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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

J.K., a minor by and through R.K., et al.,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

CATHERINE R. EDEN, in her official
capacity as Director of Arizona
Department of Health Services; LESLIE
SCHWALBE, in her official capacity as
Deputy Director, Division of Behavioral
Health Services; PHYLLIS BIEDESS, in
her official capacity as Director of Arizona
Health Care Cost Containment System,

Defendants.

No. CIV 91-261 TUC JMR

SETTLEMENT AGREEMENT

(Assigned to the Honorable John M.Roll)

INTRODUCTION

The Plaintiffs and Defendants, CATHERINE R. EDEN, in her official capacity as Director of Arizona Department of Health Services (“ADHS”), LESLIE SCHWALBE, in her official capacity as Deputy Director, Division of Behavioral Health Services (“DBHS”) and PHYLLIS BIEDESS, in her official capacity as Director of Arizona Health Care Cost Containment System (“AHCCCS”) intend this Settlement Agreement to be legally binding and enforceable by this Court. The parties understand and agree that until such time as this action is dismissed pursuant to paragraph 81, the Court’s jurisdiction will continue for the purpose of enforcing, should it become necessary, the obligations of the parties under this Settlement Agreement.

I. RECITALS

1. The parties intend, through this Settlement Agreement, to substantially improve the system for delivery of behavioral health services to the eligible children of this state in accordance with (a)

1 the requirements of the EPSDT Program of Title XIX of the Social Security Act, (b) the Arizona
2 Vision as set forth in Section IV, and (c) the Principles set forth in Section V below. The
3 improvements contemplated by this Settlement Agreement emphasize partnering with families and
4 children, interagency collaboration, and individualized services aimed at achieving meaningful
5 outcomes for families and children. Implementation of this Settlement Agreement will require
6 initiatives to improve front-line practice, enhance the capacity of private agencies to deliver needed
7 services, promote collaboration among public agencies, and develop a quality management and
8 improvement system focused on sound practice.

9 2. The parties believe that resolving this matter through negotiation rather than adversarial
10 litigation is in the best interests of the plaintiff class. Their agreement to settle the case, subject to
11 the approval of the Court in accordance with Rule 23 of the Federal Rules of Civil Procedure, is
12 the outcome of negotiations and bargaining, and is not an admission of liability by the Defendants.
13 Each party has made concessions the party believed was unnecessary in light of prevailing law and
14 the facts of this case. Likewise, each party has been able to obtain favorable outcomes that might
15 have been beyond the reach of that party if the case had been decided by the Court instead of
16 resolved through negotiations.

17 3. As and when needed, Defendants will enter into additional agreements and/or
18 understandings with the Arizona Department of Economic Security, the Arizona Department of
19 Juvenile Corrections, the Arizona Department of Education, and the Administrative Office of the
20 Courts, together or singly, to effect the improvements contemplated by this Settlement Agreement.
21 These agencies are not parties to this lawsuit, and not subject to the control of the Defendants.
22 However, Defendants will make a good faith effort to engage other state agencies in supporting
23 the improvements of the behavioral health system envisioned in this Settlement Agreement.

24 4. This Settlement Agreement is made and entered into in consideration of the mutual
25 promises herein contained by the parties. It shall only become effective and binding upon the
26 parties at such time as, after a fairness hearing, it is approved by the Court pursuant to Rule 23(e),

1 Federal Rules of Civil Procedure.

2 **II. DEFINITIONS**

3 The following definitions apply to this Settlement Agreement.

4 5. “Behavioral health services” means Title XIX children’s behavioral health services.

5 6. The “behavioral health system” is the system supervised and administered by Defendants for
6 delivering Title XIX behavioral health services to class members.

7 7. “Class members” are all persons, under the age of twenty-one, who are eligible for Title
8 XIX behavioral health services in the State of Arizona and have been identified as needing
9 behavioral health services.

10 8. “Defendants” means the named Defendants and their successors and assigns.

11 9. “HCFA” means the Health Care Financing Administration in the United States Department
12 of Health and Human Services.

