

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF UTAH
3 CENTRAL DIVISION

4 TIMOTHY MILONAS, JR.,)
5 KENNETH RICE, BILL HARRIMAN,)
6 RONALD P. WING, PATRICK MONTGOMERY,)
7 KEVIN JACOB, CURTIS SIMPSON,)
8 PATRICK KING, and SCOTT ADAMS, by)
9 and through their attorney and)
10 Guardian Ad Litem, Kathryn Collard,)
11 on behalf of themselves and all)
12 others similarly situated; and)
13 JIM SANETTI, ANDREW PARKER, and)
14 JIM SCHLUTIUS, by and through)
15 their attorney and Guardian Ad)
16 Litem, Mark I. Soler, on behalf of)
17 themselves and all others similarly)
18 situated; and ROBERT SEELY, DAVID)
19 LOWE, SCOTT BARRETT, LISA D. KING,)
20 THOMAS C. KING, KATHLEEN MILHEISER,)
21 RICHARD MILHEISER, ADA PARKER,)
22 HARVEY PARKER, ALVIN SCHLUTIUS, PAT)
23 SCHLUTIUS, E. S. MONTGOMERY,)

24 Plaintiffs,)

25 vs.)

26 JACK L. WILLIAMS, individually and)
27 as Owner and Boys Program Director,)
28 Provo Canyon School, ROBERT H. CRIST,)
29 individually and as Owner and Medical)
30 Director, Provo Canyon School,)
31 E. EUGENE THORNE, individually and)
32 as Executive Director, Provo Canyon)
School, JOHN F. McNAMARA, individually)
and as Administrative Director of the)
Interstate Compact on Juveniles for)
the State of Utah, and WALTER D.)
TALBOT, individually and as Superin-)
tendent of Public Instruction, Utah)
State Board of Education, and UTAH)
STATE BOARD OF EDUCATION, and their)
officers, agents, employees and)
assigns,)

Defendants.)

Civil No. C-78-0352

PLAINTIFFS' SECOND
AMENDED COMPLAINT

CLASS ACTION

1 STATEMENT OF CASE

2 This is a civil rights class action challenging the
3 education, treatment and conditions of confinement of the
4 Plaintiff juveniles placed in the Provo Canyon School in Provo,
5 Utah, for education and/or behavior rehabilitation pursuant to
6 contracts or other agreements between Provo Canyon School and
7 educational and welfare agencies of the State of Utah and other
8 states, orders of juvenile courts in the State of Utah and other
9 states, and placements by parents and others.

10 Specifically, Plaintiffs assert that the Defendants
11 Williams, Crist, and Thorne, acting under color of state law,
12 as owners and administrators of the Provo Canyon School, have
13 caused Plaintiffs to suffer and be subjected to cruel and unusual
14 punishment, anti-therapeutic and inhumane treatment, and denial
15 of due process of law, as well as the deprivation of numerous
16 other constitutional and statutory rights. Plaintiffs also assert
17 that Defendants Williams, Crist, and Thorne have failed to provide
18 a free appropriate public education for students at Provo Canyon
19 School who are handicapped and are entitled to receive such
20 education under the Public Law 94-142, Education for all
21 Handicapped Children Act (20 U.S.C. §1401 et seq.) and the Rehab-
22 ilitation Act of 1973 (29 U.S.C. §794), and related state
23 statutes.

24 Plaintiffs also assert that Defendant McNamara has super-
25 visory responsibilities under the Interstate Compact on Juveniles
26 regarding juveniles placed in institutions in the State of Utah
27 pursuant to the orders of juvenile courts and other agencies in
28 states outside the State of Utah, and that Defendant McNamara
29 has failed and refused to adequately administer, oversee and
30 supervise the placement of juveniles under his jurisdiction at the
31 Provo Canyon School. As a direct and proximate result thereof
32 Plaintiffs have suffered and been subjected to cruel and unusual

1 punishment, anti-therapeutic and inhumane treatment, and denial
2 of due process of law, as well as deprivation of numerous other
3 constitutional and statutory rights at Provo Canyon School.

4 Plaintiffs also assert that Defendants Talbot and Utah
5 State Board of Education have supervisory responsibilities under
6 the Education for All Handicapped Children Act and the Rehab-
7 ilitation Act of 1973 and related state statutes, regarding
8 handicapped juveniles receiving special education in the State
9 of Utah, and that Defendants Talbot and Utah State Board of
10 Education have failed and refused to adequately administer,
11 oversee, and supervise the special education of handicapped juve-
12 niles at the Provo Canyon School. As a direct and proximate
13 result thereof, Plaintiffs have suffered and been subjected to
14 cruel and unusual punishment, anti-therapeutic and inhumane
15 treatment, and denial of due process of law, as well as numerous
16 other constitutional and statutory rights, at Provo Canyon School.

17 Plaintiffs seek declaratory judgments, preliminary and
18 permanent injunctions, damages and other equitable relief against
19 the Defendants under the Due Process and Equal Protection clauses
20 of the United States Constitution, the Education for All Handi-
21 capped Children Act, and the Rehabilitation Act of 1973, and
22 related state statutes.

23 JURISDICTION

24 1. Jurisdiction to hear and determine Plaintiffs' claim
25 is conferred upon this Court pursuant to 28 U.S.C. §§1331, 1343,
26 2201 and 2202; 42 U.S.C. §1983; and the First, Sixth, Eighth,
27 Ninth and Fourteenth Amendments to the United States Constitution.

28 2. The amount in controversy exceeds Ten Thousand Dollars
29 (\$10,000.00), exclusive of costs and interest.

30 3. Jurisdiction to hear and determine Plaintiffs' claims
31 is also conferred upon this Court pursuant to 28 U.S.C. §2201 and
32 20 U.S.C. §§1412-1415, inasmuch as Plaintiffs seek a declaration

1 of their rights under the Education for All Handicapped Children
2 Act, 20 U.S.C. §1401, et seq.

3 4. Jurisdiction to hear and determine Plaintiffs' claims
4 are also conferred upon this Court pursuant to 28 U.S.C. §2201 and
5 29 U.S.C. §794, inasmuch as Plaintiffs seek a declaration of their
6 rights under §504 of the Rehabilitation Act of 1973, 29 U.S.C.
7 §794.

8 5. Jurisdiction to hear and determine Plaintiffs' state
9 law claims is conferred upon this Court by virtue of the doctrine
10 of pendant jurisdiction, which permits the federal courts to
11 determine state law claims which form separate but parallel
12 grounds for relief also sought in Plaintiffs' substantive claims
13 asserted under the United States Constitution and federal
14 statutes.

15 PLAINTIFFS

16 6. Plaintiff Timothy Milonas, Jr., a minor child, is a
17 citizen of the United States. Plaintiff Milonas, Jr., resided
18 in the State of Nevada prior to being involuntarily committed to
19 the Provo Canyon School by his natural mother, pursuant to the
20 order of a juvenile court of the State of Nevada, on or about
21 August 17, 1978.

22 7. Plaintiff Kenneth Rice, a minor child, is a citizen
23 of the United States. Plaintiff Rice resided in the State of
24 Alaska until approximately five months prior to the commencement
25 of this action, when a juvenile court of that state ordered his
26 involuntary commitment to the Provo Canyon School. The commitment
27 of Plaintiff Rice to the Provo Canyon School by the Alaska juvenile
28 court brought Plaintiff Rice within the jurisdiction and super-
29 vision of Defendant McNamara, Administrative Director of the
30 Interstate Compact on Juveniles for the State of Utah.

31 8. Plaintiff Bill Harriman, a minor child, is a citizen
32 of the United States. Plaintiff Harriman resided in the State of

1 California until approximately March, 1975, when he was placed
2 at Provo Canyon School by his parents. Plaintiff Harriman left
3 Provo Canyon School on or about August, 1978.

4 9. Plaintiff Ronald P. Wing, a minor child, is a citizen
5 of the United States. Plaintiff Wing resided in the State of
6 Utah until approximately May, 1976, when he was placed at Provo
7 Canyon School by his parents. Plaintiff Wing left Provo Canyon
8 School on or about December, 1977.

