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19 **UNITED STATES DISTRICT COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

21 OCEAN S.; JACKSON K.; ROSIE S.;
ERYKAH B.; JUNIOR R.; and ONYX
22 G. , by and through her next friend
Craig Schultz, individually and on
behalf of others similarly situated,

23 Plaintiffs,

24 vs.

25 LOS ANGELES COUNTY; LOS
26 ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY
27 SERVICES; BRANDON NICHOLS,
Director of the Los Angeles County
28 Department of Children and Family

Case No. 2:23-cv-06921

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 Services; LOS ANGELES
DEPARTMENT OF MENTAL
2 HEALTH; LISA WONG, Director of
the Los Angeles County Department of
3 Mental Health; CALIFORNIA
DEPARTMENT OF HEALTH CARE
4 SERVICES; MARK GHALY,
Secretary of the California Health and
5 Human Services Agency;
CALIFORNIA DEPARTMENT OF
6 SOCIAL SERVICES; and KIM
JOHNSON, Director of the California
7 Department of Social Services,
MICHELLE BAASS,

8
9 Defendants.

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1 **I. INTRODUCTION**

2 1. This civil rights action challenges the Los Angeles County foster care
 3 system’s persistent failure to ensure that foster youth aged sixteen to twenty-one
 4 (“transition age foster youth”¹) have meaningful access to the crucial housing, mental
 5 health, and other services to which they are legally entitled. Six transition age foster
 6 youth² (collectively, “Plaintiffs” or “foster youth”) seek redress from the State and
 7 County entities and officials responsible for administering and supervising Los
 8 Angeles County’s child welfare system³ and Medicaid program (collectively,
 9 “Defendants”). Plaintiffs bring this lawsuit on behalf of a putative class and specific
 10 subclasses of transition age foster youth who are now, or will be, in extended foster
 11 care⁴ in Los Angeles County.

12 2. Under federal and State law, Defendants are responsible for the
 13 administration, oversight, and provision of foster care and Medicaid services to foster
 14 youth. Pursuant to these responsibilities, Defendants must provide foster youth with
 15 safe, stable and appropriate placements at all times, free from physical, psychological,
 16 and emotional harm.⁵ As dependents in the California foster care system, transition
 17 age foster youth are legally entitled to supportive services—including transition
 18 planning, housing, and developmental, educational, and necessary health and mental
 19

20
 21 ¹ Foster youth aged eighteen to twenty-one are also referred to as nonminor dependents (“NMDs”).

22 ² Plaintiffs are transition age foster youth and are referred to in this Complaint by pseudonyms; they
 23 are separately filing a Motion to Proceed With Fictitious Names.

24 ³ For clarity purposes, this brief uses the traditional terms “child welfare system” and “foster care
 25 system” to refer to the system of policies and supportive services meant to ensure the safety, well-
 26 being, and permanency of children, youth, and families. We recognize that the term “family
 27 regulation system” more aptly describes this set of government structures, which far too often
 28 unjustly regulates marginalized families.

⁴ California’s extended foster care program allows eligible youth to remain in foster care until age
 twenty-one. Youth between the ages of eighteen and twenty-one in foster care are considered
 “nonminor dependent[s].” Cal. Welf. & Inst. Code § 303(b). Nonminor dependents have all the
 same rights as dependent minors, and county welfare departments have the same responsibilities to
 nonminor dependents as they do to other foster youth. *See* Cal. Welf. & Inst. Code § 303(e); Cal.
 Welf. & Inst. Code § 16001.9(a)(1).

⁵ “Placement” refers to the approved living setting in which County welfare agencies place foster
 youth who are under the county’s Care and supervision.

1 health services—to help them develop skills and cultivate relationships needed for
2 independent living.

3 3. Defendants are aware that the population of transition age foster youth
4 in Los Angeles County have specific developmental needs that Defendants are legally
5 required to accommodate. Both before and after entering the foster care system,
6 transition age foster youth⁶ experience significant trauma. This trauma includes
7 separation from their families and loss of community and social ties, as well as
8 interpersonal trauma, which often entails experiencing physical and/or sexual abuse
9 and witnessing violence. Far too often, the system designed to protect and safeguard
10 youths' needs exacerbates their trauma as they are cycled through multiple unsuitable
11 placements, lose contact with siblings and other loved ones, and experience abuse and
12 neglect in foster placements. A disproportionately high percentage of these youth
13 have mental health conditions and other disabilities related to complex trauma, *i.e.*,
14 chronic, ongoing interpersonal trauma. Some are also young parents who, as they
15 transition to adulthood, seek health, stability, and safety not only for themselves, but
16 also for their families. The overwhelming majority of foster youth in Los Angeles
17 County come from low-income Black and Latino communities. By failing to provide
18 transition age foster youth meaningful access to the safe, stable and appropriate
19 placements and support services to which they are legally entitled, Defendants
20 exacerbate the harms experienced by Los Angeles County's most vulnerable young
21 people, with profound consequences for their well-being and futures.

22 4. Defendants' failures to meet their legal duties have created a pipeline
23 from the foster care system to homelessness, heaping trauma on top of trauma and
24 funneling these youth to the margins of society. Transition age foster youth are forced
25 into couch surfing, tents on city streets, dangerous adult temporary shelters, and
26

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28 ⁶ For brevity's sake, this Complaint uses the term "transition age foster youth," but Plaintiffs recognize that person first language such as "transition age youth in foster care" is preferred to prioritize the personhood of youth over their foster care experience.

1 vehicular homelessness. With no reliable places to sleep, shower, or keep their
2 belongings, it is virtually impossible for these youth to pursue higher education or
3 hold down a job.

4 5. Defendants are engaged in six violations of foster youth’s legal rights.

5 6. **First**, Defendants have a constitutional duty under the Fourteenth
6 Amendment Due Process Clause to ensure the safety and wellbeing of the transition
7 age foster youth they take into custody. Defendants are violating transition age foster
8 youths’ substantive due process rights by failing to develop a minimally adequate
9 array of safe and stable placements, thus exposing them to an unreasonable risk of
10 harm.