13 10. “Parent” means the child’s natural or adoptive parent, the child’s guardian, or a person
14 acting as a parent. Persons “acting as a parent” refer to the actual care givers of a child, such as a
15 grandmother or aunt with whom the child lives. It does not include the staff of public agencies,
16 private providers, or foster parents.

17 11. “RBHAs” means Arizona’s Regional Behavioral Health Authorities, and the successors and
18 assigns of these Authorities.

19 12. “Title XIX” means Title XIX of the Social Security Act, 42 U.S.C. §1396 *et. seq.*

20 13. “Specialty Providers” means specially qualified masters level behavioral health professionals
21 who are a) certified by the Arizona Board of Behavioral Health Examiners as a Certified
22 Independent Social Worker (CISW), Certified Professional Counselor (CPC), or Certified
23 Marriage and Family Therapist (CMFT); and b) credentialed by the RBHA or its designee as
24 having two years training or experience in a specialty area treating children with certain behavioral
25 health needs or problems; and c) contracted with the RBHA or its designee and registered with
26 AHCCCS.

1 **III. DEFENDANTS' OBLIGATIONS**

2 14. Defendants agree to foster the development of a Title XIX behavioral health system that
3 delivers services according to the Principles set forth in Section V below (hereinafter “the
4 Principles”).

5 15. Defendants will move as quickly as is practicable to develop a Title XIX behavioral health
6 system that delivers services according to the Principles. Once developed, Defendants will
7 maintain the system in accordance with the Principles for the term of this Agreement.

8 16. As quickly as practicable, Defendants will conform all contracts, decisions, practice
9 guidelines and policies related to the delivery of Title XIX behavioral health services to be
10 consistent with and designed to achieve the Principles for class members.

11 17. The Defendants will take the following specific actions: (a) develop and implement a
12 statewide training program, as described in paragraphs 32-39 below; (b) add respite to the list of
13 covered services, as described in paragraph 40 below; (c) devise and implement a means of
14 allowing RBHAs to contract with certified Masters level behavioral health professionals, as
15 described in paragraph 41 below; (d) expand Title XIX services, as described in paragraphs 42-45
16 below; (e) designate \$600,000 for use as flex funds, as described in paragraph 46 and 47 below;
17 (f) develop practice guidelines for the monitoring of medications as described in paragraph 48
18 below; (g) initiate a 300 Kids Project, as described in paragraphs 49-51 below; (h) develop annual
19 action plans, as described in paragraphs 53-54 below; (i) change their quality management and
20 improvement system, as described in paragraph 55 below; and (j) involve plaintiffs’ counsel and
21 other stakeholders, as described in paragraphs 73 and 74 below.

22 **IV. THE ARIZONA VISION**

23 18. In collaboration with the child and family and others, Arizona will provide accessible
24 behavioral health services designed to aid children to achieve success in school, live with their
25 families, avoid delinquency, and become stable and productive adults. Services will be tailored to
26 the child and family and provided in the most appropriate setting, in a timely fashion, and in

1 accordance with best practices, while respecting the child's and family's cultural heritage.

2 **V. THE PRINCIPLES**

3 19. The Principles for delivery of Title XIX behavioral health services, which are the foundation
4 of this Settlement Agreement, are the following:

5 20. *Collaboration with the child and family:* Respect for and active collaboration with the
6 child and parents is the cornerstone to achieving positive behavioral health outcomes. Parents and
7 children are treated as partners in the assessment process, and the planning, delivery, and
8 evaluation of behavioral health services, and their preferences are taken seriously.

9 21. *Functional outcomes:* Behavioral health services are designed and implemented to aid
10 children to achieve success in school, live with their families, avoid delinquency, and become stable
11 and productive adults. Implementation of the behavioral health services plan stabilizes the child's
12 condition and minimizes safety risks.

13 22. *Collaboration with others:* When children have multi-agency, multi-system involvement, a
14 joint assessment is developed and a jointly established behavioral health services plan is
15 collaboratively implemented. Client-centered teams plan and deliver services. Each child's team
16 includes the child and parents and any foster parents, any individual important in the child's life
17 who is invited to participate by the child or parents. The team also includes all other persons
18 needed to develop an effective plan, including, as appropriate, the child's teacher, the child's Child
19 Protective Service and/or Division of Developmental Disabilities case worker, and the child's
20 probation officer. The team (a) develops a common assessment of the child's and family's
21 strengths and needs, (b) develops an individualized service plan, (c) monitors implementation of
22 the plan and (d) makes adjustments in the plan if it is not succeeding.