9 10. Plaintiff Patrick Montgomery, a minor child, is a
10 citizen of the United States. Plaintiff Montgomery resided in
11 the State of Idaho until approximately August, 1976, when he was
12 placed at Provo Canyon School by his parents. Plaintiff
13 Montgomery left Provo Canyon School on or about May, 1977.

14 11. Plaintiff Kevin Jacob, a minor child, is a citizen of
15 the United States. Plaintiff Jacob resided in the State of
16 California until approximately March 18, 1978, when he was placed
17 in the Provo Canyon School by his parents for special education.
18 Plaintiff Jacob's tuition and other expenses at Provo Canyon
19 School have been paid for by the Los Angeles Unified School
20 District, pursuant to the provision of Public Law 94-142, the
21 Education for All Handicapped Children Act, and applicable provi-
22 sions of California law.

23 12. Plaintiff Curtis Simpson, a minor child, is a citizen
24 of the United States. Plaintiff Simpson resided in the State of
25 Utah prior to approximately May 12, 1977, when he was involuntarily
26 committed to the Provo Canyon School pursuant to the order of
27 Judge Bradford of the First District Juvenile Court of the
28 State of Utah.

29 13. Plaintiff Patrick King, a minor child, is a citizen of
30 the United States. Plaintiff King resided in the State of Nevada
31 until approximately May 20, 1978, when he was placed at the
32 Provo Canyon School by his parents for special education and

1 treatment for handicaps resulting from an accident which occurred
2 when Plaintiff King was eight years old. After being subjected
3 to harsh, cruel and inhumane treatment at the Provo Canyon School,
4 Plaintiff King was removed from the School by his parents on or
5 about August 9, 1978.

6 14. Plaintiff Scott Adams, a minor child, is a citizen of
7 the United States. Plaintiff Adams resided in the State of
8 California until approximately May, 1979, when he was placed in
9 the Provo Canyon School by his parents for special education.
10 Plaintiff Adams' tuition and other expenses at Provo Canyon School
11 were paid for by the school district in Orange County, California,
12 in which he resided prior to his placement at Provo Canyon
13 School. Said tuition and other expenses were paid for all
14 pursuant to the provisions of Public Law 94-142, the Education for
15 All Handicapped Children Act, and applicable provisions of
16 California law.

17 15. Plaintiff Jim Sanetti, a minor child, is a citizen
18 of the United States. Plaintiff Sanetti resided in the State of
19 California until approximately March 30, 1978, when he was placed
20 in the Provo Canyon School by his parents for special education.
21 Plaintiff Sanetti's tuition and other expenses at Provo Canyon
22 School were paid for by the Anaheim Unified High School District,
23 pursuant to the provisions of Public Law 94-142, the Education for
24 All Handicapped Children Act, and applicable provisions of
25 California law.

26 16. Plaintiff Andrew Parker, a minor child, is a citizen
27 of the United States. Plaintiff Parker resided in the State of
28 California until approximately January 28, 1978, when he was
29 placed in the Provo Canyon School by his parents for special
30 education. Plaintiff Parker's tuition and other expenses at
31 Provo Canyon School were paid for by Brea-Olinda Unified School
32 District, pursuant to Public Law 94-142, the Education for All

1 Handicapped Children Act, and applicable provisions of California
2 law.

3 17. Plaintiff Jim Schlutius, a minor child, is a citizen
4 of the United States. Plaintiff Schlutius resided in the State
5 of California until March 1978 when he was committed to the Provo
6 Canyon School pursuant to the order of a juvenile court of the
7 State of California. Plaintiff Schlutius left the School in
8 August, 1978.

9 18. Plaintiff Robert Seely is an adult citizen of the
10 United States. His date of birth is July 23, 1959. Plaintiff
11 Seely resided in the State of Utah until approximately October 4,
12 1975, when he was placed in Provo Canyon School by his parents.
13 Plaintiff Seely left Provo Canyon School on or about May 27, 1977.

14 19. Plaintiff David Lowe is an adult citizen of the
15 United States. His date of birth is November 7, 1958. Plaintiff
16 Lowe resided in the State of Utah until 1975 when he was placed
17 in Provo Canyon School by his parents. Plaintiff Lowe left
18 Provo Canyon School in 1978.

19 20. Plaintiff Scott Barrett is an adult citizen of the
20 United States. His date of birth is July 18, 1959. Plaintiff
21 Barrett resided in the State of Utah until April 1974 when he
22 was placed at Provo Canyon School by his parents. Plaintiff
23 Barrett left Provo Canyon School in December 1976.

24 21. Plaintiffs Lisa D. King and Thomas C. King are adult
25 citizens of the United States and residents of the State of
26 Texas. Said Plaintiffs are the parents of Plaintiff Patrick King.

27 22. Plaintiffs Kathleen Milheiser and Richard Milheiser
28 are adult citizens of the United States and residents of the
29 State of California. Said Plaintiffs are the parents of Plaintiff
30 Jim Sanetti.

31 23. Plaintiffs Ada Parker and Harvey Parker are adult
32 citizens of the United States and residents of the State of

1 Texas. Said Plaintiffs are the parents of Plaintiff Andrew
2 Parker.

3 24. Plaintiffs Alvin Schlutius and Pat Schlutius are
4 adult citizens of the United States and residents of the State
5 of California. Said Plaintiffs are the parents of Plaintiff
6 Jim Schlutius.

7 25. Plaintiff E.S. Montgomery is an adult citizen of the
8 United States and a resident of the State of Idaho. Said
9 Plaintiff is the mother of Plaintiff Patrick Montgomery.

10 DEFENDANTS

11 26. Defendant Jack L. Williams is the co-owner and currently
12 Boys Program Director of the Provo Canyon School. In such
13 capacity, he is responsible for the health, safekeeping,
14 therapeutic treatment, and observation and protection of the
15 constitutional and statutory rights of minor children at the
16 Provo Canyon School. Until 1979, Defendant Williams was
17 Executive Director of the School. Defendant Williams is sued
18 both as an individual and in his capacity as owner and Boys
19 Program Director of Provo Canyon School.

20 27. Defendant Robert H. Crist is the co-owner and
21 Medical Director of the Provo Canyon School. In such capacity,
22 he is responsible for the health, safekeeping, therapeutic treat-
23 ment and observation and protection of the constitutional and
24 statutory rights of minor children at the Provo Canyon School.
25 Defendant Crist is sued both as an individual and in his capacity
26 as owner and Medical Director of Provo Canyon School.

27 28. Defendant E. Eugene Thorne is currently Executive
28 Director of the Provo Canyon School. In such capacity, he is
29 responsible for the health, safekeeping, therapeutic treatment,
30 and observation and protection of the constitutional and statutory
31 rights of minor children at the Provo Canyon School. Defendant
32 Thorne is sued as an individual and in his capacity as Executive

1 Director of Provo Canyon School.

2 29. Defendant John F. McNamara is the duly appointed and
3 authorized Administrative Director of the Interstate Compact on
4 Juveniles for the State of Utah. In such capacity, he is
5 responsible for the supervision of juveniles placed in institu-
6 tions in the State of Utah pursuant to the orders of juvenile
7 courts and other agencies from states outside the State of Utah.
8 Defendant McNamara is sued as an individual and in his capacity
9 as Administrative Director of the Interstate Compact on Juveniles
10 for the State of Utah.

11 30. Defendant Walter D. Talbot is the State Superintendent
12 of Public Instruction of Utah and executive officer of the Utah
13 State Board of Education. In such capacity, Defendant Talbot is
14 responsible for the supervision of handicapped children receiving
15 special education in the State of Utah. Defendant Talbot is
16 sued as an individual and in his capacity as State Superintendent
17 of Public Instruction of Utah and executive officer of the Utah
18 State Board of Education.

19 31. Defendant Utah State Board of Education is the
20 governmental agency of the State of Utah responsible for education
21 of children in the State of Utah, and is the "State educational
22 agency" for the State of Utah within the provisions of Public
23 Law 94-142, the Education for All Handicapped Children Act. In
24 such capacity, Defendant Utah State Board of Education is
25 responsible for the supervision of handicapped children receiving
26 special education in the State of Utah.

