

AGREEMENT BETWEEN THE UNITED STATES AND THE STATE OF CONNECTICUT

I. INTRODUCTION

1. The United States of America (“United States”) and the State of Connecticut (“Connecticut” or “the State”) (collectively, “the Parties”) share a mutual interest in upholding the constitutional and federal statutory rights of children (i.e., youth under the age of 18) who are incarcerated at Manson Youth Institution (“Manson”), promoting safe and effective custodial care and rehabilitation, and protecting public safety. This Agreement has the following goals: (1) ensure that children at Manson are not subjected to prolonged and improper isolation; (2) ensure that children at Manson receive appropriate mental health care; and (3) ensure that children at Manson receive appropriate special education and related services pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§ 1400-1482.

2. On October 15, 2019, the United States Department of Justice notified the State of its intent to conduct an investigation of conditions of confinement for children at Manson, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997 et seq. (“CRIPA”), and the Violent Crime Control and Law Enforcement Act of 1994, 34 U.S.C. § 12601. The investigation focused on three issues: (1) whether Manson’s isolation practices violate the constitutional rights of children; (2) whether Manson’s mental health services for children are constitutionally inadequate; and (3) whether Manson violates the IDEA rights of children with disabilities.

3. On December 21, 2021, the Department notified the State that there is reasonable cause to believe that conditions at Manson violate the Eighth and Fourteenth Amendments of the United States Constitution and the IDEA, and that these violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights protected by the Constitution and federal law.

4. Specifically, the Department concluded that Manson’s isolation practices and inadequate mental health services seriously harm children and place them at substantial risk of

serious harm. In addition, the Department concluded that Manson fails to provide adequate special education services to children with disabilities. The State disagrees with and disputes these findings. This Agreement does not amount to any admission of wrongdoing by the State. Throughout the investigation, the State has fully cooperated with the United States.

II. DEFINITIONS

5. “Child” or “children” is construed broadly to refer to one or more individuals under the age of 18 detained at, or otherwise housed, held, in the custody of, or confined at Manson based on arrests, detainers, criminal charges, or convictions.

6. “Compliance” is discussed throughout this Agreement in the following terms: substantial compliance, partial compliance, and noncompliance.

a. “Substantial compliance” indicates that the State has achieved material compliance with the components of the relevant provision of the Agreement.

b. “Partial compliance” indicates that the State has achieved material compliance with some of the components of the relevant provision of the Agreement, but significant work remains.

c. “Noncompliance” indicates that the State has not met the components of the relevant provision of the Agreement.

d. “Material compliance” requires that, for each provision, the State has developed and implemented a policy incorporating the requirement, trained relevant personnel on the policy, and relevant personnel are generally complying with the requirement in actual practice. Rare, infrequent, or anecdotal failure to comply with the requirement in actual practice will not alone constitute a failure to attain material compliance.

7. “Contractor” or “contractors” means a person or persons who (or entity or entities that) provides services on a recurring basis pursuant to a contractual agreement with the State.

8. “Days” are measured in calendar days. Saturdays, Sundays, and holidays are included, unless expressly referred to as “business days” or “school days.”

9. “Department of Correction” or “DOC” refers to the Connecticut Department of Correction, which oversees and operates Manson.

10. “Designated Qualified Expert” or “DQE” refers to an individual chosen by the Parties who will assess and report on whether the provisions of this Agreement have been implemented and provide technical assistance to Manson as set forth in the Agreement.

11. “Educational staff” means all DOC employees and contractors, irrespective of job title, whose regular duties include the supervision and provision of educational services to children at Manson.

12. “Effective date” refers to the date when this Agreement is fully executed by the Parties.

13. “Include,” “includes,” or “including” means “include, but not be limited to” or “including, but not limited to.”

14. “Investigative status” means the status assigned to children for whom temporary confinement is necessary for the efficient and effective investigation of a serious incident as set forth in Paragraph 50, below.

15. “Isolation” means the involuntary confinement of a child alone in any area within the facility because of current and disruptive behavior that is dangerous to the child or others. For purposes of this Agreement, this does not include the involuntary confinement of a child alone in any area for the purposes of sleeping, protective custody, investigative status, or on orders from a medical professional.

16. “Manson” refers to Manson Youth Institution, a DOC facility in Cheshire, Connecticut, that serves as the State’s primary location for housing males under the age of 18 charged with or convicted of criminal offenses, and any Executive Branch facility that replaces Manson as Connecticut’s primary location for housing males under the age of 18 charged with or convicted of criminal offenses.

17. “Planning and Placement Team” or “PPT” means the decision-making body central to the process of ensuring that the child meets the eligibility requirements of the IDEA and ensuring that children with disabilities receive a free appropriate public education.

18. “Policy” or “policies” means regulations, directives, procedures, protocols, unit orders or manuals, regardless of the designation, describing the duties, functions, and obligations of security staff, Qualified Mental Health Professionals, or educational staff, and providing specific direction in how to fulfill those duties, functions, or obligations.

19. “Qualified Mental Health Professional” or “QMHP” means an individual who has the education, experience, training, credentialing, and licensing required to provide mental health services. The Qualified Mental Health Professional must be either a doctorate-level psychologist, psychiatrist, a master’s-level clinical social worker, licensed professional counselor, advanced practice registered nurse, or physician’s assistant.

20. “Security staff” means all DOC employees and contractors, irrespective of job title, whose regular duties include the supervision and custody of children at Manson.

21. “Serious and Immediate Danger” means a present action engaged in by a child that has a high likelihood of resulting in serious harm or injury to the child or to others.

22. “Staff” or “staff members” includes all persons who are assigned to work at Manson or provide services to children at Manson, including security staff, mental health practitioners, educational staff, contractors, and volunteers who provide services at Manson without pay.

23. “Train” means to instruct in skills to a level that the trainee has demonstrated proficiency by testing to implement those skills as and when called for. “Trained” means proficient in the skills.

24. “United States” refers to the United States Department of Justice, specifically the Civil Rights Division, which represents the United States in this matter.