23 23. *Accessible services:* Children have access to a comprehensive array of behavioral health
24 services, sufficient to ensure that they receive the treatment they need. Case management is
25 provided as needed. Behavioral health service plans identify transportation the parents and child
26 need to access behavioral health services, and how transportation assistance will be provided.

1 Behavioral health services are adapted or created when they are needed but not available.

2 24. *Best practices:* Behavioral health services are provided by competent individuals who are
3 adequately trained and supervised. Behavioral health services are delivered in accordance with
4 guidelines adopted by ADHS that incorporate evidence-based “best practice.” Behavioral health
5 service plans identify and appropriately address behavioral symptoms that are reactions to death of
6 a family member, abuse or neglect, learning disorders, and other similar traumatic or frightening
7 circumstances, substance abuse problems, the specialized behavioral health needs of children who
8 are developmentally disabled, maladaptive sexual behavior, including abusive conduct and risky
9 behavior, and the need for stability and the need to promote permanency in class members’ lives,
10 especially class members in foster care. Behavioral health services are continuously evaluated and
11 modified if ineffective in achieving desired outcomes.

12 25. *Most appropriate setting:* Children are provided behavioral health services in their home
13 and community to the extent possible. Behavioral health services are provided in the most
14 integrated setting appropriate to the child’s needs. When provided in a residential setting, the
15 setting is the most integrated and most home-like setting that is appropriate to the child’s needs.

16 26. *Timeliness:* Children identified as needing behavioral health services are assessed and served
17 promptly.

18 27. *Services tailored to the child and family:* The unique strengths and needs of children and
19 their families dictate the type, mix, and intensity of behavioral health services provided. Parents
20 and children are encouraged and assisted to articulate their own strengths and needs, the goals they
21 are seeking, and what services they think are required to meet these goals.

22 28. *Stability:* Behavioral health service plans strive to minimize multiple placements. Service
23 plans identify whether a class member is at risk of experiencing a placement disruption and, if so,
24 identify the steps to be taken to minimize or eliminate the risk. Behavioral health service plans
25 anticipate crises that might develop and include specific strategies and services that will be
26 employed if a crisis develops. In responding to crises, the behavioral health system uses all

1 appropriate behavioral health services to help the child remain at home, minimize placement
2 disruptions, and avoid the inappropriate use of the police and the criminal justice system.
3 Behavioral health service plans anticipate and appropriately plan for transitions in children’s lives,
4 including transitions to new schools and new placements, and transitions to adult services.

5 29. *Respect for the child and family’s unique cultural heritage:* Behavioral health services are
6 provided in a manner that respects the cultural tradition and heritage of the child and family.
7 Services are provided in Spanish to children and parents whose primary language is Spanish.

8 30. *Independence:* Behavioral health services include support and training for parents in
9 meeting their child’s behavioral health needs, and support and training for children in self-
10 management. Behavioral health service plans identify parents’ and children’s need for training and
11 support to participate as partners in the assessment process, and in the planning, delivery, and
12 evaluation of services, and provide that such training and support, including transportation
13 assistance, advance discussions, and help with understanding written materials, will be made
14 available.

15 31. *Connection to natural supports:* The behavioral health system identifies and appropriately
16 utilizes natural supports available from the child and parents’ own network of associates, including
17 friends and neighbors, and from community organizations, including service and religious
18 organizations.

19 **VI. SPECIFIC STEPS**

20 **A. Training Program**

21 32. Defendants shall develop and implement a statewide training program focusing on
22 collaboration, assessment, service planning and implementation, and on maximizing the use of
23 monies for Title XIX services in the context of managed care.

24 33. Defendants shall identify persons to be trained and a training schedule. Initial priority shall
25 be given to the training of people designated to “train the trainers” and to agencies and personnel
26 involved in planning or delivery of behavioral health services for the 300 Kids Project and other

1 multi-agency children.