27 CLASS ACTION

28 32. The named Plaintiff juveniles herein, by and through
29 their attorney and Guardian Ad Litem, Kathryn Collard, and their
30 attorney and Next Friend, Mark I. Soler, sue on behalf of them-
31 selves and all others similarly situated, pursuant to Rule 23(a),
32 (b)(2) and (3) of the Federal Rules of Civil Procedure. The

1 class of Plaintiff juveniles consists of all juveniles who have
2 been, are now, or in the future will be placed at the Provo Canyon
3 School.

4 33. The members of the class of Plaintiff juveniles are
5 so numerous as to make joinder of all members before this Court
6 impossible and impracticable. There are questions of law and
7 fact common to the class. The claims of the representative
8 Plaintiff class members are typical of the claims of the Plaintiff
9 class. The representatives of the Plaintiff class will fairly
10 and adequately protect the interests of the class. The parties
11 opposing the Plaintiff class have acted or refused to act on
12 grounds generally applicable to the class, thereby making
13 appropriate final injunctive relief or corresponding declaratory
14 relief with respect to the class as a whole. The questions of
15 law or fact common to members of the Plaintiff class predominate
16 over any questions affecting only individual members, and a
17 class action is superior to other available methods for the
18 fair and efficient adjudication of the controversy.

19 STATEMENT OF FACTS

20 34. The Provo Canyon School is a corporation of the
21 State of Utah, the principal shareholders of which are Jack L.
22 Williams and Robert H. Crist, doing business at 4501 North
23 University, Provo, Utah. Defendants Williams and Crist are the
24 co-owners of the Provo Canyon School. Defendant Williams is the
25 Boys Program Director, and Defendant Crist the Medical Director
26 of the School. In such capacities, they are responsible for the
27 health, safekeeping, therapeutic treatment and the recognition
28 and protection of the constitutional and statutory rights of
29 children placed at the Provo Canyon School for education and
30 rehabilitative care and treatment.

31 35. Upon information and belief, approximately one hundred
32 boys are currently placed in the Provo Canyon School pursuant to

1 contracts or other agreements between Provo Canyon School and
2 educational and welfare agencies of the State of Utah and other
3 States, orders of juvenile courts in the State of Utah and other
4 States, and private placements by parents and others.

5 36. The staff of the Provo Canyon School consists of the
6 following persons:

7 (a) Defendant Jack L. Williams who is the co-owner
8 and Boys Program Director of Provo Canyon School. Defendant
9 Williams has not completed high school, holds no degree from any
10 college or university, and has had no formal training in the area
11 of child development or child psychology.

12 (b) Defendant Robert H. Crist, a psychiatrist, who
13 is co-owner and Medical Director of the Provo Canyon School.

14 (c) Defendant E. Eugene Thorne, Executive Director
15 of the School, who has a Ph.D. in clinical psychology and a Juris
16 Doctor degree.

17 (d) One or more nurses, who are present at the School
18 during the daytime hours.

19 (e) A number of "counselors," who are required to be
20 large in stature as a condition of their employment. They must
21 be six feet, two inches tall and weigh approximately two hundred
22 pounds. These "counselors" are charged with the duty to monitor
23 and evaluate the behavior and attitude of children and to mete
24 out punishment to them for the violation of institutional rules
25 and regulations established by defendants Williams, Crist and
26 Thorne. Although some of these "counselors" have attended college
27 or a university, most have no formal training in the areas of
28 child development and child psychology. The "counselors" also
29 administer psychotropic drugs to children such as thorazine,
30 stellazine and others, without direct medical supervision. The
31 "counselors" have also taught some educational classes at Provo
32 Canyon School. Said "counselors" are not certified to teach

1 secondary school students.

2 (f) Approximately six to eight "therapists," some
3 of whom hold Master of Social Work degrees. Therapists are
4 authorized by Defendants Williams, Crist and Thorne to mete out
5 punishment to children for violation of institutional rules and
6 regulations established by said defendants.

7 (g) A number of persons employed as school teachers.
8 Such persons hold the basic professional certificate of the Utah
9 State Board of Education to teach secondary school children. Such
10 persons are not certified to provide special education to handi-
11 capped children.

12 (h) Various other support staff, including bookkeeping
13 staff and maintenance personnel.

14 37. The "program" for children placed at the Provo Canyon
15 School consists of the Orientation Phase and four additional
16 phases or levels marked by increasing rights and privileges which
17 boys advance through based upon their adherence and conformity
18 to school rules and regulations, and by the correction of their
19 behavior and attitudes as indicated and evaluated by officials and
20 employees of Defendants Williams, Crist, and Thorne.

21 38. During the Orientation Phase of the program at Provo
22 Canyon School plaintiff juveniles are subjected to the following
23 conditions of confinement:

24 (a) Plaintiffs are required to live in a secure
25 portion of the facility for an indeterminate length of time.

26 (b) Plaintiffs generally may not go outside for
27 recreation. It is the policy of Provo Canyon School that outdoor
28 recreation is a privilege which must be earned.

29 (c) Plaintiffs are not permitted to have any personal
30 property other than their clothing. Any personal items which the
31 children are allowed to have with them are kept in the counselor's
32 office when not in use. It is the policy of Provo Canyon School

1 that the possession and enjoyment of additional objects of personal
2 property is a privilege which must be earned by behavior.

3 (d) Plaintiffs are generally not allowed to attend or
4 conduct any religious services. It is the policy at Provo Canyon
5 School that attendance of religious services is a privilege which
6 must be earned by behavior.

7 (e) Plaintiffs have been required to stand or sit in
8 a room for two hundred and fifty hours prior to advancing to Level
9 One of the program. Plaintiffs have not been permitted to talk
10 or to engage in excessive movement while standing or sitting
11 these hours. Plaintiffs have been required to stand or sit for a
12 minimum of four hours at a stint with a ten minute break each
13 hour. If a child falls down or falls asleep or cannot stand or
14 sit for the minimum four hour period, the child loses credit for
15 the time he has stood or sat.

16 39. Defendants Williams, Crist and Thorne contend that
17 prohibiting Plaintiffs in the Orientation Phase of the program at
18 Provo Canyon School from (a) having regularly scheduled exercise
19 or recreation, (b) possessing personal property other than
20 clothes which are being worn, (c) attending or conducting
21 religious services, and (d) advancing to other levels without
22 standing 250 hours has therapeutic value. Defendants Williams
23 and Crist do not know of any specific professionals, medical or
24 psychological experts, or scientific or other written material
25 which support their contentions.

26 40. Plaintiffs in phases of the program other than the
27 Orientation Phase at Provo Canyon School are required to attend
28 either church services conducted by The Church of Jesus Christ
29 of Latter-Day Saints (L.D.S. or Mormon Church) or a non-denomina-
30 tional service which consists of religious hymns, prayers, short
31 talks and attendance at a "character building" class.

32 41. Defendants Williams and Crist contend that requiring

1 children in phases of the program at Provo Canyon School other
2 than the Orientation Phase to attend religious services has
3 therapeutic value for the children. Defendants Williams and
4 Crist do not know of any specific professionals, medical and
5 psychological experts, or scientific or other written materials
6 which support this contention.

7 42. "Standing" or "sitting" hours are meted out to
8 Plaintiffs on all levels of the program at Provo Canyon School by
9 counselors, therapists, teachers, Defendants Williams, Crist and
10 Thorne, and others in their employ for the violation of insti-
11 tutional rules and regulations. These rules and regulations
12 prohibit a broad range of thoughts and behaviors considered to
13 be "deviant" or "undesirable" by Defendants Williams and Crist,
14 even though many of the attitudes and behaviors prohibited are
15 innocent and common to all normal children. Plaintiffs routinely
16 are given such punishments as fifteen hours standing or sitting
17 time for the following "minor" violations: horseplay, peer
18 pressure, minor swearing, poor attitude, manipulation, or misuse
19 of equipment. Plaintiffs may be required to stand or sit for
20 forty hours for the violation of "major" institutional rules and
21 regulations including: refusing to obey staff requests,
22 possessing money or contraband, going off school property,
23 yelling from bus windows, or tattooing with ink. These standing
24 and sitting hours meted out to Plaintiffs as disciplinary
25 punishment are in addition to the 250 hours which Plaintiffs have
26 been required to stand or sit in order to pass from Orientation to
27 Level One of the Program.