III. BEHAVIOR MANAGEMENT

25. **Interim Measure Regarding the Use of Disciplinary Isolation.** Within six months after the effective date, Manson will revise and implement its policies and procedures to limit the use of disciplinary isolation (i.e., the involuntary confinement of a child alone in any area within the facility as discipline, punishment or retaliation) to only the most serious offenses involving violence that results or could result in serious or deadly injuries to children or staff members.

26. If disciplinary isolation is used for such offenses, Manson will require that staff conduct and document visual checks of the child at irregular fifteen minute intervals and will prohibit periods of disciplinary isolation longer than 72 hours.

27. At the onset of any use of disciplinary isolation, staff will consult with a qualified mental health professional about whether additional mental health interventions are appropriate.

28. Manson will ensure that any identified additional mental health interventions are provided and documented.

29. Manson will ensure that children in disciplinary isolation will be allowed to retain personal hygiene products, books, mail, and personal belongings, provided it is safe to do so; will be offered at least one hour of recreation on weekdays and two hours of recreation on weekends; and will be offered access to educational services, mental health services, religious services, and other enrolled programming and/or additional programming designed to address the conduct that resulted in disciplinary isolation.

30. Staff will observe and document the child's behavior while in isolation and consult with mental health staff about whether additional mental health interventions are appropriate.

31. During the interim period, Manson will document all uses of disciplinary isolation, including the child's name, staff's name(s), date and time the child was isolated, the reason for isolation, the activity (e.g., school, meal, recreation) when the child was isolated, and the duration of isolation in order to identify any trends relevant to the development of its

isolation and positive behavior management policies and procedures as required below.

32. **Policies and Procedures.** The State will ensure that Manson revises its isolation and positive behavior management policies and procedures to be consistent with the principles set forth below and in accordance with the process set forth in Section VIII.A of this Agreement.

33. After the interim period set forth in Paragraphs 25-31, above, Manson will isolate children only when they pose a serious and immediate danger:

- a. To others and staff has attempted and exhausted the de-escalation and positive behavior management tools required by this Agreement; or
- b. To themselves and less restrictive measures are insufficient and isolation is the only way to prevent a child from actively engaging in self-harming behaviors.

34. Whenever a child is isolated, the staff will notify the Warden or his/her designee as soon as possible.

35. Whenever a child is isolated, Manson will document with specificity the behavior(s) that posed a serious and immediate danger to self or others necessitating the use of isolation, what de-escalation and positive behavior management tools were used prior to isolation, whether mental health staff were consulted prior to the decision to isolate and, if so, any guidance or input offered by mental health staff.

36. Children will remain in isolation only for the time necessary to regain self-control such that they no longer pose a serious and immediate danger. As soon as a child's behavior ceases to pose a serious and immediate danger to self or others, or once the multidisciplinary team designates an alternative plan for increased supervision and/or mental health support for the child, whichever is sooner, staff will promptly return the child to the general population.

37. During the time that a child is in isolation, staff will conduct and document visual checks of the child every fifteen minutes.

38. During the time that a child is in isolation, a Supervisor will conduct and document assessments of the child's readiness to leave isolation not to exceed every 60 minutes.

If the child no longer poses a serious and immediate danger, the child must be released from isolation.

39. Based on observations of the child's behavior while in isolation, staff will consider whether to consult with mental health staff about whether mental health interventions are appropriate.

40. Manson will ensure that any identified mental health interventions are provided and documented.

41. The Warden or the highest ranking supervisor on a given shift will review a child's time in isolation every four hours between 6:00 a.m. and 10:00 p.m. and must provide written approval in order for the child to remain in isolation. If a child remains in isolation overnight, the Warden or the highest ranking supervisor will review the child prior to the first scheduled out-of-cell activities and must provide written approval in order for the child to remain in isolation.

42. For each review, the Warden or the highest ranking supervisor on a given shift will visit the child in person, consult with the QMHP, talk to relevant staff, and document:

- a. The specific interventions that were attempted to de-escalate the child while he was in isolation and the effectiveness of those interventions;
- b. The factual basis for the conclusion that the child continues to pose a serious and immediate danger (if no factual basis of continued risk of serious and immediate danger, the child must be released from isolation);
and
- c. Specific measures that will be taken in the effort to de-escalate the child, including implementation of any mental health services identified through the QMHP review.

43. **QMHP Review.** If staff believe that a child continues to pose a serious and immediate danger such that continued isolation is necessary, a QMHP will conduct an examination of the child prior to the expiration of the four-hour time limit.

44. The QMHP will examine the child in person and document whether:
- a. The behaviors prompting the use of isolation are the product of mental health issues;
 - b. The continued use of isolation will be detrimental to the child's current mental health; and
 - c. Less restrictive measures and/or specific mental health services may help to eliminate the serious and immediate danger to the child or others.

45. If a QMHP is not in the facility, the child will be assessed by nursing staff in consultation with the on-call QMHP to conduct and document an examination in accordance with Paragraphs 43-44 above.

46. If a child remains in isolation for 24 hours and the risk of harm has not abated, custody staff, mental health staff, and educational staff, as needed, will meet to discuss and document:

- a. Whether all required protections and procedures have been properly implemented;
- b. Whether additional measures at the facility level should be taken and/or whether evaluation for psychiatric placement is required; and
- c. The development of an individualized plan designed to facilitate the child's return to the general population.

47. This consultation will occur every 24 hours thereafter for any child who remains in isolation to discuss and document:

- a. Whether the child remains a serious and immediate danger to self or others;
- b. Implementation of the individualized plan; and
- c. Any necessary modifications to the individualized plan.

48. If a QMHP is not in the facility, custody staff will consult with a licensed health professional who will contact the on-call psychiatrist to provide any relevant observational or

clinical data to help guide the clinical direction from the psychiatrist. The licensed health professional will then provide that clinical direction to the custody staff.

49. A multidisciplinary team, including at a minimum, custody staff, medical staff, mental health staff, and educational staff will meet monthly to review children who have been isolated three or more times in the past 30 days. The team will:

- a. Seek input from the child;
- b. Discuss and document interventions that have been attempted to improve the child's behavior (including security, mental health and educational interventions) and the success of those measures; and
- c. Discuss and document how the child's mental health and behavioral needs can be met in the facility and develop an individualized behavioral management plan that increases the level of support, structure or supervision delivered to that child to address the circumstances underlying his problematic behaviors, and include monthly review by the multidisciplinary team.