2 34. ADHS/DBHS will designate up to \$2 million to be allocated over a three-year period as
3 necessary to design and implement the statewide training program.

4 35. The training program will be designed to provide front-line staff and supervisors sufficient
5 knowledge and skills to enable them to plan and provide services consistent with the Principles.

6 36. The training program will have an on-the-job “hands-on” component for front-line staff and
7 supervisors, in addition to a classroom component. In the on-the-job component, trainers will
8 coach and mentor front-line staff and supervisors in effective techniques and approaches.

9 37. Defendants will develop and implement a pilot training program for the 300 Kids Project.
10 Using lessons learned from the pilot program and other information, Defendants will develop and
11 implement a comprehensive training plan.

12 38. The comprehensive training plan will include the following:

13 A. Learning opportunities that teach, at a minimum:

- 14 1. A family-centered and strengths-based approach;
- 15 2. Comprehensive, unified assessment that involves the family;
- 16 3. Single, unified service planning and implementation including the
17 involvement of parents as partners;
- 18 4. Facilitation of child-centered team meetings including team-building
19 and involvement of parents as partners;
- 20 5. How to access and use wraparound supports.

21 B. Tools to evaluate the ongoing effectiveness of the training program and
22 enhance areas demonstrating need for improvement.

23 C. A methodology for measuring core competencies for front-line
24 staff.

25 39. The behavioral health system will have qualified trainers in sufficient numbers to train front-
26 line staff and supervisors.

1 **B. Respite Care**

2 40. Within 30 days of the entry of this Settlement Agreement, AHCCCS shall add respite care
3 to its list of covered services for Title XIX behavioral health services for children.

4 **C. Specialty Providers**

5 41. To help increase the supply of specialty providers (including providers who treat sexual
6 victims, sexual offenders, and individuals with developmental disabilities), Defendants will devise
7 and implement, within 120 days of the entry of the Settlement Agreement, a means of allowing
8 RBHAs to contract with certain certified Masters level behavioral health professionals (who meet
9 the specific privileging requirements established by ADHS/DBHS) to provide behavioral health
10 services and independently invoice for services rendered within the scope of their practice. The
11 certified Masters level behavioral health professionals permitted to contract and bill independently
12 pursuant to the provisions of this paragraph are Certified Independent Social Workers, Certified
13 Professional Counselors and Certified Marriage and Family Therapists. **D.**

14 **Expansion of Title XIX Services**

15 42. Defendants have retained an expert consultant to advise them as to additional services that
16 may be covered by Title XIX funds. The expert shall provide Defendants an assessment of
17 whether including additional services in the state's Title XIX plan would aid the behavioral health
18 system to provide services according to the Principles for class members.

19 43. By August 1, 2001, Defendants will evaluate whether providing coverage under the state's
20 Title XIX plan for any of the additional services identified by the consultant would aid the
21 behavioral health system to provide services according to the Principles for class members.

22 44. If Defendants determine that covering additional services is required to operate the
23 behavioral health system in accordance with the Principles:

24 A. Defendants will add the services to the state's Title XIX plan, if prior
25 approval by HCFA is not required, and

26 B. If HCFA approval is required, Defendants will expeditiously seek such

1 approval from HCFA and, as soon as permitted by HCFA, add the services
2 to the state's Title XIX plan.

3 C. If increased state matching funding is necessary in order to add an additional
4 Title XIX service to the state plan, the Defendants will seek the necessary
5 funding.

6 45. Defendants will evaluate on an ongoing basis whether additional services should be added to
7 the state's Title XIX plan and take the steps outlined in Paragraph 44 to add those services to the
8 plan.

9 **E. Flex Funds**

10 46. Within 30 days of entry of this Settlement Agreement, ADHS shall specifically designate
11 \$600,000 for use as flex funds. This \$600,000 may be spent over a period of years, and shall be
12 used only for class members being served in the 300 Kids Project or similar projects.

