

ENDORSED  
FILED  
San Francisco County Superior Court

JUN 24 1997

ALAN CARLSON, Clerk  
BY: MONICO SD. MATEO, JR.  
Deputy Clerk

1 ALICE BUSSIERE, Bar No. 114680  
2 KATHRYN PALAMOUNTAIN, Bar No. 183246  
3 NATIONAL CENTER FOR YOUTH LAW  
4 114 Sansome Street, Suite 900  
5 San Francisco, CA 94104  
6 (414) 543-3307

7 CAROLE SHAUFFER, Bar No. 100226  
8 MARIA RAMIU, Bar No. 146497  
9 YOUTH LAW CENTER  
10 114 Sansome Street, Suite 950  
11 San Francisco, CA 94104  
12 (415) 543-3379

13 TOM WEATHERED, Bar No. 115207  
14 202 Louisburg  
15 San Francisco, CA 94112  
16 Telephone (415) 333-9714

17 Attorneys for Petitioners

18 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 FOR THE COUNTY OF SAN FRANCISCO

20 HEIDI BOHLER, )

21 Petitioner, )

22 vs. )

23 ELOISE ANDERSON, Director, )

24 California Department of Social )

25 Services, and CALIFORNIA )

26 DEPARTMENT OF SOCIAL )

Services, )

Respondents. )

987660

Case No.

PETITION FOR WRIT OF  
MANDATE

(C.C.P. § 1085)

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## I. PRELIMINARY STATEMENT

1. Petitioner seeks a writ of mandate requiring Respondents Eloise Anderson and the California Department of Social Services to comply with State law by developing and implementing a level of care assessment instrument that matches the needs of dependent children with appropriate placement resources in order to ensure that children receive the level of care and treatment they need in the least restrictive, most homelike environment possible; to avoid unnecessary and wasteful expenditures of public funds; to maximize resources available to serve children with severe mental emotional and behavioral problems; and to avoid the placement of children with incompatible needs in the same facility.

2. Defendants are charged with administering a statewide program of public social services, including child welfare services for abused and neglected children. To care for children in the custody of child protective service systems, Defendants, through County Departments of Social Services, contract with a large number of group homes, foster family agencies and small family homes. These programs vary widely in the nature and level of supervision and services they provide and in the rates they charge. Defendants have not developed a consistent reliable instrument for evaluating the needs of these children. As a result, there is no statewide system that allows counties to determine whether a particular facility is appropriate to meet the needs of a specific child. Facilities that provide a high level of intensive services and are paid extremely high rates, house children who could be served in less restrictive facilities, and are, therefore, unavailable to children who

1 do need their services. Counties pay widely varying rates for children with the same  
2 basic needs. Children with inconsistent needs and behavior patterns are placed in  
3 the same facility. There is no way to hold programs accountable for serving  
4 children they admit, since they are unaware of the children's special needs at the  
5 time of placement. Consequently, children experience unnecessary and damaging  
6 changes in placement.  
7

8 3. Recognizing these problems, the California Legislature directed  
9 defendants to develop and implement a level of care assessment instrument and  
10 process by July 1, 1994 in order to "match the assessed needs of the dependent  
11 child of the court or ward of the court and his or her family with the structure,  
12 supervision and services provided by appropriate placement resources..."  
13 Defendants have neither developed, nor implemented, such an instrument or  
14 process.  
15

## 16 II. PARTIES

17  
18 4. Petitioner HEIDI BOHLER is a taxpayer and citizen of the State of  
19 California and a volunteer Court Appointed Special Advocate (CASA). CASAs  
20 investigate the cases of children in the dependency system, and advocate for their  
21 best interests. In this capacity, she has become aware of the problems of children  
22 who are placed in group homes that are inappropriate to meet their needs.  
23

24 5. Respondent ELOISE ANDERSON is sued in her official capacity as the  
25 Director of Respondent CALIFORNIA DEPARTMENT OF SOCIAL SERVICES.  
26 Under Cal. Welf. & Inst. Code § 10553, she is legally responsible for statewide

1 administration of public social services, including licensing of community care  
2 facilities. It is her duty to formulate, implement and enforce statewide policies for  
3 the administration of public social services throughout the state of California.  
4

5 6. Respondent CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
6 ("CDSS") is the single state agency authorized and required to supervise the  
7 administration of public social services programs in California, including child  
8 welfare services.

9 **III. STATUTORY FRAMEWORK AND FACTUAL ALLEGATIONS**

10 7. California's child protection system uses several types of placement  
11 resources including foster homes, small family homes, foster family agencies  
12 (FFAs), and group homes. Foster homes are individual residences in which a  
13 parent or parents live with the children they care for. They are licensed by the state  
14 or county and can care for no more than six foster children. FFAs are  
15 organizations that recruit, certify and support a number of foster homes under their  
16 supervision. FFAs are designed to care for children whose needs cannot be met in  
17 foster homes. Group homes are residences that employ shift staff to supervise  
18 the children in the facility. Their population range from six of seven to over 100  
19 youth.  
20  
21

22 8. Pursuant to Cal. Welf. and Inst. Code §11462, the category "group  
23 home" includes several different kinds of facilities that are classified based on a  
24 level system from one to 14 based on the nature and intensity of services they  
25 provide. Levels of care are correlated with reimbursement rates ranging  
26

1 approximately \$1183 a month for a level one facility to \$5000 a month for a level 14.