11 7. **Second**, Defendants have failed to develop and implement a system for
12 providing transition age foster youth with legally compliant case plans and transition
13 plans under the Adoption Assistance and Child Welfare Act of 1980 (“AACWA”),
14 42 U.S.C. §§ 670 et seq. These plans are the guiding roadmap for the services and
15 safe, stable, and appropriate placements to which transition age foster youth are
16 entitled at all times. The absence of such a system sets transition age foster youth up
17 for failure and is a significant factor pushing them into homelessness and poverty.

18 8. **Third**, Defendants’ (i) opaque and arbitrary placement application
19 processes and (ii) practice of forcing youth out of placements without adequate notice
20 or opportunity to be heard violate transition age foster youths’ procedural due process
21 rights under the Fourteenth Amendment.

22 9. **Fourth**, Defendants violate transition age foster youths’ First and
23 Fourteenth Amendment rights to freedom of familial association. Because
24 Defendants fail to provide a minimally adequate array of safe and stable placements
25 appropriate for expecting and parenting youth, these youth often become unhoused,
26 increasing the likelihood of family separation. The lack of placements also creates
27 barriers for transition age foster youth seeking to reunify with their children who have
28 been removed from their care. Defendants’ practices directly and substantially

1 interfere with transition age foster youths’ ability to parent their children while
2 receiving extended foster care placement and services.

3 10. **Fifth**, Defendants violate transition age foster youth’s rights under the
4 Rehabilitation Act of 1973 (“Section 504”) and the Americans with Disabilities Act
5 (“ADA”), along with their implementing regulations, by discriminating against youth
6 with mental health disabilities who would benefit from foster care services.
7 Specifically, Defendants: (i) deny access to placements on the basis of disability; (ii)
8 fail to provide trauma-responsive services and supports necessary for these youth to
9 access and benefit from foster care; (iii) terminate participation in transitional housing
10 programs on the basis of disability; and (iv) unnecessarily segregate youth with
11 mental health disabilities in institutional settings, contravening the legal requirement
12 that they be placed in the least restrictive community-based setting appropriate to their
13 needs.

14 11. **Sixth**, Defendants violate the Medicaid Act, 42 U.S.C. §§
15 1396a(a)(10)(A), 1396a(43)(C), 1396d(a)(4)(B) and 1396d(r), by failing to ensure
16 transition age foster youth have access to medical assistance—including early and
17 periodic screening, diagnostic, and treatment (“EPSDT”) services. Defendants deny
18 transition age foster youth vital behavioral health services such as intensive care
19 coordination (“ICC”), therapeutic foster care, intensive home-based services
20 (“IHBS”), peer support specialists services, mobile crisis services, and other mental
21 health services. Without these critical and necessary services, transition age foster
22 youth face tremendous odds coping with past traumas, building relationships,
23 succeeding in academic and work environments, and maintaining stable housing.

24 12. Although long aware of these violations, Defendants have failed to
25 redress them. Plaintiffs file this action to seek solely declaratory and prospective
26 injunctive relief compelling Defendants to remedy known harmful and unlawful
27 practices and system deficiencies in the provision of placement and services to
28 transition age foster youth.

1 **II. JURISDICTION AND VENUE**

2 13. The Court has subject matter jurisdiction over this case pursuant to 28
3 U.S.C §§ 1331 and 1343(a) because it arises under the Constitution and laws of the
4 United States, including 42 U.S.C. § 1983. This Court has personal jurisdiction over
5 Defendants because Defendants’ acts and omissions took place within this district.

6 14. Plaintiffs’ claims for declaratory and injunctive relief are authorized
7 under 28 U.S.C. §§ 2201 and 2202 and Rules 57 and 65 of the Federal Rules of Civil
8 Procedure.

9 15. Venue is proper in this judicial district pursuant to 28 U.S.C § 1391(b),
10 (c). All Defendants reside in California, the state in which this judicial district is
11 located, and a substantial part of the events or omissions giving rise to the claims
12 occurred in this judicial district.

13 **III. PARTIES**

14 **Named Plaintiffs**

15 16. ***Plaintiff Erykah B.*** is a nineteen-year-old Black young person who lives
16 in Los Angeles County, California. She is a nonminor dependent (“NMD”) and she
17 is in extended foster care in Los Angeles County. Erykah B. is a member of the
18 General Class, the ADA Subclass, and the Medicaid Subclass.

19 17. ***Plaintiff Onyx G.*** is a seventeen-year-old, Black and Latina young
20 person currently in foster care in Los Angeles County, California. Because she is
21 currently a minor, Onyx G. is now appearing through her next friend, Craig Schultz,
22 who is familiar with Onyx G.’s history and is dedicated to her best interests. Onyx
23 G. turns eighteen imminently, when she will become a NMD by operation of law.
24 She intends to enter extended foster care in Los Angeles County. Onyx G. is a
25 member of the General Class, the ADA Subclass, and the Medicaid Subclass.

26 18. ***Plaintiff Rosie S.*** is a twenty-year-old Latina young person and an
27 expecting mother from Los Angeles County, California. She is a NMD and she is in
28 extended foster care in Los Angeles County. She has been temporarily living in Las

1 Vegas, Nevada for the last nine months because the Los Angeles County Department
2 of Children and Family Services (“DCFS”) has not yet moved her to a safe, stable and
3 appropriate placement in Los Angeles. Rosie S. is a member of the General Class,
4 the ADA Subclass, the Medicaid Subclass, and the Expecting and Parenting Subclass.

5 19. ***Plaintiff Jackson K.*** is a nineteen-year-old Latino young person
6 currently living in Riverside County, California in this judicial district. He is a NMD
7 and he is in extended foster care in Los Angeles County. Jackson K. is a member of
8 the General Class, the ADA Subclass, and the Medicaid Subclass.

9 20. ***Plaintiff Ocean S.*** is a twenty-year-old Black young mother who lives
10 in Los Angeles County, California. She is a NMD and she is in extended foster care
11 in Los Angeles County. Ocean S. is a member of the General Class, the ADA
12 Subclass, the Medicaid Subclass, and the Expecting and Parenting Subclass.

13 21. ***Plaintiff Junior R.*** is a twenty-year-old mixed race young person who
14 lives in Los Angeles County, California. He is a NMD and he is in extended foster
15 care in Los Angeles County. Junior R. is a member of the General Class, the ADA
16 Subclass, and the Medicaid Subclass.

17 **County Defendants**

18 22. ***Defendant Los Angeles County (“the County”)*** is a local governmental
19 entity duly organized and existing under the laws of the State of California. The
20 County oversees and monitors the Los Angeles County Department of Children and
21 Family Services and the Los Angeles County Department of Mental Health.