13 47. Flex funds will be used to provide needed services and supports to class members and their
14 families that are not reimbursable under Title XIX. Services and supports financed by flex funds
15 will be provided in accordance with the child's individualized service plan.

16 **F. Medication Practices**

17 48. Defendants will develop practice guidelines for monitoring and addressing the effects of
18 medication. These maybe incorporated into practice guidelines addressing other matters.

19 **G. 300 Kids Project**

20 49. Defendant ADHS/DBHS shall initiate a 300 Kids Project. The project will have two sites
21 one of which will be in Maricopa County and will serve approximately 200 multi-agency children.
22 These sites will engage intensively in system improvement activity.

23 50. The sites will serve two purposes. First, Defendants may use the sites to test strategies for
24 providing behavioral health services according to the Principles. Second, the sites will serve as the
25 first phase of a statewide effort to deliver services according to the Principles.

26 51. In each site, ADHS/DBHS will (a) provide sufficient training and mentoring to enable front-

1 line staff and supervisors to deliver services consistent with the Principles, (b) establish a
2 mechanism for identifying and addressing administrative and system barriers, (c) establish a
3 mechanism to identify and flexibly address any service gaps in the continuum of care for
4 participating children, (d) make flex dollars (referenced in paragraphs 46-47 of this Agreement)
5 and wraparound services available for participating children, (e) ensure that the individuals who
6 provide behavioral health services have enough time for training, case planning and collaborative
7 team involvement to allow for provision of services consistent with the Principles, and (f)
8 provide enough flexibility and authority to the behavioral health representatives on each client
9 centered team to allow them to secure necessary Title XIX behavioral health home and
10 community based services for the child and family.

11 **H. Substance Abuse Services**

12 52. Using information gained from the 300 Kids Project, the Training Program, and the Quality
13 Management and Improvement System, Defendants will develop a plan for the expansion of
14 substance abuse treatment services as part of its first Annual Action Plan.

15 **VII. ACTION PLAN**

16 53. By November 1 each year, the Defendants will provide the plaintiffs an Annual Action Plan
17 that will describe the major strategies and activities that Defendants will employ over the coming
18 year to meet their obligations under this agreement.

19 54. The plan will, at a minimum, (a) describe Defendants' progress during the previous fiscal
20 year and (b) describe strategies and activities relating to each of Defendants' obligations as set
21 forth in Section III of this Agreement.

22 **VIII. QUALITY MANAGEMENT AND IMPROVEMENT SYSTEM**

23 55. Defendants shall change their quality management and improvement system so that it
24 measures whether services to class members are consistent with and designed to achieve the
25 Principles. The measurement process will include as an integral component, an in depth case
26 review of a sample of individual children's cases that includes interviews of relevant individuals in

1 the child's life. In changing their quality management and improvement system, Defendants will
2 use lessons from the training program (see Section VI.A. above) and the 300 Kids Project (see
3 Section VI.G. above). If Defendants choose to retain one or more consultants to help them design
4 the measurement process, Defendants shall first notify Plaintiffs' counsel of the identity of the
5 proposed consultant(s) and shall give serious consideration to Plaintiffs' counsel's input, if any,
6 regarding the competency and qualifications of the proposed consultant(s).

7 **IX. DISPUTES CONCERNING IMPLEMENTATION**

8 56. Any claim, dispute or other matter in controversy ("dispute") arising out of or related to the
9 Agreement, or the breach, implementation or performance thereof, shall be settled or otherwise
10 resolved according to the procedures set forth in Section IX exclusively.

11 57. The parties' participation in the dispute resolution process, including collaborative
12 negotiations and mediation, is mandatory. Neither party may petition the court to resolve a
13 dispute without first engaging in the dispute resolution process in a good faith attempt to resolve
14 the matter without judicial involvement. However, any party may seek preliminary relief from the
15 court, if in that party's judgment, such action is necessary to avoid irreparable harm during the
16 pendency of the dispute resolution process.

17 58. The dispute resolution process consists of a sequential process beginning with collaborative
18 negotiation, then mediation and, finally, if necessary, judicial involvement. With the exception set
19 forth in paragraph 57 above, each stage is a mandatory prerequisite to the next stage.