28 43. Plaintiff minor children who accumulate an excess of
29 incident reports, usually in excess of 200 hours, are subject to
30 a disciplinary procedure known as "The Plan" which entails being
31 required to sit on a chair without excessive movement for varying
32 lengths of time. Some Plaintiffs are required to sit in a chair

1 from 7:30 a.m. to 9:45 p.m. when not at meals, therapy sessions,
2 or physical education class. Other Plaintiffs have been required
3 to sit on chairs for consecutive days and nights and have been
4 squirted with water from squirtguns by counselors when they fell
5 asleep during such disciplinary procedures.

6 44. Plaintiff children at Provo Canyon School who are
7 considered to be extremely anxious or hyperactive are prescribed
8 anti-psychotic or major tranquilizing drugs. Psychotropic drugs,
9 including but not limited to Thorazine, Mellaril, Stellazine and
10 anti-depressant drugs, have been administered to children at
11 Provo Canyon School.

12 45. Defendant Crist prescribes the drugs for Plaintiffs.
13 The dosage of drugs for each child is prepared by a nurse or
14 counselor. Counselors administer drugs to Plaintiffs without
15 direct medical supervision.

16 46. Provo Canyon School medication orders have been
17 written such that a counselor could administer a second dose of
18 medication to a boy if the counselor determined that the first
19 dose was inadequate. The policy of writing medication orders
20 at Provo Canyon School such that a counselor could administer a
21 second dose of medication to a boy if the counselor determined
22 that the first dose was inadequate was discontinued because there
23 was a question whether the counselor would understand when a
24 second dose should be given. Because counselors have sometimes
25 given Plaintiff children wrong drugs or excessive doses of
26 prescribed drugs, it has caused them to suffer mental and physical
27 distress and damage.

28 47. Defendants Williams, Crist and Thorne, and their
29 agents, use a technique known as the "hair dance" to gain physical
30 control over and move a boy who is being disruptive or disobedient.
31 This technique entails holding the boy by the hair and one arm. The
32 "hair dance" is not used for therapeutic effect and no such

1 effect is claimed by defendants Williams and Crist.

2 48. Plaintiffs are commonly disciplined by the use of the
3 "hair dance" when institutional personnel, including Defendant
4 Williams, pull Plaintiffs' hair or drag or pull them around by
5 their hair, causing Plaintiffs to suffer mental and physical
6 distress and damage. Upon information and belief, Defendant
7 Williams has instructed counselors at Provo Canyon School to use
8 the "hair dance" as a method of disciplining Plaintiffs because
9 such method is painful but does "not leave any marks."

10 49. Plaintiffs are confined in isolation rooms known as
11 "Prescription Rooms" or "P-Rooms" at Provo Canyon School.

12 (a) Provo Canyon School policy provides that children
13 who accumulate a certain number of institutional violations within
14 a certain period be placed in a "Prescription Room." Plaintiffs
15 are placed in solitary confinement or continued in such confine-
16 ment at times when they do not constitute a danger to themselves
17 or others.

18 (b) Upon information and belief, Plaintiffs have been
19 left in the "Prescription Rooms" for periods in excess of twenty-
20 four hours and extending to several days.

21 (c) Plaintiffs placed in the "Prescription Rooms"
22 are not permitted any items of personal property nor are they
23 given any books, magazines, newspapers or other reading materials
24 during their period of confinement. Additionally, confined
25 Plaintiffs are not permitted to receive or possess amenities
26 necessary to their health and comfort, such as toothbrushes,
27 toilet paper, soap, towels and wash cloths.

28 (d) The "Prescription Rooms" at Provo Canyon School
29 are 4' by 8' by 9' and contain no toilet facilities, bed or
30 other furniture.

31 (e) Plaintiffs placed in the "Prescription Rooms"
32 are not afforded hearings to determine whether they have violated

1 any policy, rule or regulation of the institution or whether
2 solitary confinement is a necessary and appropriate means of
3 treatment.

4 (f) Plaintiffs confined in the "Prescription Rooms"
5 at Provo Canyon School may not contact their families or attorneys.

6 (g) Provo Canyon School staff members have overused
7 the "Prescription Rooms" or used them as a method of punishment.

8 50. Plaintiff children are required to see a Provo Canyon
9 School "therapist" twice a week.

10 (a) During "therapy" sessions, Provo Canyon School
11 "therapists" seek to learn if the children have engaged in
12 prohibited behavior. If the children have engaged in prohibited
13 behavior, they are disciplined for their violation of School
14 rules and regulations.

15 (b) Plaintiffs have often been admonished during
16 "therapy" sessions that they might as well admit to prohibited
17 feelings and behavior because such thoughts and actions will be
18 revealed by the polygraph testing to which Plaintiffs are routinely
19 subjected.

20 (c) The "therapists" are authorized by Defendants
21 Williams, Crist and Thorne to mete out punishment to children for
22 violation of institutional rules and regulations established by
23 said Defendants.

24 - 51. All correspondence from children at Provo Canyon School
25 to other persons and from other persons to children at Provo Canyon
26 School is read or censored by an employee of the School.

27 (a) Letters from children at Provo Canyon School to
28 other persons and letters from other persons to children at Provo
29 Canyon School containing statements considered to have a
30 "detrimental influence" on the children are censored by School
31 employees.

32 (b) Letters which, in the judgment of the censoring

1 employee, contain critical comments regarding Provo Canyon School
2 or reflect a "poor attitude" on the writer's part are destroyed
3 or are given back to the writer with directions to rewrite the
4 offensive comment as specified by the censorer.

5 (c) Plaintiff children who write critically of
6 Provo Canyon School in their personal correspondence are not only
7 required to rewrite or delete the criticism but are punished by
8 being required to stand fifteen or more hours for manifesting
9 "poor attitude," an institutional offense.

10 52. Plaintiff children at Provo Canyon School are required
11 to take polygraph tests on a regular basis.

12 (a) Plaintiffs at Provo Canyon School are required to
13 take polygraph tests before being allowed to leave the Orientation
14 Phase of the program and at other times, in order to determine
15 whether they have made an "appropriate" adjustment to the
16 institution.

17 (b) Polygraph tests are administered to children at
18 Provo Canyon School to determine whether such children plan to
19 run away from the School.

20 (c) Plaintiffs are permitted to leave the institution
21 for specified periods of time upon their agreement that they will
22 not engage in prohibited thoughts or behaviors while away from
23 the institution. Subsequent to the time they return to the
24 institution, Plaintiffs are required to submit to a polygraph
25 examination to determine whether they engaged in any thoughts or
26 behaviors prohibited by the institution.

27 (d) If a child fails the polygraph test, the child
28 is automatically given an additional forty hours of standing or
29 sitting time to complete before he can again become eligible to
30 advance to Level One. Sometimes a child on the upper levels of
31 the program at Provo Canyon School is required to return to the
32 Orientation Phase if he fails a polygraph test.

1 53. Plaintiff children at Provo Canyon School are required
2 to write a "confession" upon entering the School.

3 54. Plaintiffs have been deprived of personal property
4 when entering Provo Canyon School. Plaintiffs have been promised
5 by Defendants Williams, Crist and Thorne that such property would
6 be returned to them when they left the school, but such property
7 has not been returned to plaintiffs. The property wrongfully
8 taken by Defendants and wrongfully held by them includes personal
9 jewelry, stereo equipment, luggage, and money.

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1 55. Plaintiff children at Provo Canyon School are not
2 permitted to communicate with an attorney at any time they are
3 on the campus of Provo Canyon School.

4 (a) Plaintiff children at Provo Canyon School are
5 denied access to legal counsel during the Orientation Phase of
6 the program at Provo Canyon School.

7 (b) Plaintiff children are restricted from com-
8 municating with persons not approved by parents or guardians
9 during their stay at Provo Canyon School.

10 (c) Plaintiffs are disciplined for seeking to obtain
11 legal counsel or complaining to anyone else concerning their
12 conditions of confinement and inhumane treatment.