50. **Investigative Status:** Manson will place children on investigative status only when necessary to:

- a. To determine operational vulnerabilities following an escape;
- b. To separate participants in an incident where criminal charges may be filed, in order to give investigators an opportunity to interview the participants and minimize the risk of collusion on their statements;
- c. To separate participants in a large group disturbance to determine a child's level of involvement; or
- d. To consult with Facility Intelligence and/or Security Division to determine whether altercation(s) was triggered by community events and whether serious retaliation is likely.

51. For all uses of investigative status, staff must obtain approval from the Warden or

her/his designee within one hour of placement and document why room confinement is necessary in order to conduct an efficient and effective investigation. The Warden or her/his designee shall document approval of continued placement on investigative status at least every 24 hours. This investigation period shall not exceed 72 hours. Children on investigative status must be released from room confinement when no longer necessary for the efficient and effective investigation of the offense, regardless of whether the investigation is complete or the maximum time allowed.

52. Manson will ensure that children on investigative status will be allowed to retain personal hygiene products, books, mail, and personal belongings, provided it is safe to do so; will be offered at least one hour of recreation on weekdays and two hours of recreation on weekends; and will be offered access to educational services, mental health services, religious services, and other enrolled programming.

53. **Positive Behavior Management Program:** The State will ensure that Manson implements a skill-focused positive behavior management program.

54. Specific components of the skill-focused positive behavior management program will include:

- a. An incentive program that is consistently implemented throughout the day and across settings (e.g., unit, classrooms, groups) and includes both short-term and long-term rewards;
- b. Consequences that are consistently imposed throughout the day and across settings (e.g., unit, classrooms, groups) and consist of privilege restrictions, skill-development activities and/or restorative activities that are proportional to the severity of the misconduct;
- c. A predictable daily schedule that includes an array of structured activities that are age-appropriate, available to all children, occur on a daily basis outside of school hours, and led by staff members that are adequately trained to lead the activities; and

- d. provides an overarching skills-based curriculum to teach the children skills needed to regulate their behaviors such that all children will be provided the curriculum, either through enrollment in a group led by an adequately trained staff member or through provision of the information individually.

55. The Parties agree to the State's selection of PBIS as the overarching framework to meet the above requirements. The State may select a different program subject to approval by the DQE and DOJ.

56. **Training.** In accordance with the process set forth in Section VIII.B, the State will ensure that all staff that interact with children (e.g., administration, security, mental health, and educational staff) will be trained on the updated isolation and behavior management policies and procedures and how to utilize the behavior program/curriculum in their day-to-day interactions with children.

57. Specific staff will be identified and trained/certified to facilitate the skills-focused groups referenced above.

58. The youth handbook will be updated to reflect the new behavior program.

59. Manson will develop and implement a process for documenting and tracking use of isolation to ensure compliance with the principles set forth in this Section, and as part of the Quality Assurance Program set forth in Section VI.

IV. MENTAL HEALTH CARE

60. **Policies and Procedures.** The State will ensure that Manson revises its mental health policies and procedures to be consistent with the principles set forth in this Agreement and in accordance with the process set forth in Section VIII.A.

61. **Mental Health Assessments.** The State will ensure that all children admitted to Manson receive a comprehensive assessment by a Qualified Mental Health Professional in a timely manner utilizing reliable approaches. Assessments will include adequate collection of and

consideration of relevant information from interviews and reasonably available records, including:

- a. Physical observations;
- b. Past history of mental health diagnoses and treatment (both inpatient and outpatient), including medication;
- c. Developmental, educational, family, and social history;
- d. Ethnocultural background and history and significant events in the child's life (for example, multi-generational trauma, parents who are immigrants, incarceration history of parents);
- e. Intellectual functioning (e.g., intellectual disability, developmental disability, learning disability) and follow-up testing, when indicated;
- f. Adverse childhood experiences, including victimization or other trauma and the impact that traumatic events and experiences may have had on the child's mental health and may have on his functioning in the correctional setting;
- g. Evidence of psychosocial stressors (e.g., significant loss such as the death of a family member or close friend);
- h. Evidence of prior drug and alcohol use and abuse and the relationship to the child's mental health;
- i. Past suicidal ideation or attempts;
- j. Current suicidal ideation, threat, or plan; and
- k. Emotional response to the child's criminal charges and/or incarceration.

62. To the extent that the assessment is conducted by non-prescriber, the child will be referred to an individual who is authorized to prescribe medications under State law, where indicated.

63. When indicated, the State will ensure that child is referred for assessment of intellectual functioning.

64. The State will ensure individual mental health assessments are updated as new diagnostic and treatment information becomes available.

65. **Individualized Treatment Plans.** The State will ensure that appropriate, individualized treatment plans are developed and implemented for children when the mental health assessments identify a mental health need or needs.

66. Individualized treatment plans will include:

- a. Specific, measurable treatment goals and objectives related to the child's mental health assessment and diagnosis;
- b. Documentation of involvement of/discussion with the child in developing the treatment plan, including if the child refuses involvement and measures that were taken to encourage participation in treatment;
- c. Treatment interventions for individual psychotherapy and group psychotherapy that focus on evidence-based practice;
- d. Frequency of follow-up for evaluation and adjustment of treatment modalities;
- e. Adjustment of psychiatric medications, if indicated;
- f. Documentation of treatment goals and notation of clinical status progress; and
- g. Documentation of any consultations with security or educational staff related to the management of the child.

67. **Periodic Review of Treatment Plans.** Individualized treatment plans will be reviewed and adjusted as needed, but at least once every four months.

68. **Mental Health Treatment.** Manson will:

- a. Offer children individual and group psychotherapy and psychiatric medication at the appropriate frequency, when indicated and appropriate;
- b. Provide individual and/or group psychotherapy to children who request

it at any time throughout their stay at Manson when consistent with up-to-date mental health treatment plan and current mental health needs;

- c. Ensure that the individual and group psychotherapy and psychiatric medication provided is consistent with the child's mental health treatment plan; and
- d. Ensure that treatment accounts for the child's ethnocultural background and history as it relates to how to engage the child and how they express their distress.