22 23. ***Defendant Los Angeles County Department of Children and Family***
23 ***Services (“DCFS”)*** is a Los Angeles County governmental agency duly organized
24 and existing under the laws of the State of California. DCFS is the agency responsible
25 for administering foster care services in Los Angeles County, for providing
26 placements for youth in the foster care system, and for ensuring the safety and well-

27
28

1 being of children under court supervision pursuant to California Welfare and
2 Institutions Code § 300.⁷

3 24. ***Defendant Brandon Nichols (“Nichols”)*** is the Director of DCFS. In
4 this role, Defendant Nichols is responsible for administering foster care services in
5 Los Angeles County, for providing placements for youth in the foster care system,
6 and for ensuring the safety and well-being of children under court supervision
7 pursuant to California Welfare and Institutions Code § 300. Defendant Nichols is
8 sued solely in his official capacity.

9 25. ***Defendant Los Angeles County Department of Mental Health***
10 ***(“DMH”)*** is a Los Angeles County governmental agency duly organized and existing
11 under the laws of the State of California. DMH is the agency responsible for
12 providing behavioral health services to transition age foster youth in Los Angeles,
13 including providing necessary Specialty Mental Health Services.

14 26. ***Defendant Lisa Wong (“Wong”)*** is the Director of DMH. In this role,
15 Defendant Wong is responsible for overseeing the administration and provision of
16 behavioral health services to transition age foster youth in Los Angeles, including
17 providing Specialty Mental Health Services. Defendant Wong is sued solely in her
18 official capacity. The County, DCFS, Nichols, DMH and Wong are referred to as the
19 **“County Defendants”**

20 **State Defendants**

21 27. ***Defendant California Health and Human Services Agency***
22 ***(“CalHHS”)*** is a State agency duly organized and existing under the laws of the State
23 of California. CalHHS oversees departments and offices that provide a wide range of
24 services in the areas of health care, mental health, public health, alcohol and drug
25 treatment, income assistance, social services, and assistance to people with
26
27

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⁷ Cal. Welf. & Inst. Codes §§ 16500, 16501(a).

1 disabilities. CalHHS oversees and monitors the California Department of Social
2 Services and the California Department of Health Care Services.

3 28. ***Defendant Mark Ghaly, MD, MPH (“Ghaly”)*** is the Secretary of the
4 California Health and Human Services Agency. In this role, Defendant Ghaly is
5 responsible for the administration and oversight of CalHHS and its departments and
6 offices that provide a wide range of services in the areas of health care, mental health,
7 public health, alcohol and drug treatment, income assistance, social services, and
8 assistance to people with disabilities. Defendant Ghaly is sued solely in his official
9 capacity.

10 29. ***Defendant California Department of Social Services (“CDSS”)*** is a
11 State agency duly organized and existing under the laws of the State of California.
12 CDSS is the single state agency responsible for supervising and monitoring the
13 administration of foster care services in California.

14 30. ***Defendant Kim Johnson (“Johnson”)*** is the Director of the California
15 Department of Social Services. In this role, Defendant Johnson is responsible for
16 administering laws relating to foster care services; promulgating regulations and
17 standards; supervising the administration of public social services, including foster
18 care services; and investigating, examining, and making reports on public offices
19 responsible for the administration of social services.⁸ Under California Welfare and
20 Institutions Code § 10605, she has the authority to enforce state and federal law.
21 Defendant Johnson is sued solely in her official capacity.

22 31. ***Defendant California Department of Health Care Services (“DHCS”)***
23 is a State agency duly organized and existing under the laws of the State of California.
24 DHCS is the single state agency responsible under federal law for the administration
25 of California’s Medicaid program (“Medi-Cal”).
26
27

28 ⁸ Cal. Welf. & Inst. Codes §§ 10553, 10554, 10600, 10602.

1 32. **Defendant Michelle Baass (“Baass”)** is the Director of the California
2 Department of Human Care Services (“DHCS”). Defendant Baass’ duties include
3 supervision and control of the Medi-Cal program to secure full compliance with
4 governing laws. Defendant Baass is a public agency director responsible for operation
5 of a public entity, pursuant to 42 U.S.C. §§ 12131(1)(A) and (B). Defendant Baass is
6 sued solely in her official capacity. CalHHS, Ghaly, CDSS, Johnson, DHCS and
7 Baass are referred to as the “**State Defendants**”.

8 **IV. NAMED PLAINTIFFS’ EXPERIENCES IN THE FOSTER CARE**
9 **SYSTEM**

10 **A. Plaintiff Erykah B.**

11 33. Erykah B. is a nineteen-year-old Black young person from Los Angeles,
12 California. Born shortly after her siblings were removed from their parents’ care,
13 Erykah B. spent most of her childhood cycling between DCFS supervision and her
14 mother’s care. Despite the trauma Erykah B. has experienced in foster care, she
15 successfully graduated from high school and is currently enrolled at a trade college in
16 cosmetology. She is passionate about styling hair and dreams of finishing college and
17 opening her own salon.

18 34. Erykah B. is enrolled in Medicaid.

19 35. Erykah B. first entered foster care when she was an infant. Throughout
20 the next eight years she was placed in at least five different foster homes interspersed
21 with periods of living with her mother. She was removed from her mother for the
22 final time in 2012 and placed with the person who would become her legal guardian
23 two years later, after her parents’ family reunification services were terminated. Only
24 one of her seven siblings was placed with her and she has struggled to visit with the
25 others since then. Erykah B. told DCFS then that she did not want to be placed in this
26 home, but DCFS failed to listen, telling her there was nowhere else for them to go.
27 Although her case remained open with DCFS’ oversight, as Erykah B. predicted when
28

1 she was just eight years old, the placement proved traumatic and was marked by abuse
2 and neglect.

3 36. Erykah B. was finally removed from this home when she was seventeen-
4 years-old. By the time she turned eighteen, she had been placed in at least three
5 additional foster homes. Despite DCFS's obligation to provide her with a safe, stable
6 and appropriate placement, her time in extended foster care has been marked by
7 unstable placements and periods of homelessness.