13 56. Defendants Williams, Crist and Thorne contend that
14 the following practices have therapeutic value:

15 (a) requiring Plaintiffs in phases of the program
16 at Provo Canyon School other than the Orientation Phase to
17 attend religious services;

18 (b) requiring Plaintiffs to sit or stand for
19 specific numbers of hours for violations of institutional rules;

20 (c) placing Plaintiff children on "The Plan," where
21 they must sit an entire day or consecutive days without move-
22 ment;

23 (d) administering psychotropic drugs to Plaintiff
24 children at Provo Canyon School without direct medical super-
25 vision;

26 (e) confining children to isolation rooms at Provo
27 Canyon School;

28 (f) denying Plaintiffs hearings before placing them
29 in the "Prescription Rooms" or within a reasonable time after
30 placement;

31 (g) reading and censoring correspondence from or
32

1 to Plaintiff children at Provo Canyon School;

2 (b) administering polygraph tests to Plaintiff
3 children at Provo Canyon School. Defendants Williams and Crist
4 contend that the therapeutic value of the polygraph test is that
5 it teaches "the value of truthfulness" and provides a "means to
6 know the boys better" because the boys are not "forthright in
7 normal conversations or therapy sessions."

8 (i) restricting children at Provo Canyon School
9 from communicating with persons not approved by parents or
10 guardians.

11 57. Defendants Williams and Crist do not know of any
12 scientific literature, empirical study, research or other
13 scientific or professional material, nor any scientists, re-
14 searchers, psychologists, psychiatrists, sociologists, or other
15 professional people or experts who support their contention that
16 the practices listed in the immediately preceding paragraph,
17 items (a) through (i), have therapeutic value.

18 58. The personnel of the Provo Canyon School are not
19 adequately qualified, trained or supervised to effectively
20 provide to Plaintiffs the rehabilitative care and treatment to
21 which they are entitled under the Constitution and laws of the
22 United States and related state laws.

23 59. The so called therapy to which Plaintiffs are sub-
24 jected at Provo Canyon School by Defendants Williams, Crist and
25 Thorne, and other institutional personnel acting at their
26 direction, in fact, consists of mind and behavior control
27 accomplished through the use of psychological brainwashing and
28 control techniques enforced by the constant threat of physical
29 violence or other cruel and unusual punishment to induce
30 Plaintiffs to conform their thoughts, attitudes and behavior to
31 that deemed appropriate by Defendants Williams, Crist and Thorne.

32 60. Plaintiffs are constantly subject to the threat of

1 violence from Defendant Williams and others acting at his direction.
2 Some members of the Plaintiff class have been subjected to
3 physical beatings by institutional personnel, including Defendant
4 Williams, and have suffered and continue to suffer various forms
5 of mental and physical distress and injury by reason of such
6 abuse.

7 61. As a result of being confined in the Provo Canyon
8 School under the authority of the Defendants Williams and Crist,
9 and being subjected to the inhumane treatment hereinbefore
10 described, Plaintiffs have suffered and continue to suffer
11 extreme mental and emotional trauma and distress, resulting in
12 long term psychological maladjustment.

13 62. In subjecting Plaintiffs to the conditions of con-
14 finement and inhumane treatment hereinbefore described,
15 Defendants Williams, Crist and Thorne acted in wanton, willful
16 and knowing disregard for the rights of Plaintiffs as herein-
17 after set forth.

18 63. The named Plaintiffs and members of the Plaintiff
19 class greatly fear retribution by Defendants Williams, Crist and
20 Thorne for initiating, investigating and prosecuting this action.

21 64. Retarded or handicapped members of the Plaintiff
22 class are commonly harassed, ill-treated, and denied the special
23 education and treatment required by their handicaps or retardation
24 by Defendants Williams, Crist and Thorne and others acting at
25 their direction.

26 65. Each of the Plaintiff juveniles in this action has
27 been subjected to the acts and omissions, and policies and
28 practices of the Defendants complained of herein.

29 66. Although brochures published by Defendants Williams,
30 Crist and Thorne represent that the Provo Canyon School is
31 "Utah State Accredited" and "fully accredited by the Utah State
32 Board of Education," neither the State of Utah nor the Utah State

1 Board of Education nor any other agency of the State of Utah has
2 accredited the Provo Canyon School.

3 67. Defendant Utah State Board of Education has
4 authorized public high schools of the State of Utah to recognize
5 academic credits obtained by minor children in courses comprising
6 the "educational" component of the Provo Canyon School in
7 fulfillment of graduation requirements of public high schools.
8 Said authorization aids and assists Defendants Williams, Crist
9 and Thorne in attracting and inducing parents to place minor
10 children at the Provo Canyon School.

11 68. Public Law 94-142, the Education for All Handicapped
12 Children Act, 20 U.S.C. §1401 et seq. (hereinafter, Public Law
13 94-142), provides that all handicapped children shall have
14 available to them an appropriate publicly financed education
15 designed to meet their individual needs. To that end, Public
16 Law 94-142 makes federal funding available to state and local
17 governmental agencies to assist such agencies in complying with
18 the provisions of Public Law 94-142.

19 69. Public Law 94-142 further provides that when state
20 or local educational agencies are unable to provide the special
21 education required by specific handicapped children, such agencies
22 may contract with private institutions for the provision of
23 special education services to such children.

24 70. Since the enactment of Public Law 94-142 in 1975,
25 Provo Canyon School and Defendants Williams, Crist and Thorne
26 have received substantial funding under Public Law 94-142 and
27 related state statutes in numerous states as described herein-
28 after, to provide a free appropriate public education to handi-
29 capped children enrolled at Provo Canyon School when state and
30 local educational agencies have been unable to provide the
31 special education required by such handicapped children.

32 71. Public Law 94-142 contains the following provisions

1 which establish duties and responsibilities of Defendants Williams,
2 Crist, Thorne, Talbot, and Utah State Board of Education
3 regarding handicapped children enrolled at Provo Canyon School:

4 (a) Definitions of the terms "handicapped children,"
5 "State educational agency," "local educational agency," "free
6 appropriate public education," and "individualized education
7 program" (IEP) (20 U.S.C. §1401 (1), (7), (8), (18), (19)).

8 (b) Regulations regarding entitlements and
9 allocations of federal funding to the states (21 U.S.C. §1411).

10 (c) Eligibility requirements for states to qualify
11 for federal assistance. (20 U.S.C. §1412) The state must have
12 a plan which identifies all handicapped children, the services
13 they are receiving, and the effectiveness of such services.
14 (20 U.S.C. §1412(2)(C).) It is the duty of the State educational
15 agency to assure compliance with eligibility requirements.

16 (20 U.S.C. §1412(6).)

17 (d) Requirements for state plans which must be
18 submitted to the Commissioner of Education in order for the state
19 to receive federal assistance. Each state plan must provide that
20 the State educational agency will assure that all funds will be
21 used to provide a free appropriate public education for handi-
22 capped children (20 U.S.C. §1413(a)(2)), assure that children in
23 private schools will be provided special education and related
24 services in conformity with IEP requirements (20 U.S.C. §1413(a)
25 (4)), and evaluate the effectiveness of education programs and
26 IEP's each year (20 U.S.C. §1413(a)(11)).

27 (e) Requirements for applications for funds from
28 local educational institutions to the State educational agency,
29 including the requirement that the State educational agency is
30 responsible for reviewing funded programs and reallocating funds
31 if funds are misused (20 U.S.C. §1414).

32 (f) Procedural safeguards for handicapped children

1 and their parents or guardians. It is the responsibility of the
2 State educational agency to establish and maintain such safe-
3 guards (20 U.S.C. §1415).

4 72. Pursuant to Public Law 94-142, regulations were
5 published and adopted by the Department of Health, Education
6 and Welfare to further implementation of Public Law 94-142. Such
7 regulations clarify the duties and responsibilities of Defendants
8 Williams, Crist, Thorne, Talbot and Utah State Board of Education
9 regarding handicapped children enrolled at Provo Canyon School.
10 The following regulations specifically apply to placements of
11 handicapped children in private institutions such as Provo Canyon
12 School:

13 (a) Under 45 C.F.R. §121a.2(c), each public agency
14 in the State is responsible for insuring that the rights and
15 protections in the regulations are given to children placed in
16 private schools.

17 (b) Under 45 C.F.R. §121a.128, the State is
18 responsible for insuring that all handicapped children are
19 identified, located and evaluated, including children in public
20 and private schools.

