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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

18 KAREN JONES-MASON, )  
19 )  
20 Petitioner, )  
21 )  
22 vs. )  
23 )  
24 ELOISE ANDERSON, Director, )  
25 California Department of Social )  
26 Services, and CALIFORNIA )  
27 DEPARTMENT OF SOCIAL )  
28 SERVICES, )  
Respondents. )

ENDORSED  
FILED  
San Francisco County Superior Court

DEC - 4 1996

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

982959

Case No.  
PETITION FOR WRIT OF  
MANDATE

(C.C.P. § 1085)

1 I. PRELIMINARY STATEMENT

2 1. Petitioner seeks a writ of mandate requiring Respondent Eloise  
3 Anderson and the California Department of Social Services to comply with state law  
4 by issuing regulations governing the care of young children who have been placed  
5 in group homes and county run temporary shelter care facilities.  
6

7 2. Group homes are facilities that provide 24-hour non-medical care and  
8 supervision to children where at least some of the care is provided by employees.  
9 According to the Respondents' figures, on any given day approximately 900 children  
10 under the age of six are living in group homes in California. Current regulations  
11 governing the operation of group homes fail to address the special health, safety,  
12 and developmental needs of these vulnerable children.  
13

14 3. Temporary shelter care facilities are 24-hour residential facilities that  
15 provide short-term care and supervision for children who have been removed from  
16 their homes as a result of abuse or neglect. These facilities are currently  
17 unregulated in that they do not have to meet the state licensing standards that apply  
18 to group homes or family foster homes.  
19

20 4. The young children who reside in group homes or temporary shelter  
21 care facilities have been removed from the custody of their parents and placed in  
22 state care. The cost of their care, which may be as high as several thousand  
23 dollars a month, is paid for through federal and state programs that are supervised  
24 by the Respondents.  
25

26 5. Respondents have failed to take action to comply with state law  
27 designed to ensure that these children receive appropriate care in a safe  
28 environment.

1 II. PARTIES

2 6. Petitioner KAREN JONES MASON is an attorney employed by Legal  
3 Services for Children, a child advocacy group that represents dependent children in  
4 juvenile courts in the State of California. She has represented dependent children  
5 of all ages for over seven years.  
6

7 7 Respondent ELOISE ANDERSON is sued in her official capacity as  
8 the Director of Respondent CALIFORNIA DEPARTMENT OF SOCIAL SERVICES.  
9 Under Cal. Welf. & Inst. Code § 10553, she is legally responsible for statewide  
10 administration of public social services, including licensing of community care  
11 facilities. It is her duty to formulate, implement and enforce statewide policies for  
12 the administration of public social services throughout the state of California. Her  
13 duties include the promulgation and enforcement of regulations governing licensing  
14 of community care facilities and temporary shelter care facilities when they provide  
15 residential care and supervision for children younger than age six.  
16

17 8. Respondent CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
18 ("CDSS") is the single state agency authorized and required to supervise the  
19 administration of public social services programs in California. Pursuant to Cal.  
20 Health and Safety Code § 1530, it is responsible for the development of licensing  
21 regulations and standards for community care facilities, including group homes as  
22 defined in 22 CCR § (g)(1), and "temporary shelter care facilities" when they  
23 provide residential care and supervision for children younger than six years of age.  
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1 III. STATUTORY AND REGULATORY FRAMEWORK

2 9. In 1993, the California Legislature recognized that existing licensing  
3 regulations were not sufficient to protect the safety and well being of children  
4 younger than the age of six who were cared for in group homes or temporary shelter  
5 care facilities. In response, the Legislature passed and the Governor signed  
6 legislation to protect this population. Stats. 1993, Ch. 1088. This legislation  
7 requires Respondents to follow a two-part process for developing and implementing  
8 appropriate standards and regulations for these facilities.  
9

10 10. Respondents are required to develop separate sets of standards  
11 governing the care of three age groups (infants, toddlers and preschool age  
12 children).  
13

14 11. Respondents must consult with specified parties in assessing the  
15 needs of young children and developing standards specified by the statute. The  
16 standards must include:

- 17 1. The elements of a safe nurturing environment that support all  
18 aspects of a child's development and provide opportunities to  
19 establish primary, trusting relationships with a carefully limited  
20 number of adults;
- 21 2. Psychosocial needs, primary care, parental visits,  
22 developmental support, trauma recovery, appropriate discipline,  
23 and flexibility in daily activities;
- 24 3. Guidelines for services to be provided pursuant to a case plan;
- 25 4. To the maximum extent feasible, the requirement that  
26 significant placement changes be minimized, and that they be  
27 carefully planned and implemented.  
28

26 Cal. Welf. & Inst. Code § 11467.1.



1 needs of very young and vulnerable children.

2           20. Current group home regulations fail to address the special health,  
3 safety, and hygiene needs of very young children. Current group home regulations  
4 also fail to address the special developmental needs of very young children,  
5 including their need for attention and cognitive stimulation and other factors  
6 necessary to promote healthy emotional and cognitive development. There are no  
7 regulations or standards that govern these matters in temporary shelter care  
8 facilities.

9  
10           21. The inadequacy of existing regulations is clearly demonstrated by a  
11 comparison between licensing regulations governing group homes, 22 CCR  
12 Division 6 Chapters 1 and 5, and those governing day care centers, 12 CCR  
13 Chapters 1 and 2.

14  
15           22. Day care regulations require facilities that care for infants, defined as  
16 children under two years of age, to maintain a staffing ratio of four children to one  
17 teacher. For special toddler programs, the staffing ratio must be no greater than six  
18 to one. Group homes are required to maintain a 10 to one staffing ratio during  
19 waking hours and are permitted to maintain a 30 to one ratio during sleeping hours.

20  
21           23. Infant care facilities must follow specific sanitation procedures,  
22 including hand washing before and after diaper changes, sanitizing areas to which  
23 infants have access, and disinfecting diaper changing areas. Group home  
24 regulations do not address these issues.

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26           24. Infant care facilities must have specific plans for toilet training infants  
27 and for feeding them age appropriate food in an age appropriate manner. Group  
28 homes have no relevant regulations.



PRAYER FOR RELIEF

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Plaintiffs request that this Court:

1. Issue a writ of mandate pursuant to Code of Civil Procedure § 1085

commanding Respondents to:

- a Act immediately to assess the needs of young children in foster care as required by Cal. Welf. & Inst. Code § 11467.1, in consultation with the interested parties named in that statute and incorporate the results of the assessment into appropriate regulations for group homes and temporary shelter care facilities in which younger children are placed;
- b. Publish the regulations as proposed regulations and allow comment as provided in the Administrative Procedures Act within 60 days of the issuance of this Court's order; and
- c. Issue final regulations for licensing of group foster care homes as required by Cal. Health & Safety Code § 1530.8 as soon thereafter as is permitted by law.

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: December 3, 1996

Respectfully submitted,

CAROLE SHAUFFER  
MARIA RAMIU  
YOUTH LAW CENTER

ALICE BUSSIERE  
KATHRYN PALAMOUNTAIN  
NATIONAL CENTER FOR YOUTH LAW

TOM WEATHERED

Attorneys for Petitioners

By:   
ALICE BUSSIERE


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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 December 3, 1996 at San Francisco, California.

  
\_\_\_\_\_  
Karen Jones Mason