8 37. After experiencing an attempted sexual assault in her last foster home,
9 Erykah B. experienced homelessness. She and her girlfriend slept outside for two
10 weeks before securing a short-term hotel stay. Although DCFS knew that Erykah B.
11 was unhoused during this period, DCFS did not provide her with safe emergency
12 housing options. Erykah B. also survived another attempted sexual assault on the
13 streets, but she was unable to seek help or support from DCFS because she feared this
14 information would impact her placement and service options.

15 38. In August 2022, Erykah B. was forced to move into a sober living
16 residence that did not meet her needs because DCFS had not offered her any safe,
17 stable, and appropriate placement options. As a result of DCFS's procedure of sending
18 delayed SILP checks, Erykah B. was ultimately discharged from this placement
19 without a meaningful opportunity to challenge the decision. DCFS then moved
20 Erykah B. to a shelter.

21 39. Around the same time, Erykah B. interviewed for a Transitional Housing
22 Placement Program for Nonminor Dependents ("THPP-NMD") with little support
23 from DCFS. Erykah B. found out she had been accepted to the program roughly two
24 months later, but DCFS failed to communicate Erykah B.'s interest in the placement
25 to the provider for another several weeks, by which point her spot had been given
26 away.

27 40. Since March 2023, Erykah B. has lived in a THPP-NMD program.
28

1 41. DCFS has failed in its obligation to assist Erykah B. in securing
2 supportive services. DCFS was delinquent in submitting Erykah B.'s THPP-NMD
3 applications and in requesting Erykah B.'s Medicaid and public transit cards.
4 ERYKAH B. has had only brief meetings with DCFS and feels she has had almost
5 no transition support over the last few years.

6 42. Erykah B.'s traumatic childhood, marked by dangerous placements and
7 instability, has led to diagnoses of depression and Post-Traumatic Stress Disorder
8 ("PTSD"), as well as attempted suicide. Erykah B.'s mental health conditions
9 substantially limit one or more major life activities.

10 43. The compounded trauma that Erykah B. experienced under, and as a
11 consequence of Defendants' care, has made it difficult for her to succeed in school
12 and created behavioral challenges and difficulties developing emotion management
13 skills. DCFS has failed to address Erykah B.'s trauma with appropriate mental health
14 services, despite Erykah B.'s frequent requests. Erykah B. has not had supportive
15 adults in her life willing to recognize the behavioral challenges so often associated
16 with early childhood instability and constant system involvement. Instead, DCFS
17 focuses on her behavior and seems to blame her for the challenges she is facing,
18 demonstrating lack of training or interest in trauma-responsive techniques.

19 44. Despite a difficult and unstable childhood, Erykah B. is eager to give
20 back to other foster youth. Erykah B. knows that she, and other foster youth, should
21 not have to settle for less than that to which they are legally entitled.

22 **B. Plaintiff Onyx G.**

23 45. Onyx G. is a seventeen-year-old Black and Latina young person who has
24 been involved in the foster care system since she was three years old. Despite the
25 trauma she has experienced while in foster care, Onyx G. is working hard to complete
26 her high school diploma and begin higher education. She aims to pursue a career in
27 fashion.

28 46. Onyx G. is enrolled in Medicaid.

1 47. Onyx G. has experienced multiple forms of trauma. Between the ages
2 of three and fourteen, Onyx G. was cycled by DCFS between various family member
3 placements. During this period, she experienced abuse and neglect from her
4 caregivers, including periods of homelessness. When DCFS removed Onyx G. from
5 her father's care in 2020, she had known mental health needs not uncommon for
6 children and youth in the foster care system. At just 14 years old, she was hospitalized
7 for suicidal ideation and self-harming behavior. She has received outpatient mental
8 health services from multiple agencies, as well as inpatient psychiatric
9 hospitalizations on approximately seventeen occasions.

10 48. As a result of years of abuse, neglect, and instability, Onyx G. has been
11 diagnosed with anxiety, Major Depressive Disorder, and Disruptive Mood
12 Dysregulation Disorder. These conditions substantially limit one or more major life
13 activities. She has difficulty regulating her emotions, concentrating, thinking and
14 planning. She needs special education services for her emotional needs in school.
15 She also has extreme difficulty trusting others, especially adults. She has had
16 prolonged feelings of insecurity and fear for her safety.

17 49. After Onyx G. left her first group home placement because the
18 environment was restrictive and neglectful, she was placed at a Short Term
19 Residential Therapeutic Program ("STRTP").⁹ At this placement, Onyx G.
20 experienced verbal harassment and an attempted sexual assault from her peers. Staff
21 did not employ trauma-responsive techniques, but were instead inattentive, skeptical,
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23
24 ⁹ STRTPs are residential facilities for foster youth that are licensed by the California Department of
25 Social Services. See Cal. Health & Safety Code § 1502(18). STRTPs are the most restrictive type
26 of placement that Defendants provide, as they provide specialized and intensive treatment, and
27 twenty-four-hour care and supervision in a congregate care setting. Home-based placements like
28 foster homes, on the other hand, are the least restrictive type of placement. Recognizing that foster
youth should be placed in the least restrictive family setting that promotes normal childhood
experiences and meets the youth's individual needs, the legislature intended that STRTPs be used
only as short term placements. Youth age 13 and older who are under the supervision of the
dependency court shall not remain in an STRTP more than six months, unless the Child Welfare
Deputy Director or Director has approved the case plan consistent with Welf. & Inst. Code section
16501.1(a)(3) every six months thereafter. CDSS All County Letter No. 17-122 (1/9/18)

1 and unwilling to remove the person who attempted to assault her. The STRTP
2 eventually discharged Onyx G. without adequate explanation or notice.

3 50. At subsequent STRTP placements, Onyx G. experienced further
4 harassment from peers and staff. At one STRTP, Onyx G.'s roommate destroyed her
5 electronics and soiled her bed. At another, a staff member outed Onyx G.'s sexuality
6 to the full group of residents and interrogated her about her father in front of her peers.
7 The staff member would also stare at her for long periods of time, responding that he
8 was "testing her limits" when she asked him to stop. In addition, staff would walk in
9 on residents as they were changing clothes. These experiences aggravated Onyx G.'s
10 trust issues as DCFS failed to provide a safe, stable and appropriate placement that
11 responded to the nature of Onyx G.'s childhood and adolescent trauma.