21 (c) Under 45 C.F.R. §121a.140, the State must
22 insure that the regulations regarding private schools are
23 observed.

24 (d) Under 45 C.F.R. §121a.341, the State
25 educational agency must insure that an IEP is developed and
26 implemented for each handicapped child placed in a private school.

27 (e) Under 45 C.F.R. §121a.401, the State
28 educational agency is responsible for the provision of a free
29 appropriate public education to handicapped children in private
30 school placements.

31 (f) Under 45 C.F.R. §121a.402, the State
32 educational agency must monitor compliance with Public Law 94-142

1 and the regulations in private schools.

2 (g) Under 45 C.F.R. §§121a.550 and 121a.554, the
3 State educational agency is responsible for making arrangements
4 with private institutions to insure that the requirements for
5 provision of the least restrictive environment for handicapped
6 children are effectively implemented.

7 (h) Under 45 C.F.R. §121a.600, the State
8 educational agency is responsible for insuring that there is
9 compliance with Public Law 94-142 within the state.

10 73. On September 26, 1973, Congress enacted the
11 Rehabilitation Act of 1973. Section 504 of the Rehabilitation
12 Act of 1973, 29 U.S.C. §794 (hereinafter, §504), prohibits
13 discrimination against handicapped persons in any program or
14 activity receiving federal financial assistance.

15 74. Defendants Williams, Crist and Thorne receive federal
16 financial assistance which is used to operate Provo Canyon School.

17 75. Pursuant to §504, regulations were published and
18 adopted by the Department of Health, Education and Welfare. Such
19 regulations clarify the duties and responsibilities of Defendants
20 Williams, Crist, Thorne, Talbot and Utah State Board of
21 Education regarding handicapped children enrolled at Provo Canyon
22 School, specifically with regard to the prohibition on discrim-
23 ination against handicapped children on the basis of their
24 handicaps.

25 76. At 45 C.F.R. §84.31 et seq., the regulations refer
26 specifically to the prohibitions against discrimination in pre-
27 school, elementary and secondary education. In particular, at
28 §84.33 the regulations provide that a recipient of federal
29 financial assistance shall provide a free appropriate public
30 education to each qualified handicapped child regardless of the
31 nature and severity of the child's handicap.

32 77. At 45 C.F.R. §84.33(b), the regulations provide

1 that implementation of an individualized educational program,
2 developed in accordance with Public Law 94-142, is a method for
3 securing the required free appropriate public education.

4 78. Since 1973, Provo Canyon School and Defendants
5 Williams, Crist and Thorne have received substantial amounts of
6 funding from local, state and federal governmental agencies,
7 including funding under Public Law 94-142. Such funding has paid
8 for tuition, treatment and other expenses of boys enrolled as
9 students at the School. Provo Canyon School and said Defendants
10 have received such funding from governmental agencies such as
11 school districts and juvenile court probation departments in
12 numerous states, including Idaho, Maryland, California, North
13 Carolina, Wyoming, Utah, Illinois, Alaska, Washington, Minnesota,
14 North Dakota, Oregon and New York, and from agencies of the
15 federal government including the Civilian Health and Medical
16 Program of the Uniformed Services (CHAMPUS), an agency of the
17 United States Department of Defense. •

18 79. Provo Canyon School and Defendants Williams, Crist
19 and Thorne have received funding from local, state and federal
20 governmental agencies, including funding under Public Law 94-142,
21 pursuant to contracts and other agreements between such agencies
22 and Provo Canyon School. Such contracts and agreements require
23 said Defendants and Provo Canyon School to provide specific
24 educational and treatment services to children enrolled at the
25 School; comply with rules and regulations promulgated by the local,
26 state, or federal governmental agencies regarding the education,
27 care and treatment of children enrolled at the School; and
28 regularly prepare and submit reports to the agency on the progress
29 and condition of children enrolled at the School.

30 80. Provo Canyon School and Defendants Williams, Crist
31 and Thorne have received funding from local, state and federal
32 governmental agencies, including funding under Public Law 94-142,

1 because such agencies have been unable to provide the special
2 education required by handicapped children, including children
3 with learning disabilities, behavior problems, and children
4 considered seriously emotionally disturbed. Such local, state
5 and federal governmental agencies have contracted with Provo
6 Canyon School and said Defendants to provide special education
7 for handicapped children in order to fulfill the obligations of
8 such agencies under state and federal laws.

9 81. Funding from local, state and federal governmental
10 agencies to Provo Canyon School and Defendants Williams, Crist
11 and Thorne since 1973 has amounted to a substantial portion of
12 the income of Provo Canyon School and Defendants Williams, Crist
13 and Thorne during said period.

14 82. Pursuant to contracts and agreements with local,
15 state and federal governmental agencies, Provo Canyon School and
16 Defendants Williams, Crist and Thorne have provided educational
17 and treatment services to children enrolled at the School,
18 including educational services and special educational services
19 for handicapped children, which the local, state and federal
20 governmental agencies have been required to provide to such
21 children by state and federal law but have been unable to provide.

22 83. Pursuant to contract and agreements with local,
23 state and federal governmental agencies, Provo Canyon School and
24 Defendants Williams, Crist and Thorne have been required to
25 comply with rules and regulations promulgated by such agencies
26 regarding the education, care and treatment of children enrolled
27 at the School.

28 84. Pursuant to contracts and agreements with local,
29 state and federal governmental agencies, Provo Canyon School
30 and Defendants Williams, Crist and Thorne have prepared and
31 submitted reports to such agencies on the progress and condition
32 of children enrolled at the School.

1 85. In contracting with local, state and federal
2 governmental agencies to provide educational and treatment services
3 to children enrolled at the Provo Canyon School, in receiving
4 substantial funding from such agencies pursuant to said contracts
5 and agreements, and in providing educational and treatment
6 services to children enrolled at the School which local, state and
7 federal governmental agencies have been legally required to provide
8 to such children but have been unable to provide, Defendants
9 Williams, Crist and Thorne have acted and continue to act as
10 agents of the local, state and federal governments.

11 86. In contracting with local, state and federal govern-
12 mental agencies to provide educational and treatment services to
13 children enrolled at the Provo Canyon School, in receiving sub-
14 stantial funding from such agencies pursuant to said contracts
15 and agreements, and in providing educational and treatment
16 services to children enrolled at the School which local, state
17 and federal governmental agencies have been legally required to
18 provide to such children but have been unable to provide, and in
19 doing the other acts complained of herein, Defendants Williams,
20 Crist and Thorne have acted and continue to act under color of
21 state laws, practices, customs and usages and by virtue of the
22 authority vested in them by the contracts, agreements, rules,
23 regulations and laws of the local, state and federal governmental
24 agencies, as hereinbefore described.

25 87. The provision of public federal funds administered
26 by the Defendant Utah State Board of Education and the Defendant
27 Walter D. Talbot to Provo Canyon School is state action which
28 aids and assists the Defendants Williams, Crist and Thorne in
29 securing financial assistance for parents who wish to commit minor
30 children to the Provo Canyon School, where such Plaintiff children
31 will be subjected to cruel and unusual punishment, anti-
32 therapeutic and inhumane treatment, and the deprivation of

1 numerous other constitutional and statutory rights.

2 88. The rule or regulation of the Defendant Utah State
3 Board of Education which permits public high schools of the State
4 of Utah to recognize academic credits received by minor children
5 for educational courses taken at Provo Canyon School is state
6 action which aids and assists the Defendants Williams, Crist
7 and Thorne in attracting and inducing parents to commit minor
8 children to the Provo Canyon School, where such Plaintiff
9 children will be subjected to cruel and unusual punishment, anti-
10 therapeutic and inhumane treatment, and the deprivation of numerous
11 other constitutional and statutory rights.

12 89. In carrying out their obligations under contracts
13 and agreements with local, state, and federal governmental
14 agencies, as hereinbefore described, and in doing the other acts
15 complained of herein, Defendants Williams, Crist, Thorne, Talbot
16 and Utah State Board of Education have failed and refused to
17 provide adequate, appropriate, or therapeutic educational and
18 treatment services to children enrolled at Provo Canyon School.