2  
3 9. Section 11467 of the California Welfare and Institutions Code requires  
4 Defendants to develop a level of care assessment instrument and process to  
5 evaluate the needs of children and families and match them with appropriate  
6 placement resources by July 1, 1994 and to submit a report to the Legislature on  
7 the instrument and process by January 1, 1995. In 1996, the Legislature requested  
8 a progress report from Defendants.

9  
10 10. Defendants have not developed or implemented the level of care  
11 assessment instrument. Defendants have never submitted a report on progress in  
12 developing the level of care instrument to the Legislature.

13 11. The State of California spends approximately \$ 1 billion a year on out-of-  
14 home care for children in the child protection system run by Defendants.  
15 Approximately two-thirds of the out-of-home care expenditures are for group home  
16 and FFA placements.

17  
18 12. Children are assigned to a foster home, foster family agency or group  
19 home level based on the availability of resources rather than the formally assessed  
20 needs of the child. There is no objective, standardized tool that social workers and  
21 facilities can use in determining whether the facility can provide services  
22 appropriate to meet the child's needs.

23  
24 13. As a result, children are often placed in group homes that are more  
25 restrictive, less homelike, and far more expensive than necessary to protect and  
26 treat the client. In those cases, child protection agencies are paying for services for

1 the child that are not only unnecessary, but may actually be detrimental to the child.

2 14. In addition, inappropriate placement of children in these high level  
3 facilities creates a shortage of appropriate group home beds for those children with  
4 serious emotional disorders. As a result, many children spend extended periods in  
5 shelter care or are housed in facilities that cannot treat them appropriately.  
6

7 15. Since there is no clear system for evaluating the strengths and needs of  
8 the child, facilities may accept children whom they cannot adequately serve. These  
9 children are then expelled from these facilities as "placement failures." These  
10 moves have a detrimental psychological and emotional effect on the children  
11 involved. Every "placement failure" makes it less likely that the child will be able to  
12 secure a permanent home and family.  
13

14 16. Because there is no standardized method of assessment and  
15 evaluation, children with very different needs and behavior patterns may be placed  
16 in the same facility. At best, this has a negative effect on their treatment; at worst,  
17 it creates a dangerous situation in which children are victimized or learn anti-social  
18 behavior.  
19

20 17. There is no way for Defendants or any child protection agency to  
21 evaluate the performance of providers in caring for children because there is no way  
22 to determine whether children in the facility were appropriately placed. As a result,  
23 there is no systematic way to improve the out-of-home care system.  
24

25 18. Without a level of care assessment, neither defendants nor county  
26 agencies can rationally determine what types of facilities are necessary in their

1 communities. They cannot encourage the creation of facilities to meet children's  
2 needs, nor discourage the development of redundant facilities.  
3

4 **III. CAUSE OF ACTION**

5 19. Respondents' failure to develop and implement a level of care  
6 assessment instrument and process and report to the Legislature violates the  
7 provisions of Cal. Welf. & Inst. Code § 11467. As a result, children who are  
8 removed from their homes do not receive appropriate treatment and taxpayers are  
9 subject to unnecessary and wasteful expenditures.  
10

11 20. Respondents have a clear and mandatory duty to develop and  
12 implement the level of care assessment and program and report to the Legislature  
13 as required by law to facilitate the matching of children with programs that meet  
14 their needs.  
15

16 **PRAYER FOR RELIEF**

17 Plaintiffs request that this Court:

18 1. Issue a writ of mandate pursuant to Code of Civil Procedure § 1085,  
19 commanding Respondents to act immediately to develop and implement the level of  
20 care assessment instrument and process required by Cal. Welf. and Inst.

21 Code § 11467.  
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23 2. Award Plaintiffs reasonable attorneys' fees and costs; and  
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3. Grant such other and further relief as the Court finds just and proper.

Dated: June 18, 1997

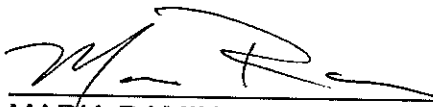
Respectfully submitted,

CAROLE SHAUFFER  
MARIA RAMIU  
YOUTH LAW CENTER

ALICE BUSSIERE  
KATHRYN PALAMOUNTAIN  
NATIONAL CENTER FOR YOUTH LAW

TOM WEATHERED

Attorneys for Petitioners

By:   
MARIA RAMIU



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VERIFICATION

I, the undersigned, declare:

I am the Petitioner in this action. I have read the above Petition for Writ of Mandate and know its contents. All facts alleged in the petition are true of my own personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 18, 1997 at San Francisco, California.

  
Heidi Bohler