12 51. Onyx G. left her last STRTP in May 2023 after her roommate sexually
13 assaulted her and the STRTP staff's inaction left her feeling unsafe and unsupported.
14 Between May 2023 and August 2023, Onyx G. experienced homelessness, including
15 a period at a homeless shelter for foster children. In August 2023, DCFS placed Onyx
16 G. at another STRTP, where she resides currently. Due to the restrictive nature of
17 this placement type, even though Onyx G. soon will become a legal adult, she will
18 have to inform program staff any time she wishes to leave the facility to avoid being
19 found in violation of program rules.

20 52. Onyx G. was supposed to receive mental health treatment and trauma-
21 responsive support; she instead was betrayed by the adults who were meant to protect
22 her. Defendants often misrepresent and dehumanize youth when youth feel like they
23 need to leave unsafe placements, referring to youth as "A.W.O.L." What Defendants
24 characterize as "going A.W.O.L" is in reality a trauma response by a young person
25 rightfully mistrustful of social service systems. Here, Defendants stood idly by while
26 programs with whom they contracted failed to meet Onyx G.'s basic needs.

27 53. Onyx G. has effectively been left with no options but to remain in an
28 STRTP until she turns eighteen, when she becomes eligible for THPP-NMDs. Even

1 then, however, she faces dismal prospects of securing one of the scarce placements,
2 particularly because Defendants' discriminatory policies weed out applicants with
3 mental health needs and trauma symptoms. Onyx G. also faces major obstacles to
4 accessing a Supervised Independent Living Setting ("SILP"), the other primary
5 placement option for foster youth aged eighteen to twenty-one, because she does not
6 have friends or family whose homes could serve as an appropriate SILP and she does
7 not have sufficient income or credit history to find a private landlord who would lease
8 to her. All of these obstacles should have been mitigated through appropriate case
9 planning.

10 54. DCFS was aware of Onyx G.'s disabilities and knows that Onyx G.'s
11 experiences in STRTPs are tragically common, yet DCFS continued to cycle her
12 through multiple inadequate and dangerous STRTP placements, demonstrating
13 Defendants' indifference to her need for safe, stable and appropriate placement in the
14 least restrictive environment. Onyx G.'s early childhood instability, coupled with the
15 sheer number of short-term placements have put Onyx G. at clear risk for
16 homelessness, stunted her emotional development, exacerbated existing mental health
17 conditions, and limited her ability to meet her educational and professional goals. Yet
18 her self-advocacy has been frequently dismissed by DCFS.

19 55. DCFS has offered Onyx G. unstable and untenable placements that are
20 miles from Los Angeles, where she attends school in person, or the option to return
21 to prior placements that she knows do not meet her needs.

22 56. While Onyx G. has been under DCFS's care, DCFS has failed to provide
23 her with legally compliant case plans and transition plans and she has received
24 inadequate independent living skills training—generic life skills worksheets, for
25 instance, which often felt more like punishment than helpful instruction.
26 Furthermore, Onyx G. has experienced bias while in foster care and her racial identity
27 has not been supported. For example, in various placements, Onyx G. was
28 reprimanded to maintain better hygiene, but she was not given an opportunity to learn

1 how to take care of her Afro-textured hair until she was placed in an STRTP that
2 happened to have several Black staff members.

3 57. Onyx G. did not receive adequate mental health support while under
4 DCFS's care, despite DCFS's knowledge that Onyx G. needed intensive, trauma-
5 responsive, field-based mental health services with 24-hour crisis response, and her
6 clear and specific request for cognitive behavioral therapy and anger management
7 programs, which she never received. The limited therapy she has received has been
8 inadequate, sporadic, and even harmful. Onyx G.'s STRTPs not only failed to
9 appropriately support her in the development of a healthy identity in her adolescence
10 and transition to adulthood; they actively harmed her. In addition, Onyx G.'s housing
11 instability caused by DCFS have forced her to go prolonged periods without access
12 to her medication, which only worsened her mental health conditions.

13 58. Onyx G. has conveyed disappointment to DCFS that she never got the
14 chance to live with a foster family, the least restrictive placement for transition age
15 foster youth in out-of-home care. DCFS told Onyx G. that she was rejected from
16 family-based placements because of her behavioral record, even though she has
17 worked tirelessly to process her trauma, improve her mental health, and channel her
18 behavior into positive outlets. Intensive, developmentally appropriate wraparound
19 services, rooted in a trauma-responsive approach, would have made it more likely that
20 Onyx G. could live safely, comfortably, and permanently in a least restrictive, family-
21 based placement. Instead, she was never given a chance to learn and demonstrate
22 improved coping and behavioral management skills in a family setting.

23 59. Onyx G. is passionate about making sure that all young people have
24 stable housing and that foster youth are empowered with real, relevant life skills
25 needed to succeed in adult life.

26 60. Onyx G. currently brings this action through her Next Friend, Craig
27 Schultz.

28 **C. Plaintiff Rosie S.**

1 61. Rosie S. is a twenty-year-old Latina expecting mother. She has been
2 involved in the foster care system since she was eight years old. She is expecting a
3 child and is looking forward to bonding with her new baby in a safe, stable and
4 appropriate placement. Despite the trauma that she has experienced while in foster
5 care, Rosie S. plans to pursue a career in youth advocacy.

6 62. Rosie S. has been eligible for Medicaid since birth, though as a result of
7 DCFS's failure to transfer her Medicaid with her SILP placement in Nevada, she was
8 without Medicaid for six months during the time she was pregnant. As of April 2023,
9 she has been re-enrolled in Medicaid.

10 63. Rosie S.'s childhood had the hallmarks of trauma and instability that
11 DCFS is accustomed to seeing in children entering foster care, including early
12 childhood abuse and neglect, family violence, frequent moves, and unstable
13 placements. She entered DCFS's care at eight-years-old and cycled between foster
14 homes and family members, ending with a placement with her grandmother in Los
15 Angeles.

16 64. Although Rosie S. had a close bond with her grandmother, when Rosie
17 S. turned eighteen, her relationship with her grandmother was disrupted and Rosie S.
18 left the home. Subsequently, Rosie S. experienced homelessness and "couch surfed"
19 at friends' houses for over a year. Structural difficulties in navigating re-entry
20 prevented Rosie S. from entering extended foster care for over a year.