20 *A. Stage One - Collaborative Negotiation*

21 59. Any party may initiate the dispute resolution process by submitting to all other parties a
22 written statement of the issue in dispute. The parties shall initially attempt to resolve the dispute
23 through collaborative negotiation.

24 *B. Stage Two - Mediation*

25 60. If, within 30 days of the written submission, or such other time frame upon which the
26 parties mutually agree, the parties are unable to resolve the dispute, any party may initiate

1 mediation to help resolve the dispute by filing a written request with all other parties.

2 61. If any party requests a mediator be retained, a mediator shall be retained. The parties will
3 negotiate and attempt to agree on the mediator to be retained. If no agreement is reached within
4 30 days, a mediator will be selected by the Court after soliciting recommendations from the
5 parties. The mediator will not have the power to bind the parties to a particular substantive
6 resolution of their dispute.

7 62. The Defendants shall pay the reasonable fees and expenses of the mediator. Before the
8 mediation begins, the mediator will submit an estimated budget of costs and expenses to assist
9 Defendants in fiscal planning.

10 63. After a mediator is retained, any party may ask the mediator to hire an independent expert
11 to help resolve the dispute, including by studying the matter under dispute and making a report to
12 the mediator and the parties. The mediator shall make a determination whether retention of an
13 independent expert is appropriate to assist the mediator in resolving the dispute.

14 64. The parties shall submit names of the proposed independent experts to the mediator. If the
15 parties are unable to agree upon a mutually acceptable independent expert, the mediator shall
16 appoint one.

17 65. The parties shall provide the independent expert with access to needed information.

18 66. The mediator will propose a budget for the independent expert after consultation with the
19 expert and the parties. The budget may include funds for the independent expert to hire
20 individuals to assist the independent expert. Defendants shall approve or reject the budget. If the
21 Defendants reject the proposed budget, Plaintiffs may present the issue to the Court, and the Court
22 will establish the budget for the independent expert.

23 67. The mediator shall set a schedule for the mediation giving due regard to the schedules and
24 obligations of the parties and to the urgency, importance and complexity of the issue. Mediation is
25 a time-limited process. The more complex or critical the issue, the longer the mediation may take.

26 Mediation shall not be utilized as an ongoing system oversight or monitoring process.

1 C. *Stage Three - Judicial process*

2 68. If mediation does not result in a resolution of the dispute, any party may file an appropriate
3 motion with the Court.

4 69. The Court will hear argument and, as appropriate, receive evidence. Judicial proceedings
5 shall be de novo on the law and the facts, unless the parties mutually agree otherwise. Statements
6 made by any party during the course of mediation shall not be admissible in judicial proceedings.

7 70. The Court will resolve the matter in a manner consistent with the purposes and goals of the
8 Settlement Agreement.

9 **X. WHEN NONCOMPLIANCE IS EXCUSED**

10 71. The Court will not hold Defendants in contempt or sanction Defendants for noncompliance
11 to the extent such noncompliance is the result of Defendants' being frustrated, delayed, or impeded
12 by persons or governmental entities beyond the control and authority of Defendants. Plaintiffs will
13 not seek contempt or other sanctions for noncompliance to the extent such noncompliance is the
14 result of Defendants being frustrated, delayed, or impeded by persons or governmental entities
15 beyond the control and authority of Defendants.

16 72. The common law doctrines of impossibility of performance and/or impracticability of
17 performance may be raised as a defense in any action or proceeding to enforce compliance with the
18 terms of this Settlement Agreement. If any of the provisions of this Settlement Agreement are
19 held impossible and/or impracticable to perform, the remaining provisions of this Settlement
20 Agreement shall remain binding and in full force and effect.