69. **Treatment refusals.** Manson will not lower children's mental health needs scores (used to indicate whether the child has a mental health treatment need or needs) based solely on non-compliance with a prescribed therapy or medication regimen.

70. If a child requires individual or group therapy, or treatment with psychiatric medications, but declines them in full or in part, Manson will ensure that mental health staff make and document ongoing attempts at rapport building and motivational engagement to identify and address the child's objections to receiving treatment.

71. When children's objections to treatment are based on practical or logistical factors (e.g., scheduling conflicts, medication administration location), Manson will review such factors and attempt to address them if reasonably possible to do so with the goal of maximizing the child's participation in prescribed treatments.

72. **Training.** In accordance with the process set forth in Section VIII.B, the State will ensure that all mental health staff are adequately trained to conduct mental health assessments, develop, monitor and update (as needed) individualized treatment plans, and provide indicated therapies as required by this Agreement.

V. SPECIAL EDUCATION

73. **Policies and Procedures.** The State will ensure that Manson revises its special education policies and procedures to be consistent with the principles set forth in this Agreement

and in accordance with the process set forth in Section VIII.A.

74. **Special Education and Related Services Frequency and Duration.** Manson will develop and implement policies for reviewing and revising Individualized Education Programs (IEPs) following intake to determine the special education services and service frequency and duration, related services and service frequency and duration, and transition services and services frequency and duration that will be included in the child's IEP and provided at Manson. The process will include:

- a. Review of the child's previous IEP(s) and standardized criteria for that review;
- b. Input from teacher(s) knowledgeable about the needs of the child based on in-class experiences and observations;
- c. Outreach to the child's parent(s), guardian(s), and/or educational surrogate parent(s); and
- d. Interview of the child.

75. If the PPT determines that the frequency and/or duration of the child's special education services, related services, and/or transition services should be altered from what the child received at their home school, the reasons for this alteration will be noted in the IEP, including an explanation as to why the alteration is recommended based on information and data collection regarding the individualized needs of the child. This explanation can include that the placement of the child is in the least restrictive setting appropriate for them. However, the child's placement in a correctional setting cannot be the only explanation for the alteration.

76. **Provision of Transition Services.** Each IEP for a child who is 14 years of age or older will include a statement of the child's transition service goals including employment, post-secondary education, and independent living skills, if applicable. If the child is 16 years of age or older (and for younger children if determined appropriate by the PPT), the IEP will contain the transition services that will be provided to the child to help the child transition to post-secondary activities. The services will be individualized to the child's unique needs and goals. In

developing the transition plan, the PPT will ascertain and include the following information:

- a. The child's needs, taking into account the child's strengths, preferences, and interests;
- b. The child's current academic and functional abilities;
- c. Result-oriented, measurable post-secondary goals that are based on age-appropriate transition assessments, and include:
 - i. Instructional and educational goals;
 - ii. Employment and other post-secondary adult living objectives; and
 - iii. The acquisition of daily living skills and provision of a functional vocational evaluation, if appropriate;
- d. The transitional services needed to assist the children in reaching those goals, including related services, vocational training, certification opportunities, and activity-based learning opportunities;
- e. The staff member responsible for each service and when each service will begin and end; and
- f. How the goals and services in a child's transition plan are coordinated with the child's existing re-entry plan, if appropriate.

77. The State will assess the transitional services required for children with disabilities and the existing availability of transition services at Manson, including vocational opportunities and certificate programs. Following that assessment, the Parties and DQE will determine whether any gaps identified in the assessment can be reduced or eliminated based on available resources and without undue burden to Manson.

78. **Special Education and Related Services Documentation.** The State will ensure that Manson consistently documents the special education services, related services, and transition services provided to children at Manson, including:

- a. Date, time, and duration of services provided;

- b. Individual(s) providing the services;
- c. Specific services provided; and
- d. Notes related to the child's progress, engagement, or participation.

79. **Accommodations, Modifications, and Interventions.** The State will ensure that teachers maintain documentation listing the accommodations and/or modifications for children in their classrooms, and the State will develop a process for monitoring and documenting whether these accommodations and/or modifications are being provided in the classroom, including who is responsible for this monitoring and methods for assessing impact. The monitoring process will require, at minimum, a quarterly review of documentation of accommodations and/or modifications provided in the classroom and in-person classroom monitoring at least twice a year.

80. **Related Services.** To the extent that the State relies on outside contractors to teach, train, or coach educational staff to provide specific related services, the State will document when initial and follow-up training occurred, who participated in the training, the content of the training, how the educational staff will implement the services, and how Manson will monitor the implementation of the services. If the contractor is training Manson staff to provide the related service, the USD #1 special education director will also provide written assessments at least every six months to determine whether Manson staff is delivering the service appropriately.

81. **Records Transfer.** Manson will develop procedures for requesting a child's records from the home school district(s), as well as procedures for following up on these requests if no records are received within five school days of the initial request, except in extenuating circumstances outside of Manson's control. The extenuating circumstances causing the delay must be documented in the child's educational records.

82. **Initial Screening.** The State will provide prompt and adequate screening of children for special education needs after intake and will identify children who are receiving special education in their home school districts or who may be eligible to receive special

education services but have not been so identified in the past. The initial screening will include:

- a. Review of available school records;
- b. Information available in Connecticut Special Education Data System;
- c. Child interview; and
- d. Parent interview, if parents can be contacted (with attempts to contact documented).

83. This screening will take place within two school days of the child's arrival at Manson, except in extenuating circumstances outside of Manson's control. The extenuating circumstances causing the delay must be documented in the child's educational records.

84. If the results of the initial screening indicate that the child has a special education evaluation in progress, or has a lapsed special education evaluation, the State will promptly refer the child to the PPT to initiate or continue the evaluation process, subject to applicable parental consent requirements. If the child has an existing IEP, the State will promptly refer the child to the PPT for review and possible revision of the IEP.