19 90. In carrying out their obligations under contracts and
20 agreements with local, state and federal governmental agencies,
21 as hereinbefore described, and in doing the other acts complained
22 of herein, Defendants Williams, Crist, Thorne, Talbot and Utah
23 State Board of Education have failed and refused to provide
24 Plaintiff juveniles with a free appropriate public education as
25 required by Public Law 94-142 and related state statutes.

26 91. In carrying out their obligations under contracts
27 and agreement with local, state and federal governmental agencies,
28 as hereinbefore described, and in doing the other acts complained
29 of herein, Defendants Williams, Crist, Thorne, Talbot and Utah
30 State Board of Education have failed and refused to provide
31 Plaintiff juveniles with a free appropriate public education as
32 required by §504 and related state statutes.

1 92. In carrying out their obligations under contracts and
2 agreements with local, state and federal governmental agencies,
3 as hereinbefore described, and in doing the other acts complained
4 of herein, Defendants Williams, Crist, Thorne, Talbot and Utah
5 State Board of Education have discriminated against handicapped
6 members of the Plaintiff class, in violation of §504 and related
7 state statutes.

8 93. As Administrative Director of the Interstate Compact
9 on Juveniles for the State of Utah, Defendant McNamara is
10 required by the Compact to be guided by the noncriminal, refor-
11 mative and protective policies of the laws of the State of Utah
12 concerning delinquent, neglected or dependent juveniles in
13 supervising juveniles committed to institutions in the State of
14 Utah pursuant to the orders of juvenile courts in states outside
15 the State of Utah.

16 94. As Administrative Director of the Interstate Compact
17 on Juveniles for the State of Utah, Defendant McNamara is required
18 by the Compact to assume the duties of visitation and supervision
19 over juveniles committed to institutions in the State of Utah
20 pursuant to the orders of juvenile courts in states outside the
21 State of Utah, and in the exercise of such duties to be governed
22 by the same standards of visitation and supervision that prevail
23 under the laws of the State of Utah for delinquent juveniles
24 released on probation or parole.

25 95. In doing the acts complained of herein, and in
26 allowing juveniles within his jurisdiction as Administration
27 Director of the Interstate Compact on Juveniles to be placed at
28 and remain in the Provo Canyon School, Defendant McNamara has
29 failed and refused to adequately fulfill his duties of super-
30 vision and visitation under the Interstate Compact on Juveniles.

31 96. As a result of the Defendants' aforementioned
32 policies, practices, actions and failures to act, Plaintiffs and

1 members of the Plaintiff Class have suffered and will continue to
2 suffer immediate and irreparable harm and injury. Plaintiffs
3 have no plain, speedy, or adequate remedy at law to redress the
4 injuries complained of herein and will continue to suffer
5 immediate and irreparable harm and injury unless this Court
6 grants the preliminary and permanent relief requested by
7 Plaintiffs herein.

8 STATEMENT OF LEGAL CLAIMS

9 FIRST CLAIM

10 97. The acts and omissions of Defendants complained of
11 herein have violated and continue to violate Plaintiffs' rights
12 to freedom of speech and expression, freedom of religion,
13 freedom of association, due process of law, access to courts and
14 counsel, freedom from cruel and unusual punishment, equal
15 protection of the laws, rights to privacy, and rights to
16 therapeutic treatment in the least restrictive alternative, in
17 violation of rights guaranteed to Plaintiffs under the First,
18 Sixth, Eighth, Ninth and Fourteenth Amendments to the United
19 States Consitution, and related state statutes.

20 SECOND CLAIM

21 98. The acts and omissions of Defendants complained of
22 herein have violated and continue to violate Plaintiffs' right
23 under Public Law 94-142, the Education for All Handicapped
24 Children Act, and related state statutes.

25 THIRD CLAIM

26 99. The acts and omissions of Defendants complained of
27 herein have violated and continue to violate Plaintiffs' rights
28 under §504 of the Rehabilitation Act of 1973 and related state
29 statutes.

30 FOURTH CLAIM

31 100. The acts and omissions of Defendants complained of
32 herein violated and continue to violate Plaintiffs' rights under

1 the Interstate Compact on Juveniles, §55-12-1 et seq. Utah Code
2 Annotated (1953).

3 FIFTH CLAIM

4 101. The acts and omissions of Defendants complained of
5 herein constitute deceptive business practices under Utah law.

6 PRAYER FOR INJUNCTIVE RELIEF

7 102. As a result of the acts and omissions of Defendants
8 complained of herein, the individually named Plaintiffs and the
9 members of the class they represent have suffered and will con-
10 tinue to suffer immediate and irreparable injury. The Plaintiffs
11 have no plain, adequate or complete remedy at law to redress the
12 wrongs described herein. Plaintiffs have been and will continue
13 to be irreparably injured by the conduct of the Defendants unless
14 this Court grants the preliminary and permanent declaratory and
15 injunctive relief which Plaintiffs seek.

16 REQUESTED RELIEF

17 NOW, THEREFORE, Plaintiffs, individually and on behalf of
18 all others similarly situated, pray that this Court:

19 A. Appoint the undersigned attorneys to act as Guardians
20 Ad Litem for the named Plaintiff juveniles in prosecuting this
21 action.

22 B. Immediately issue an Order to the Defendants Williams,
23 Crist and Thorne ordering them to release the named Plaintiff
24 juveniles who are still enrolled as students at Provo Canyon
25 School to the custody of officials of the Utah Division of
26 Family Services for placement in the Salt Lake County Detention
27 Center or other appropriate facility in Salt Lake County, State
28 of Utah, until further order of this Court.

29 C. Certify this action to proceed as a class action
30 pursuant to Rule 23(a), (b) (2) and (3), Federal Rules of
31 Civil Procedure.

32 D. Issue a declaratory judgment pursuant to 28 U.S.C.

1 §§2201 and 2202 and Rule 57 of the Federal Rules of Civil
2 Procedure that the acts and omissions of Defendants complained of
3 herein violate Plaintiffs' rights under the First, Sixth,
4 Eighth, Ninth, and Fourteenth Amendments to the United States
5 Constitution.

6 E. Issue a declaratory judgment pursuant to 28 U.S.C.
7 §§2201 and 2202 and Rule 56 of the Federal Rules of Civil
8 Procedure that the acts and omissions of Defendants complained of
9 herein violate Plaintiffs' rights under Public Law 94-142, the
10 Education for All Handicapped Children Act.

11 F. Issue a declaratory judgment pursuant to 28 U.S.C.
12 §§2201 and 2202 and Rule 57 of the Federal Rules of Civil
13 Procedure that the acts and omissions of Defendants complained of
14 herein violate Plaintiffs' rights under §504 of the Rehabilitation
15 Act of 1973.

16 G. As to Defendants Williams, Crist and Thorne, issue
17 preliminary and permanent injunctions prohibiting, restraining
18 and enjoining said Defendants from operating, administering or
19 maintaining the Provo Canyon School.

20 H. In the alternative, as to Defendants Williams, Crist
21 and Thorne, issue preliminary and permanent injunctions as
22 follows:

23 (1) Defendants shall be enjoined from confining any
24 juvenile in a secure area at Provo Canyon School at any time; and

25 (2) Defendants shall allow juveniles at Provo Canyon
26 School at least two hours of recreation per day; weather
27 permitting, such recreation shall be outdoors; and

28 (3) Defendants shall be enjoined from depriving any
29 juvenile at Provo Canyon School, at any time, of personal
30 property other than weapons, controlled substances not possessed
31 pursuant to prescription, or other items which would otherwise
32 be illegal for such juvenile to possess; and

1 (4) Defendants shall be enjoined from prohibiting any
2 juvenile at Provo Canyon School from attending any religious
3 service of any kind, faith, or denomination, or from engaging
4 in any form of religious worship or exercise; and

5 (5) Defendants shall be enjoined from requiring any
6 juvenile at Provo Canyon School to attend any religious service
7 of any kind, faith, or denomination, or from requiring any
8 juvenile to engage in any form of religious worship, exercise or
9 observance; and

10 (6) Defendants shall be enjoined from requiring any
11 juvenile at Provo Canyon School to sit as "punishment" or
12 "therapy" for more than one (1) hour within any twenty-four (24)
13 hour period, or to stand as "punishment" or "therapy" for any
14 period of time; and