21 **XI. STAKEHOLDER PARTICIPATION**

22 **A. Plaintiffs' Counsel**

23 73. Throughout the pendency of this Settlement Agreement, Defendants will do the following:

- 24 A. encourage the active involvement of Plaintiffs counsel in multi-agency
25 committees and work groups concerned with strategies and activities
26 designed to implement the terms of this Agreement;

- 1 B. seriously consider input from Plaintiffs’ counsel, but need not obtain
2 Plaintiffs’ counsel’s concurrence before acting;
- 3 C. forward significant plans and policies developed to implement this
4 Settlement Agreement prior to their final adoption, and allow the Plaintiffs
5 counsel a reasonable opportunity to provide input;
- 6 D. allow Plaintiffs’ counsel reasonable access to information and documents
7 related to Title XIX children’s behavioral health services that is obtained,
8 compiled, or generated by the quality management and improvement system
9 operated by the Defendants; and
- 10 E. allow Plaintiffs’ counsel reasonable access to behavioral health case records
11 of class members that are maintained by AHCCCS, ADHS/DBHS, the
12 RBHAs or agents or contractors of AHCCCS or ADHS/DBHS or the
13 RBHAs.

14 **B. Other Stakeholders**

15 74. Defendants will encourage active involvement of class members and their families,
16 community stakeholders, RBHAs, DES and the Administrative Office of the Courts and private
17 providers in planning and evaluation activities related to implementation of this Settlement
18 Agreement.

19 **XII. INDIVIDUAL CLAIMS**

20 75. Nothing in this Agreement in any way limits or impairs an individual class member’s
21 entitlement to Title XIX behavioral health services.

22 76. Nothing in this Agreement in any way limits or impairs the right of class members, or
23 parents acting on a class member’s behalf, to pursue an individual action – administrative or
24 judicial -- to secure Title XIX behavioral health services to which the class member is entitled
25 under Title XIX.

26 77. When a class member, or the class member’s parents, file an individual action to secure

1 services under Title XIX, the class member's entitlement to services will be governed by applicable
2 federal and state statutes, regulations, and policies regarding the Title XIX program.

3 **XIII. ATTORNEYS' FEES**

4 78. Plaintiffs may file an application with the Court for an award of costs and attorneys' fees
5 within 150 days after approval by the Court of this Settlement Agreement.

6 **XIV. TERMINATION OF AGREEMENT**

7 79. This Settlement Agreement and Defendants' obligations thereunder will terminate on July
8 1, 2007, except that the parties will continue, through February 1, 2008, to resolve any pending
9 disputes that were initiated before February 1, 2007. The parties will resolve such disputes
10 according to the procedures in Section IX.

11 80. From July 1, 2007, to February 1, 2008, the Court's jurisdiction will be limited to
12 resolving any pending disputes. Through February 1, 2008, the Court may enter appropriate
13 relief if the parties are unable to resolve a dispute by agreement. On February 1, 2008, the
14 Court's jurisdiction in this case will end.

15 81. Upon termination of Defendants' obligations under this Settlement Agreement, the Court
16 shall dismiss the instant action without prejudice. On May 1, 2007, Plaintiffs will file a motion
17 asking to the Court (a) to dismiss this action without prejudice on July 1, 2007 or (b) if any
18 disputes have been pending since February 1, 2007, to dismiss the action without prejudice on
19 February 1, 2008 or such earlier date as the disputes are finally resolved.

20 82. None of the parties may engage in activities which delay, prolong or frustrate performance
21 of the obligations of this Agreement with the aim of taking advantage of the time-limited nature of
22 this Settlement Agreement. The Court may, after application and a hearing, impose severe
23 sanctions for such conduct.

24 83. None of the foregoing provisions limit, in any way, the Court's authority, power, or
25 jurisdiction to enforce this Settlement Agreement during its pendency.

26 **XV. ADDITIONAL PROVISIONS**

1 84. This Agreement may be amended, modified or supplemented only by a duly executed
2 writing which has been presented to and approved by this Court.

3 85. This Settlement Agreement, once approved by the Court, shall be effective as to and binding
4 upon the parties and their successors and assigns.

5 86. The foregoing [1-85] paragraphs represent the entire integrated agreement of the parties.

6 EXECUTED this ____ day of March, 2001, by:

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CATHERINE R. EDEN, in her official
capacity as Director of Arizona
Department of Health Services

LESLIE SCHWALBE, in her official
capacity as Deputy Director, Division
of Behavioral Health Services

PHYLLIS BIEDESS,
in her official capacity as Director of
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