85. **Collection of Additional Information.** The State will collect additional information about incoming students within thirty days of the child's arrival at Manson, except in extenuating circumstances outside of Manson's control, which must be documented in the child's educational records. The additional information collected will consist of:

- a. Assessment testing;
- b. Teacher feedback, provided in a standardized format, regarding the child's academic performance and classroom behavior. Where concerns are identified, the feedback must describe the concern(s), any attempted interventions or strategies to address the concern(s), and the child's response; and
- c. Available school records.

86. Manson will review this additional information to assess whether the child should be referred to the PPT for interventions and consideration for a special education evaluation

and/or referred to the RTI committee for consideration of appropriate interventions.

87. **Response to Intervention (“RTI”) Committee.** Manson will establish an RTI Committee responsible for identifying children, based on their screening and/or in-school performance, who may require behavioral interventions and/or academic interventions. The members of this committee will include a special education teacher, a regular education teacher, and a school psychologist, as well as participation from educational staff familiar with the students being discussed.

88. Manson will establish factors that, if present, will prompt the RTI Committee to review and discuss a particular child and the need for a possible multi-step approach of providing services and tiered intervention strategies at increasing levels of intensity to children who demonstrate academic and/or behavioral difficulties. These factors will include frequent disciplinary interventions/consequences (e.g., loss of recreation and/or commissary or other disciplinary consequences) based on their in-school behavior, removals from school, and failing grades. For each child identified, the committee will discuss and document:

- a. Whether the child is suspected of having a disability;
- b. Whether the child should receive tiered academic or behavioral interventions;
- c. Whether the child should have a functional behavioral assessment and/or behavior intervention plan; and
- d. Any referrals for special education evaluations.

89. The RTI Committee will develop a written intervention plan for each student, which should include the child’s specific focus area(s) for improvement; baseline level of functioning and long range goal; a description of the intervention, its duration and setting; specification of interventionist(s); the specific progress monitoring tool that will be used, inclusive of classroom observations; and a time to reconvene to evaluate the child’s progress.

90. **Timely Evaluation.** When Manson suspects that a child may be “a child with a

disability” within the meaning of IDEA, the child, subject to applicable parental consent requirements, will be evaluated as quickly as possible, but in no case longer than 60 days. If the child leaves Manson before the end of the evaluation, educational staff will inform the receiving school district, if known, that they have begun an evaluation and will work with the local school to coordinate assessments, forward any component of the evaluation to the receiving school district, share information with the school district regarding the determination that the child required an evaluation, and provide information, as needed, to enable the school district to complete the evaluation in a timely manner.

91. **Length of School Day.** Manson will ensure that children are released from their housing units to attend school before the rest of the population and are released from school back to their housing units after the rest of the population. Manson will document the reason(s) for any delays in the start of class time, reason(s) for early dismissals, and reason(s) for any class cancellations.

92. The State will use best efforts to ensure children with disabilities will be provided with make-up service hours for the special education instruction and/or related services missed when correctional needs or staffing limitations require the cancellation of special education and/or related services required by the children’s IEPs. If these make-up services hours are not provided, the reason(s) will be documented.

93. If a child with a disability is removed from instruction for 10 or more school days during a school year for conduct taking place during classroom instruction, or where the removal from classroom instruction has been made by security staff at the request of educational staff, Manson will hold a meeting to determine whether the conduct resulting in removal from instruction was a manifestation of the child’s disability, as set forth in 34 C.F.R. § 300.530.

94. The State will ensure that educational staff consistently implement the positive behavior management program set forth in Section III.

95. **Training:** In accordance with the process set forth in Section VIII.B, the State will ensure all educational staff will be trained on the updated special education policies and

procedures, and on topics including:

- a. Instructional methodology to address the individual needs of children with disabilities, including strategies for adapting instructional materials and implementing accommodation and modifications;
- b. Identifying children who may have disabilities using appropriate screening, assessment, and evaluation practices; and
- c. The special education process, including referral, evaluation, program planning, development of the IEP, evaluation of progress, co-teaching and collaborative teaching.

VI. QUALITY ASSURANCE

A. Quality Assurance Program

96. **Establishing the Quality Assurance Program.** The State will establish a Quality Assurance program and ensure that it is adequately maintained and identifies and corrects deficiencies with the mental health care system, use of isolation, implementation of the positive behavior management program, and special education services for children at Manson.

97. **Corrective Actions.** The State's Quality Assurance program will develop and implement corrective action plans when program reviews indicate the need to address a system deficiency and to ensure compliance with the terms of this Agreement on an ongoing basis. The corrective action plans will include the time frame for implementation of corrective action, the person or persons responsible for implementing the action, and how the outcomes will be objectively measured.

VII. DESIGNATED QUALIFIED EXPERT

A. Selection and Term of the Independent Designated Qualified Expert

98. The Parties agree that Michael P. Dempsey will be the DQE retained by the State to assess and report whether the provisions of the Agreement have been implemented and to provide technical assistance to help Manson comply with its obligations under the Agreement.

The DQE may be removed by agreement of the Parties.

99. The cost of the DQE's fees and expenses will be borne by the State. The State will contract with the DQE to provide these monitoring services. The State and the DQE will jointly agree on a budget sufficient to carry out the responsibilities described in this Agreement. All fees and expenses for monitoring services will be capped at \$317,752 during a 12-month period. If the Agreement has not terminated within seven years, to ensure compliance with Conn. Gen Stat § 3-125a., monitoring services will shift to the United States. The United States will assume the roles and duties of the DQE as set forth in Paragraphs 102-122 and assess and report whether the provisions of the Agreement have been implemented.

100. The DQE may, at any time after its initial selection, request to be allowed to hire, employ, or contract with additional persons or entities that are reasonably necessary to perform the tasks assigned to the DQE by this Agreement. Any person or entity hired or otherwise retained by the DQE to assist in furthering any provision of this Agreement will be subject to the provisions of this Agreement. The DQE will notify the Parties in writing if the DQE wishes to select such additional persons or entities. The notice will identify and describe the qualifications of the person or entity to be hired or employed, the monitoring task to be performed, and any additional fee or cost associated with the proposed selection. If the United States and the State agree to the DQE's proposal, the DQE will be authorized to hire or employ such additional persons or entities. The United States and the State have 10 business days to disagree with any such proposal. The Parties will not unreasonably withhold approval. Any fees or costs charged by this additional person or entity will count toward the annual budget cap.