15 (7) Defendants shall be enjoined from requiring any
16 juvenile at Provo Canyon School to sit or stand for any number of
17 hours as a condition for advancing in the program at Provo Canyon
18 School or as a condition for gaining privileges at Provo Canyon
19 School; and

20 (8) Defendants shall be enjoined from administering
21 to any juvenile at Provo Canyon School any psychotropic drug,
22 including but not limited to thorazine, stelazine, mellaril
23 elavil, ritalin, librium, valium, barbiturates, amphetamines,
24 tranquilizers, or other depressant or sedative drug, by any
25 person other than a licensed physician or a nurse acting under the
26 direct supervision of a licensed physician and in the actual
27 physical presence of such physician; and

28 (9) Defendants shall be enjoined from administering
29 to any juvenile at Provo Canyon School any psychotropic drug,
30 including but not limited to thorazine, stelazine, mellaril
31 elavil, ritalin, librium, valium, barbiturates, amphetamines,
32 tranquilizers, or other depressant or sedative drug, in the

1 absence of approval by a licensed physician not employed or paid
2 by Provo Canyon School; and

3 (10) Defendants shall be enjoined from administering to
4 any juvenile at Provo Canyon School any psychotropic drug,
5 including but not limited to thorazine, stelazine, mellaril,
6 elavil, ritalin, librium, valium, barbiturates, amphetamines,
7 tranquilizers, or other depressant or sedative drug, for any
8 purpose other than direct medical necessity, and defendants shall
9 specifically be enjoined from administering to any juvenile at
10 Provo Canyon School any psychotropic drug for the purpose of
11 modifying or controlling the behavior of such juvenile; and

12 (11) Defendants shall be enjoined from confining any
13 juvenile at Provo Canyon School in solitary confinement in the
14 "P Room," "Prescription Room" or in any similar area at the
15 Provo Canyon School, for any period of time; and

16 (12) Defendants shall be enjoined from ordering, imposing,
17 or requiring of any juvenile at Provo Canyon School any amount of
18 time sitting or standing as a result of any violation of any
19 institutional rules or other regulations or requirements at
20 Provo Canyon School by such juveniles; and

21 (13) Defendants shall be enjoined from ordering, imposing,
22 requiring, or using the "hair dance" or any other form of
23 corporal punishment on any juvenile at Provo Canyon School; and

24 (14) Defendants shall be enjoined from threatening to
25 use any form of violence or corporal punishment on any juvenile
26 at Provo Canyon School; and

27 (15) Defendants shall be enjoined from reading or
28 censoring any correspondence from any juvenile at Provo Canyon
29 School to any other person, and any correspondence from any other
30 person to any juvenile at Provo Canyon School; and defendants
31 shall be specifically enjoined from requiring any juvenile at
32 Provo Canyon School to write any correspondence to his parents,

1 or to re-write any correspondence, for any reason; and

2 (16) Defendants shall be enjoined from monitoring or
3 listening in on any telephone conversation or meeting between
4 any juvenile at Provo Canyon School and any other person without
5 the express knowledge, consent and written authorization by such
6 juvenile to such monitoring or listening; and

7 (17) Defendants shall be enjoined from administering
8 to any juvenile at Provo Canyon School or requiring any juvenile
9 at Provo Canyon School to take a polygraph test for any purpose;
10 and

11 (18) Defendants are enjoined from denying any
12 juvenile at Provo Canyon School access to legal counsel at any
13 time.

14 I. As to Defendant McNamara, issue preliminary and per-
15 manent injunctions directing that Defendant shall:

16 (1) Be restrained and enjoined from approving the
17 placement of any juvenile probationer or parolee in the Provo
18 Canyon School in Provo, Utah, pursuant to the order of a juvenile
19 court in any state party to the Interstate Compact on Juveniles,
20 whether such placement is effected directly pursuant to the
21 Compact or in some other manner.

22 (2) Be required to give written notice to the
23 Administrator of the Interstate Compact on Juveniles in all
24 states party to the Compact that:

25 (a) Defendant will consider the placement of any
26 juvenile probationer or parolee in any private institution in
27 the state of Utah for the purpose of receiving rehabilitative
28 care and treatment, pursuant to the order of the juvenile court
29 in any state party to the Interstate Compact on Juveniles, as
30 being subject to the terms and conditions of the Compact, and any
31 regulations promulgated by the defendant pursuant thereto,
32 whether or not such placement is effected directly pursuant to

1 the Compact or in some other manner;

2 (b) Defendant, in the exercise of the discretion
3 granted to him pursuant to the Compact to accept or decline the
4 placement of juvenile probationers or parolees in the state of
5 Utah for the purpose of receiving rehabilitative care and
6 treatment, has determined that he will decline the placement of
7 any juvenile probationer or parolee in any private institution
8 within the state of Utah, where such institution has not been
9 approved for the placement of juvenile probationers and parolees
10 of juvenile courts of the state of Utah by the Utah Division of
11 Family Services;

12 (c) Defendant, upon discovering that any juvenile
13 probationer or parolee has been placed in a private institution
14 within the state of Utah, for the purpose of receiving rehabili-
15 tative care and treatment pursuant to the order of a juvenile
16 court in any state party to the Compact, where such institution
17 has not been approved for the placement of juvenile probationers
18 and parolees of juvenile courts of the state of Utah, shall
19 request the state responsible for the placement of such juvenile
20 probationer or parolee to remove such juvenile from such
21 institution, defendant shall refer such juvenile to juvenile
22 court authorities of the state of Utah for appropriate action.

23 (3) Be required to request in writing that adminis-
24 trators of the Interstate Compact on Juveniles in all states
25 party to the Compact advise juvenile court authorities of their
26 states that defendant shall perform those acts set out in
27 Paragraph (b) above.

28 J. As to Defendants Talbot and Utah State Board of
29 Education, issue preliminary and permanent injunctions prohibiting,
30 restraining, and enjoining said Defendants from providing any
31 funds administered by the Defendant Utah State Board of Education,
32 including funds received pursuant to Public Law 94-142, to the

1 Provo Canyon School.

2 K. As to Defendants Talbot and Utah State Board of
3 Education, issue preliminary and permanent injunctions prohibiting,
4 restraining, and enjoining said defendants from failing to
5 comply with all supervision and monitoring requirements contained
6 in Public Law 94-142 and the regulations promulgated thereunder,
7 regarding placement of handicapped children in private schools.

8 L. Issue a judgment, assessing actual, general and
9 special damages against the Defendants Williams, Crist and
10 Thorne for their acts, policies, practices and pattern of sub-
11 jecting Plaintiffs to cruel and unusual punishment and anti-
12 therapeutic and inhumane treatment as hereinbefore alleged, in
13 an amount to be established by the proof.

14 M. Issue a judgment, assessing punitive and exemplary
15 damages against the Defendants Williams, Crist and Thorne for
16 their willful, wanton, malicious and intentional disregard and
17 violation of Plaintiffs' constitutional rights to be free from
18 cruel and unusual punishment and to have rehabilitative care and
19 treatment, to engage in the free exercise of religion, to engage
20 in free speech and expression, to have access to counsel and to
21 have rights of privacy guaranteed to Plaintiffs pursuant to the
22 First, Sixth, Eighth, Ninth and Fourteenth Amendments to the
23 United States Constitution, in the amount of ONE MILLION DOLLARS
24 (\$1,000,000.00).

25 N. Grant preliminary and permanent injunctive relief,
26 restraining and enjoining the Defendants Williams and Crist from
27 prohibiting or taking any retaliatory action against any members
28 of the Plaintiff Class who wish to consult with attorneys
29 concerning their rights in relation to the instant action or any
30 other legal rights, and requiring Defendants Williams and Crist,
31 under penalty of contempt for disobedience of this Court's order,
32 to permit Plaintiffs' attorney and her agents, to contact and

onsult with Plaintiffs in relation to this action.

O. Grant Plaintiffs such other and further relief as to the Court may appear equitable and just in the premises.

P. Require Defendants to pay costs and reasonable attorney's fees incurred by Plaintiffs in the prosecution of this action.

Q. Retain continuing jurisdiction over this action.

Dated this 27th day of August, 1979.

Respectfully submitted,



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