21 65. Rosie S. entered extended foster care in September 2022, at the age of
22 nineteen. Instead of assisting Rosie S. in transitioning out of homelessness, DCFS
23 failed to offer her a safe, stable and appropriate placement, in violation of its legal
24 duties to Rosie S.¹⁰ DCFS only referred her to homeless shelters, which are not

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¹⁰ CDSS All County Letter 19-105 provides in relevant part: "If, at the time the [reentry] agreement is signed, a youth does not have safe, appropriate housing and presents with a need for placement, the placing agency is responsible for immediately offering a placement to the NMD prior to a re-entry hearing. [. . .] The placing agency may provide a list of available housing options to the NMD; however, the agency continues to be responsible for immediately offering an available placement."

1 placements. DCFS also failed to provide her with developmentally attuned, trauma-
2 responsive services and supports. DCFS failed to let Rosie S.'s self-assessment of
3 her needs guide their placement search; instead, they imposed ill-fitting options onto
4 Rosie S., adopting a "take it or leave it" mentality. All of these obstacles should have
5 been mitigated through appropriate case planning.

6 66. Around October 2022, Rosie S.'s grandmother allowed her to move back
7 in temporarily. Despite knowing that their relationship was strained at times, DCFS
8 did not provide supportive services to stabilize the placement or find Rosie S.
9 alternative placement. Predictably, Rosie S.'s relationship with her grandmother
10 deteriorated over the next few weeks until Rosie S. notified DCFS that she had found
11 a family friend willing to house her in Nevada. DCFS failed to recognize the trauma
12 impacting Rosie S. and her placement with her grandmother; therapeutic supports,
13 proactive intervention, and trauma-responsive practices may have made reunification
14 with her grandmother a stable placement option.

15 67. After effectively consigning Rosie S. to find *herself* a placement in a
16 different state instead of providing a safe, stable and appropriate placement in Los
17 Angeles County near her limited support systems, DCFS continued to delay fulfilling
18 its legal responsibility to support her. It took about a month for the Nevada residence
19 to be approved as a SILP and another two months for Rosie S. to start receiving SILP
20 benefits. Since that time, she has had ongoing issues with receiving her SILP
21 payments; to date, she has received four of the seven checks that she should have
22 received. Although Rosie S. has been eligible for an Expectant Parent Payment since
23 July 2023 to assist her in preparing for the birth of her baby, she still has not received
24 it. Additionally, Rosie S. repeatedly told DCFS that she did not have health insurance;
25 DCFS did nothing to help her secure it.

26 68. Rosie S.'s SILP in Nevada was meant as a temporary situation to help
27 Rosie S. avoid homelessness. She has now been there for nine months. Rosie S.
28 laments how long she has been away from her support network in Los Angeles and

1 describes her placement as feeling impermanent. From the outset, she hoped to move
2 back to Los Angeles to be closer to her support network. As a result of the delay, it
3 has been difficult to re-enroll in school or keep a job. Additionally, Rosie S. has
4 braces. Despite DCFS's obligation to provide for Rosie S.'s orthodontia treatment,
5 she has not been able to obtain treatment since being forced to leave her
6 grandmother's home and she cannot resume treatment until she is in a more permanent
7 placement.

8 69. Since re-entering DCFS's care, Rosie S. has continually expressed her
9 desire to be placed at a THPP-NMD in Los Angeles. Rosie S. in fact completed
10 applications for THPP-NMDs without any guidance or support from DCFS. Shortly
11 after re-entering care in October 2022, she provided the applications to DCFS to
12 submit to its contracted transitional housing providers per policy, but DCFS never
13 informed her if she had been accepted into a THPP-NMD placement. Rosie S. later
14 learned that DCFS had never submitted the applications she had diligently and
15 independently prepared. Months later, DCFS finally submitted the THPP-NMD
16 applications, but DCFS informed Rosie S. that none of their THPP-NMD providers
17 had any openings for parenting youth. Rosie S. was not provided with written notice
18 of the denials of her THPP-NMD applications, nor was she afforded an opportunity
19 to contest those determinations. Due to DCFS's lack of safe and stable placements
20 appropriate for expecting and parenting transition age foster youth, the THPP-NMD
21 placement option was foreclosed to Rosie S., and DCFS failed to offer her an alternate
22 placement that would have met Rosie S.'s needs.

23 70. In July 2023, approximately nine months after Rosie S. re-entered foster
24 care, Rosie S. finally was accepted into a THPP-NMD program in Los Angeles.
25 DCFS plans to move Rosie S. into the new placement at the end of August 2023,
26 which will be nearly a year after she re-entered foster care.

27 71. Rosie S. has been diagnosed with major depressive disorder, anxiety,
28 trichotillomania, and mood disorders. These conditions and her experience of trauma

1 substantially limit one or more major life activities. Despite this, DCFS has
2 continuously failed to successfully connect Rosie S. with a therapist. Furthermore,
3 failing to find Rosie S. a safe, stable and appropriate placement in Los Angeles and
4 removing her from her, albeit limited, social support systems, especially while
5 pregnant, risks aggravating existing trauma, prolonging instability, and potentially
6 augmenting multigenerational trauma.

7 72. Despite a traumatic childhood and ongoing housing instability, Rosie S.
8 is an optimistic young person eager to secure safe, stable and appropriate placement
9 and advocate for similarly positioned youth. She is reflective on her life experiences
10 and is adamant that there should be emergency placement options besides shelters for
11 transition-aged foster youth. She believes deeply that all young people are entitled to
12 safe, stable and appropriate placement, and that people can make their best decisions
13 only when they are not worried about where they are going to sleep at night. She is
14 passionate about foster care reform and wants no other young person to have to endure
15 what she has.

16 **D. Plaintiff Jackson K.**

17 73. Jackson K. is a nineteen-year-old Latino young person in foster care who
18 resides in Riverside County, in this judicial district. His primary language is
19 American Sign Language (“ASL”). Despite Jackson K.’s experience of trauma while
20 in foster care, he successfully graduated from high school in June 2023 and aims to
21 attend college in New York to pursue a degree in criminal justice.

22 74. Jackson K. is enrolled in Medicaid.

23 75. Jackson K. entered DCFS care in 2007 after his biological mother went
24 to prison. He was adopted in 2009. During the twelve years spent with his adoptive
25 family, his adoptive mother was the only person in the family who became fluent in
26 ASL.