101. In the event that the DQE is no longer able to perform its functions, is removed, or is not extended, within 60 days thereof, the Parties will jointly select a replacement DQE, acceptable to both. Should a Party to this Agreement determine that the DQE or a member of his or her monitoring team has exceeded his or her authority or failed to satisfactorily perform the duties required by this Agreement, the Parties will discuss appropriate remedies, including replacement of the DQE, and/or any individual members, agents, employees, or independent

contractors of the DQE.

B. Access and Confidentiality

102. The DQE and the United States (and its agents) will have full access to persons (including employees, contractors, and children), facilities, buildings, programs, services, documents, data, records, materials, and things that are necessary to assess the State's progress and implementation efforts with this Agreement. Access will include departmental and individual medical, educational, and other records. The United States will abide by the rules of professional responsibility regarding represented parties when contacting DOC employees. However, this will not preclude the United States from participating fully in conversations and other activities during visits or inspections. The United States and the DQE will provide reasonable notice of any visit or inspection. Advance notice will not be required if the DQE or the United States has a reasonable belief that a child faces a risk of immediate and serious harm. Access is not intended, and will not be construed, as a waiver, in litigation with third parties, of any applicable statutory or common law privilege associated with information disclosed to the DQE or the United States under this paragraph.

103. The DQE and the United States will keep confidential all non-public information, documents, and materials provided by the State, and designated as such, pursuant to this Agreement. Other than as expressly provided in this Agreement, this Agreement will not be deemed a waiver of any privilege or right the State may assert, including those recognized at common law or created by statute, rule, or regulation, against any other person or entity with respect to the disclosure of any document or information.

104. The DQE will conduct outreach and consider community stakeholder input regarding the State's progress in reaching compliance. Communications with the community will be consistent with Paragraph 103. If the DQE receives information that, or otherwise becomes aware of, a situation in which an incarcerated person or staff member is in danger of imminent physical or mental harm, the DQE shall promptly report such information or situation to the

Warden or other DOC appropriate authority and the United States.

105. The State will maintain sufficient records to document that the requirements of this Agreement are being properly implemented and will make such records available to the DQE and the United States within 30 days of a request for inspection and copying. In addition, the State will maintain and provide, upon request, all records or other documents to verify that they have taken the actions described in their compliance reports (e.g., policies, procedures, protocols, training materials, investigations, incident reports, isolation logs, multidisciplinary team reports, mental health records, and educational records). The State may seek additional time to respond under exigent circumstances.

106. The State will provide written answers and any requested documents within 30 days of receipt of written questions from the DQE or the United States concerning Manson's implementation of this Agreement. The State may seek additional time to respond under exigent circumstances.

107. Manson will direct all staff to cooperate fully with the DQE and the United States. The Parties will have the opportunity to participate in all monitoring site visits.

108. The DQE will be permitted to communicate with either Party without the other Party present.

C. Reporting and Compliance Reviews

109. Within 60 days of the effective date, or as soon as practicable thereafter, the DQE will conduct a baseline site visit to become familiar with Manson and this Agreement. This baseline visit will include a preliminary evaluation of how Manson's policies and practices address each paragraph of this Agreement. As a result of the baseline site visit, the DQE will develop a monitoring plan.

110. The DQE will conduct an on-site inspection and issue a DQE Report six months after the baseline visit, and then every six months thereafter. A draft Report will be provided to the State and the United States in draft form for comment at least 45 days prior to its issuance.

The State and the United States will provide comments, if any, to the DQE within 30 days of receipt of the draft Report. The DQE will consider the responses of the State and the United States and make appropriate changes, if any, before issuing the final Report.

111. The DQE will review a sufficient number of pertinent documents and interview a sufficient number of staff and children to accurately assess current conditions.

112. Each DQE Report will:

- a. Describe the steps taken by the State to implement this Agreement and evaluate the extent to which the State has complied with each provision of the Agreement;
- b. Evaluate the status of compliance for each relevant provision of the Agreement using the following standards: (1) substantial compliance; (2) partial compliance; and (3) noncompliance;
- c. Describe the steps taken by each member of the monitoring team to analyze conditions and assess compliance, including documents reviewed and individuals interviewed, and the factual basis for each of the DQE's findings;
- d. Include the DQE's independent verification of representations from the State regarding progress toward compliance, and examination of supporting documentation;
- e. Include information received by the DQE through communication with children and staff at Manson, family members, and relevant community members and groups, so long as such communication is consistent with applicable law;
- f. Provide recommendations for each of the Agreement provisions outlining proposed actions for at least the next six months for the State to complete toward achieving compliance with the particular provision;
- g. Highlight the State's successes towards achieving compliance while also

being forthright about the remaining work; and

h. Set forth recommended steps for the State to achieve compliance.

113. DQE Reports will be posted on DOC's public website within two weeks of finalizing the Report. DQE Reports will be written with due regard for the privacy interests of individuals and will not include any information that could jeopardize the institutional security of Manson, or the safety of staff or children.

114. Nothing in this Section prohibits the DQE from issuing interim letters or reports to the United States and the State should the DQE deem such correspondence necessary.

115. In completing his or her responsibilities, the DQE may testify in enforcement proceedings regarding any matter relating to the implementation, enforcement, or dissolution of the Agreement, including, but not limited to, the DQE's observations, findings, and recommendations in this matter.

D. Limitations

116. The DQE will only have the duties, responsibilities, and authority conferred by this Agreement.

117. The DQE will not make any press statement regarding his or her employment or monitoring activities under this Agreement without prior approval by both the United States and the State.

118. Neither the State, the United States, nor any of their staff or agents will have any supervisory authority over the DQE's activities, reports, findings, or recommendations to implement the Agreement.

119. The DQE and any staff or consultants retained by the DQE are not a State agency; nor is the DQE an agent thereof. Accordingly, records maintained or in the custody of the DQE will not be deemed public records subject to public inspection. If the DQE or any staff or consultants retained by the DQE receive a request for inspection of their records related to this Agreement, he or she will promptly notify the Parties.

