement requiring Monitors' approval, the Monitors shall respond in writing within 45 days of receiving the required proposal, unless otherwise specified in this Agreement. Signature by either Kevin Ryan or Eileen Crummy on a written approval shall be deemed approval by the Monitors.

X. For provisions of this Agreement requiring Plaintiffs' approval, the Plaintiffs' counsel shall respond in writing within 45 days of receiving the required proposal, unless otherwise specified in this Agreement.

XVI. ENFORCEMENT, DISPUTE RESOLUTION, AND TERMINATION

A. This Agreement shall constitute the entire integrated Agreement of the parties. No prior or contemporaneous communications, oral or written, shall be relevant or admissible for purposes of determining the meaning of any provisions herein in this matter or in any other proceeding.

B. In the event that Plaintiffs identify an area in which they believe DHS is not in substantial compliance with an enforceable provision of this Agreement:

1. Plaintiffs shall, prior to seeking judicial relief, notify DHS and the Monitors, in writing, of the compliance issue.
2. Within 15 calendar days of Plaintiffs' notification, DHS shall respond in writing to Plaintiffs and the Monitors as to what actions, if any, it proposes to take with regard to the issue of alleged non-compliance. The 15 day period may be extended by the Monitors for good cause.
3. The parties shall meet with the Monitors within 15 calendar days from Plaintiffs' receipt of the DHS response, unless otherwise agreed by the parties. The purpose of this meeting shall be for the parties to engage in good faith discussions facilitated by the Monitors to determine whether additional actions are necessary to address Plaintiffs' assertion of non-compliance. The parties shall engage in these facilitated dispute resolution discussions for a period not to exceed 30 calendar days, unless extended by mutual agreement of the parties.
4. If at the end of the 30-day period, or the period as extended by mutual agreement of the parties, Plaintiffs determine that judicial action is necessary, Plaintiffs may seek further relief from the Court.
5. To the extent that any non-compliance by DHS is in whole or in part attributable to DHS's organizational structure, changes in organizational structure shall be considered as among the elements of the corrective actions needed to correct the non-compliance.
6. If Plaintiffs believe that DHS has violated this Agreement and, as a result, have caused or are likely to cause immediate and irreparable harm to a child(ren) in DHS's foster care custody, they may seek emergency judicial relief. Before taking such action, however, Plaintiffs must give DHS written notice with respect to any such harm, including with such notice any documentation that Plaintiffs believe supports their decision to invoke the provisions of this paragraph. DHS shall respond to this notice in writing within three business days. The parties must then invoke the provisions in Sections XVI (B)(1-5), provided that the entire process

shall be completed within 10 business days of DHS's response to Plaintiffs' notice, unless extended by mutual agreement of the parties.

C. This Agreement shall terminate upon the finding by the Court that DHS has achieved compliance with all terms of the Agreement and has remained in compliance with those terms for a period of 18 months. The burden shall be on DHS to demonstrate compliance.

D. DHS shall maintain sufficient records to document its compliance with all of the requirements of this Agreement. During the period of this Agreement, DHS shall maintain any and all records required by or developed under this Agreement.

E. In the event that legislation known as the "Federal Consent Decree Fairness Act" is enacted into law, DHS agrees that it shall not invoke their right under that Act to modify or vacate the consent decree resulting from this Agreement. Nothing in this section limits DHS's ability to seek to modify or vacate the provisions of this Agreement under other law.

F. This Agreement shall be binding on all successors, assignees, employees, agents and all those working for or on behalf of Plaintiffs and DHS.

XVII. ATTORNEYS' FEES

For purposes of this agreement, the parties acknowledge that Plaintiffs, as prevailing parties in this lawsuit, are entitled to recover and reserve the right to seek expenses of litigation, including reasonable attorneys' fees and nontaxable costs, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 23(h).

The parties, by and through their duly authorized representatives, execute this Modified Settlement Agreement; intending that it shall become effective as a Court Order upon its approval and entry by the Court.

FOR PLAINTIFFS:

_____

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Susan Lambiase
Sara M. Bartosz
CHILDREN'S RIGHTS, INC.
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FOR DEFENDANTS:

_____

Rick Snyder, in his official capacity
as Governor of the State of Michigan

_____

Maura D. Corrigan, in her official
capacity as Director of DHS

APPROVED AS TO FORM:

_____

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IT IS SO ORDERED:

_____

HON. NANCY G. EDMUNDS, U.S.D.J.

DATED: _____