27 76. Tragically, his sole lifeline, his adoptive mother, passed away when
28 Jackson K. was nine years old. Jackson K. struggled to find support in the years after

1 her death, particularly because his adoptive family had not learned ASL. Following
2 some conflicts, Jackson K.'s adoptive father kicked him out of the house in early
3 2022.

4 77. After being forced to leave home, Jackson K. stayed in a hotel for two
5 weeks until he moved into a youth shelter after he ran out of money or other options.
6 He had to drop out of his last semester of high school because he no longer had a
7 stable place to live. Jackson K. lived in shelters for nearly two months before a court
8 granted his request to re-enter foster care.

9 78. Despite DCFS's obligations to provide Jackson K. with supportive
10 services and safe, stable and appropriate placement in extended foster care, DCFS
11 continually failed to account for Jackson K.'s individual needs, particularly his need
12 for ASL interpretation services.

13 79. In May 2022, Jackson K. was moved from the shelter to a DCFS-
14 contracted hotel after an incident left him feeling unsafe. Shortly thereafter, Jackson
15 K. called the police to report that people were bullying him online. When the police
16 arrived, Jackson K. attempted to describe the bullying and the impact it had on him.
17 Due to a lack of police ASL interpreters, he was mistakenly sent to a psychiatric
18 hospital without any explanation as to why he was being transported to a hospital.
19 After his hospitalization, he agreed to attend therapy, but his appointment was
20 canceled because the provider could not secure an ASL interpreter.

21 80. In addition, DCFS forced Jackson K. to complete his THPP-NMD
22 applications alone and follow up with each provider independently. DCFS gave
23 Jackson K. links to applications in English but failed to provide him with an
24 interpreter or other support to complete the application process. Even when DCFS
25 finally provided Jackson K. with an ASL interpreter for his THPP-NMD orientation
26 and interviews in July 2022, the language barrier proved exceedingly difficult.
27 Jackson K. received denial after denial from THPP-NMDs in Los Angeles County
28

1 because of the lack of available safe, stable and appropriate placements and DCFS's
2 indictment of Jackson K. as behaviorally challenged.

3 81. DCFS similarly failed to identify resource family placements for
4 Jackson K. For example, one resource parent declined to take Jackson K. due to
5 concerns about possible behavioral problems. Jackson K. did not have an opportunity
6 to present his side of the story or otherwise challenge the denial of placement. The
7 other placements DCFS identified for Jackson K. were inappropriate for a variety of
8 reasons, including age limitations, insufficient ASL services, and a requirement that
9 he close his dependency case, despite having just opened it to obtain additional
10 support.

11 82. Jackson K. was ultimately accepted into a THPP-NMD program in
12 Riverside County. After moving in, however, Jackson K. was once again a victim of
13 an internet prank where someone called a fake welfare check on him, which led to
14 Jackson K. being tackled by a police officer due to a miscommunication with the
15 police, who were not using an ASL interpreter.

16 83. The THPP-NMD provider gave Jackson K. a three-day notice to vacate
17 that did not cite any program rules that Jackson K. had violated and noted that it was
18 his responsibility to find housing once he was discharged. Although the THPP-NMD
19 knew that Jackson K. required ASL interpretation, the notice to vacate referred to
20 verbal warnings without specifying whether an interpreter was present or whether any
21 communications about program rules were also provided in ASL.

22 84. Ultimately, the THPP-NMD provider reluctantly withdrew its unlawful
23 notice and worked with Jackson K. to support his needs. Although Jackson K. has
24 resided at the THPP-NMD for a year, his housing situation remains tenuous because
25 of the lack of due process protections and inadequate supportive services to help him
26 maintain his placement.

27 85. Jackson K. has lived with the disability of deafness his entire life. He
28 experienced a devastating loss of a loved one during his childhood. He has also

1 experienced the traumas of improper police interaction, which resulted in the further
2 traumas of police violence and involuntary psychiatric restraint. Jackson K.'s
3 experiences of trauma substantially limit one or more major life activities. He wants
4 to be a class representative to ensure the hardships and dismissals he experienced do
5 not happen to other young people.

6 **E. Plaintiff Ocean S.**

7 86. Ocean S. is a twenty-year-old Black mother in extended foster care.
8 Despite her experience of trauma in foster care, Ocean S. is working towards
9 becoming a phlebotomist and is passionate about nursing.

10 87. Ocean S. is enrolled in Medicaid.

11 88. Ocean S.'s early life was mired in instability - she experienced abuse and
12 neglect from an early age. She lost a sister to gang violence. She attended six
13 different elementary schools, two middle schools, and three high schools, all by age
14 fifteen. She and her family experienced bouts of homelessness. She has a history of
15 sexual trauma.

16 89. In 2018, she was declared a dependent of the juvenile court due to abuse
17 by her mother, and lack of care and supervision. She was declared a NMD in
18 September 2020 and on information and belief, she received limited to no transition
19 planning.

20 90. Ocean S. has been diagnosed with mood disorders, insomnia, PTSD, and
21 major depression. Her mental health conditions and her experience of trauma
22 substantially limit one or more major life activities.

23 91. Ocean S. has been in at least seven placements since her initial removal
24 from her mother's care, including shelters and group homes. DCFS has moved her
25 around indiscriminately, without considering her actual needs and goals. At one
26 placement, she was discharged for pregnancy; at another, she was exited for inviting
27 a guest whom the facility deemed problematic. These are not reasons youth should
28 be left unhoused. Ocean S. has had to find many of her own placements, without help

1 from DCFS. Her family instability, coupled with poorly tailored placements, and the
2 feeling that no one has been looking out for her, have caused Ocean S. to question
3 adults' motives.

4 92. Many of Ocean S.'s placements were marked by violence. For example,
5 Ocean S. had to press charges against another resident in one of her transitional living
6 programs because of the resident's violent behavior against her. At other placement,
7 she was exited with little notice and for unclear reasons. These issues are especially
8 troubling given that Ocean S. is parenting; she had a three-year-old daughter.

9 93. Periodically, DCFS asked Ocean S. to complete THPP-NMD
10 applications, but for an extended period, Ocean S. was not accepted to any of these
11 programs. DCFS encouraged Ocean S. to explore a SILP but she did not know anyone
12 who could rent her a room, she was uncomfortable with the idea of her infant daughter
13 sharing an apartment with a stranger, and she could not afford to rent an apartment on
14 her own.