120. The DQE, and any staff or consultants retained by the DQE, will not:
- a. Be subject to formal discovery in any other litigation involving the services or provisions reviewed in this Agreement;
 - b. Unless ordered to by a court of competent jurisdiction, testify in any other litigation or proceeding with regard to any act or omission of the State, its agents, representatives, or employees, as those acts or omissions relate to this Agreement or with regard to any matter or subject that he or she may have learned as a result of his or her performance under this Agreement; and
 - c. Serve as a non-testifying expert regarding any matter or subject that he or she may have learned as a result of his or her performance under this Agreement.

121. The restrictions set forth in Paragraph 120 do not apply to any legal action brought by the DQE against the State to obtain compensation for past services or to enforce the DQE's rights under this Agreement.

122. The DQE will not enter into any additional contract with the State while serving as the DQE. If the DQE resigns from his or her position as DQE, the former DQE may not enter any contract with the State or United States on a matter related to this Agreement without the written consent of the other Party while this Agreement remains in effect. The Parties will not otherwise employ, retain, or be affiliated with the DQE, or professionals retained by the DQE while this Agreement is in effect, and for a period of at least one year from the date this Agreement terminates, unless the opposing party gives its written consent to waive this prohibition.

VIII. IMPLEMENTATION, COMPLIANCE ASSESSMENT, AND ENFORCEMENT

A. Review and Implementation of Policies and Procedures

123. The State will begin implementing the requirements of this Agreement

immediately upon the effective date.

124. Within six months after the effective date, the State will consult with the DQE and the United States to draft and/or revise policies and procedures to incorporate and align them with the provisions in this Agreement.

125. Within 12 months after the effective date, all policies and procedures that needed to be drafted and/or revised to incorporate and align them with the provisions in this Agreement will be adopted by the State. The State will consult with the DQE and the United States to prioritize policies and procedures to accomplish the timeframes in this Agreement.

126. Prior to adoption, the State will provide a copy of the policies and procedures to the United States for review, comment, and approval. The United States will not unreasonably refuse to approve submitted policies or procedures. The State will address all comments and make any changes requested by the United States within 30 days after receiving the comments and resubmit the policies and procedures to the United States for review and approval.

127. Unless otherwise agreed to by the Parties, all new or revised policies and procedures that were changed or created to align with this Agreement will be fully implemented (including completing all staff training) within six months of the United States' approval of the policy or procedure (except as otherwise stated in the Agreement).

128. The State will annually review their policies and procedures, revising them as necessary. Any revisions to the policies and procedures will be submitted to the United States for approval in accordance with this Section.

B. Review and Implementation of Training

129. Where necessary to comply with this Agreement, the State will revise, develop, or adopt training, in-service training curricula, and lesson plans. All curricula and lesson plans will be reviewed and approved by the United States prior to implementation. Any training required by this Agreement that is conducted by an outside instructor or non-State entity will be reviewed and approved by the United States prior to implementation, including the selection of any outside

instructor or non-State entity. The United States will not unreasonably refuse to approve curricula and lesson plans.

130. The State will ensure their training curriculum includes appropriate modality or combination of modalities (scenario-based, classroom, academy, etc.) and training assessment tools. To the extent that the State determines that it would be beneficial to retain consultants in developing any policy, training, and supervisory direction, such consultants will possess the requisite expertise and be approved by the United States.

131. Within six months of the effective date, the State will incorporate any relevant Agreement requirements and any recommendations from the United States into its annual training plan, identifying the type and length of training and a schedule indicating which staff will be trained at which times.

132. The State will provide pre-service and annual in-service training, using competency-based adult learning techniques, to custody, mental health, and educational staff as necessary to comply with this Agreement. The annual in-service training will ensure that current staff are trained within six months after new policies have been approved by the United States, with all training completed no later than 18 months after the effective date, and new staff will receive this training as part of pre-service training.

133. Training on de-escalation and positive behavior management techniques, mental health care, and special education assessment and instruction will be consistent with contemporary evidence-based standards.

C. Implementation Plan

134. The State will create an Implementation Plan, updated and supplemented semi-annually, that describes the actions they will take to fulfill their obligations under this Agreement.

135. Within 30 days of the effective date, the State will provide an initial Implementation Plan to the United States and DQE, setting forth a specific schedule of

implementation activities and deadlines for the upcoming two years and a general schedule for successive years.

136. The United States and the DQE will provide comments regarding the State's Implementation Plan, and all semi-annual updates, within 30 days of receipt. The State will timely revise its Implementation Plan to address comments from the United States and the DQE; the Parties and the DQE will meet and consult as necessary.

137. The State's semi-annual updates to the Implementation Plan will provide additional detail regarding implementation activities and address areas of non-compliance or other recommendations identified in DQE Reports.

138. Implementation Plan updates will also identify areas of monitoring that the State proposes that they can self-monitor, once they have attained substantial compliance. These proposals will include specific plans for measurement. The United States must approve these proposals before the State can self-monitor in lieu of the DQE. Should indicia arise that the State is not conducting adequate monitoring, the responsibilities will return to the DQE; in such circumstances, the State may thereafter propose new plans for monitoring.

D. Compliance Coordinator

139. Within 30 days of the effective date, the State will designate a Compliance Coordinator. This person will have the requisite skills, knowledge, abilities, and time to perform the job functions that are substantially related to coordinating the successful implementation of this Agreement. The Compliance Coordinator will serve as a primary point of contact for the DQE and the United States.

140. The Compliance Coordinator will:

- a. Coordinate compliance and implementation activities;
- b. Facilitate the provision of data, documents, materials, and access to Manson personnel for the DQE and the United States, as needed;
- c. Ensure that all documents and records are maintained as provided in this

Agreement;

- d. Assist in assigning compliance tasks to Manson personnel; and
- e. Take primary responsibility for collecting information the DQE requires to carry out his or her duties.

141. Any communication by attorneys for the United States with the compliance coordinator will include opposing counsel unless expressly permitted by opposing counsel.

E. Enforcement

142. If, during the operation of the Agreement, the United States determines the State has failed to fulfill a significant obligation under this Agreement, then the United States may seek judicial enforcement of the Agreement.

143. Prior to seeking judicial enforcement, the United States will provide written notice to the State, specifying how the State has failed to substantially comply with a significant obligation. This written notice shall set forth, with particularity, the factual basis for such claim that the State has failed to substantially comply and shall identify the specific material provision(s) of the Agreement that is implicated. This written notice shall also include any information provided by, or obtained from, the DQE (and his or her designees) relevant to the issues raised in the written notice.

144. Within thirty (30) days of receipt of this written notice, the State shall provide a good faith written response to the United States with a full factual explanation as to why the State believes it is in substantial compliance with the specified material provision(s) of the Agreement, an explanation of the State's plans to achieve substantial compliance with the specified material provision(s), or an explanation of the bona fide medical, security, or other reasons for the alleged non-compliance.

145. Within ten (10) days of the State's written response, the Parties agree to engage in a good faith meet and confer to resolve any remaining disputes, which shall be

conducted in-person, via videoconference, or via telephonic conference. The DQE (and his or her designees) shall participate in this meet and confer unless both Parties agree that the participation of the DQE is not necessary.

146. If the State and the United States are not successful in their efforts to resolve the matter, the United States may pursue any enforcement action authorized by law.

147. In case of an emergency posing an immediate and significant threat to the health or safety of any child at Manson, however, the United States may omit the notice and dispute resolution procedures set forth above and seek enforcement of the Agreement.

148. Upon commencement of any enforcement action by the United States, and before any further litigation therein, the Parties agree to jointly seek referral from the judicial authority to a Magistrate Judge, para-judicial officer, or mediator for purposes of seeking to mediate the disputes among the Parties.

149. Nothing herein shall be construed as a waiver by the State of any and all defenses, both legal and factual, that may be raised by the State in any civil action or enforcement action commenced by the United States.

F. Termination

150. This Agreement will terminate if the State has achieved and maintained substantial compliance with the Agreement for at least two years.

151. The burden will be on the State to demonstrate it has achieved and maintained substantial compliance with this Agreement.

152. The State may seek termination of any substantive section (i.e., Section III, “Behavior Management;” Section IV, “Mental Health Care;” and Section V, “Special Education”) by providing written notice to the United States. The burden will be on the State to demonstrate it has attained and maintained its substantial compliance as to that section for at least two years.

153. At five years from the effective date, the Parties will meet and confer regarding

the status of the Agreement. Prior to that meeting, the State will provide evidence of progress made and, if it chooses, demonstrate that it can be released from the Agreement, either in whole or in part. In addition, for any work that remains, the State will provide sufficient information to allow the Parties to adopt a plan and timeline for addressing remaining issues. Any such plan must be approved by both Parties.

G. Construction

154. Should any provision of this Agreement be declared or determined by any court to be illegal, invalid, or unenforceable, the validity of the remaining parts, terms, or provisions will not be affected. The Parties will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.

155. In the event that the State transfers the responsibility for housing males under the age of 18 charged with or convicted of criminal offense to a facility operated by an Executive Branch entity other than DOC, the State shall notify the United States, advise the United States on how it will comply with the terms of the Agreement at the new facility, and confer with the United States regarding whether any modifications to the Agreement are necessary.

156. The Parties agree to defend the provisions of this Agreement including in collective bargaining and any other matter relating to the Agreement. The Parties will notify each other of any court, union, or administrative challenge to this Agreement. In the event any provision of this Agreement is challenged in any state court, the Parties will seek removal to Federal Court. To the extent any state law or collective bargaining provision conflicts with any provision of this Agreement or impedes its effective implementation, the State will use its best efforts to advocate to change the law(s) or collective bargaining provision(s). This Agreement does not alter or affect current collective bargaining agreements or collective bargaining rights, or state law. If the State is unable to eliminate conflicts between the provisions of this Agreement and law(s) or collective bargaining provision(s), the State will comply with the Agreement to the extent permissible.

157. This Agreement will constitute the entire integrated agreement of the Parties.

158. Any modification of this Agreement requires the written consent of the Parties and will be executed in writing by the Parties.

159. The Agreement is binding on all assignees, employees, agents, contractors, and all others working for or on behalf of DOC and Manson to implement the terms of this Agreement.

160. The Parties agree that, as of the effective date of this Agreement, litigation is not “reasonably foreseeable” concerning the matters described in this Agreement. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in this Agreement, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by this Agreement, including the document creation and retention requirements described herein.

161. This Agreement is enforceable only by the Parties. No person or entity is intended to be a third-party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action. Accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement.

162. All Parties will bear their own costs, including attorney fees.

163. Failure by any Party to enforce this entire Agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver, including of its right to enforce other deadlines and provisions of this Agreement.

164. The Parties will promptly notify each other of any court or administrative challenge to this Agreement or any portion thereof.

165. This Agreement may be executed in counterparts, each of which will be deemed an original, and the counterparts will together constitute one and the same Agreement, notwithstanding that each Party is not a signatory to the original or the same counterpart.

166. The performance of this Agreement will begin immediately upon the effective date.

FOR THE UNITED STATES:

KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division

STEVEN H. ROSENBAUM
Chief, Special Litigation Section
Civil Rights Division

/s/ Deena Fox

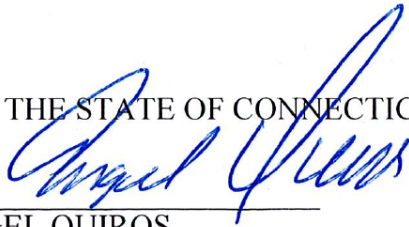
DEENA FOX
Deputy Chief

/s/ Jacqueline Cuncannan

JACQUELINE CUNCANNAN
EMILY KELLER
KATHERINE THOMPSON
Trial Attorneys
United States Department of Justice
Civil Rights Division
Special Litigation Section

Date: August 29, 2024

FOR THE STATE OF CONNECTICUT:



ANGEL QUIROS
Commissioner of Correction
Connecticut Department of Correction

Date: August 29, 2024