15 94. Ocean S. was temporarily incarcerated while in care, and even after she
16 was eligible for release, she had to remain incarcerated for a period of time due to the
17 lack of safe, stable, and appropriate placements.

18 95. Ocean S. was finally able to enter a THPP-NMD program after she
19 learned that a peer's provider had openings in their program and requested that DCFS
20 submit an application on her behalf to that specific program. After moving in with
21 her daughter, however, Ocean S.'s then-partner visited her at her unit and physically
22 assaulted her. Ocean S.'s strained relationship with her family has eroded her trust in
23 others, caused severe isolation, and left her vulnerable to domestic violence.

24 96. Due to the domestic violence and perceptions of how Ocean S.
25 responded to the violence, and in close consultation with DCFS, the THPP-NMD
26 ultimately terminated Ocean S.'s participation in the program.

27 97. At the time Ocean S. was pushed out of the THPP-NMD, DCFS failed
28 to offer Ocean S. an alternate placement and supportive services. Instead, DCFS

1 offered Ocean S. only domestic violence shelters. Consequently, Ocean S. was forced
2 to live in a motel for several months. She struggled to find a safe, stable and
3 appropriate placement, particularly because her daughter had been removed from her
4 care. Although she was eagerly working to get her daughter back, Ocean S. was
5 caught in a vicious cycle—she could not get her daughter back without stable housing,
6 but she was ineligible for placements for herself and her child without having physical
7 custody.

8 98. In June 2023, Ocean S. moved into a SILP-funded apartment.

9 99. DCFS has done little to support Ocean S.’s efforts to find safe, stable and
10 appropriate placement or to plan for her aging out of extended foster care next month.
11 Ocean S. conducted extensive research to try to find a placement. On numerous
12 occasions, DCFS suggested that her only option was to check into a domestic violence
13 shelter, or that she needed to check into a shelter before she would be eligible to stay
14 in a DCFS-contracted hotel.

15 100. Ocean S. has suffered the effects of compounded trauma—unstable and
16 violent parents and partners, the loss of a sibling, homelessness, domestic violence
17 and separation from her child. She has had few stable, positive adult figures in her
18 life. She has been blamed repeatedly for her predicament, demonstrating that DCFS
19 is not utilizing trauma-responsive techniques. Trauma-responsive social work
20 recognizes that one’s early life experiences can engender behavior that seems
21 agitated, uncooperative, mistrustful, or even violent. Social workers must be trained
22 to engage youth and to work with DMH staff to connect youth to needed therapy and
23 support. Domestic violence is a complicated phenomenon requiring trauma-
24 responsive care. DCFS has failed to provide Ocean S. the care necessary to navigate
25 these challenges and develop the tools necessary for future success and stability.

26 101. Instead of providing Ocean S. with the support she needs, DCFS has
27 treated her as defiant. Although Ocean S has repeatedly requested that DCFS provide
28 referrals for long-term therapeutic programs, Ocean S.’s lack of continuity of care due

1 to placement instability has interfered with her ability to benefit from services. Her
2 therapy has been inconsistent and sporadic, often with long wait times. On the rare
3 occasions when therapists have taken the time to develop rapport with Ocean S., her
4 behavior has settled, and she has been able to invest comfortably in her treatment. All
5 of these obstacles should have been mitigated through appropriate case planning.

6 102. Ocean S. has chosen to participate in this lawsuit because she wants to
7 ensure no other young people are treated the way she has been treated and to show
8 her daughter that everyone is entitled to safe housing and supports that meet their
9 needs.

10 **F. Plaintiff Junior R.**

11 103. Junior R. is a twenty-year old, mixed race young person in extended
12 foster care. Junior R. has lived through frequent moves, family instability, and a
13 failure to have his basic needs met. Although Junior R.'s placement instability and
14 his experiences of trauma while in foster care have made his continued education
15 virtually impossible, Junior R. remains hopeful for the future, and he is aiming to
16 finish school this fall.

17 104. Junior R. is enrolled in Medicaid.

18 105. Junior R.'s early life was marked by instability. At just eight years old,
19 he was removed from his mother's care after witnessing and experiencing physical
20 violence in the home. Over the next six years, he was placed with his father, and then
21 his grandmother. In early 2018, he re-entered foster care after his grandmother's legal
22 guardianship was terminated.

23 106. Since then, Junior R. has cycled through various placements, including
24 a THPP-NMD program that he identified without the aid of DCFS and several
25 STRTPs. Junior R. was forced to leave the THPP-NMD program in November 2022
26 for alleged marijuana use and the use of profanity. DCFS and the transitional housing
27 provider did not provide Junior R. with a meaningful opportunity to be heard or to
28 otherwise challenge the discharge decision, and he was left without recourse.

1 107. Junior R. juggled homelessness and a brief hotel placement before
2 moving into a housing program for youth in Los Angeles with SILP funding. This
3 program imposed onerous conditions, including a no guest policy. Junior R. was
4 forced to leave this program in February 2023 largely due to the cleanliness of his
5 unit. Prior to his discharge, he did not receive any stabilization meetings or Child and
6 Family Team meetings (“CFTs”), which are the cornerstone of California’s integrated
7 core practice model.¹¹ He was discharged without adequate notice or any opportunity
8 to contest the loss of placement.

9 108. As a result, Junior R. again experienced homelessness and lived in
10 various short-term hotels across Los Angeles County, some contracted with DCFS
11 and some not. In violation of its legal duties, DCFS failed to offer Junior R. a safe,
12 stable and appropriate placement upon learning that he was unhoused, instead offering
13 only shelters. The few non-shelter placement options that DCFS identified for Junior
14 R. were inappropriate or unworkable. For example, despite knowing that Junior R. is
15 not Christian, DCFS offered him an unlicensed housing program that required its
16 residents to attend Christian church on a weekly basis. DCFS identified another
17 unlicensed housing program for Junior R. that he could not afford because rent was
18 one thousand dollars (\$1,000 U.S.D.) per month and the monthly SILP payment
19 available at the time, meant to help pay for both housing and all other living expenses,
20 was only one thousand one hundred and twenty-nine dollars (\$1,129 U.S.D.).

21 109. Eventually, DCFS reluctantly agreed that Junior R. would be permitted
22 to interview with one of DCFS’s THPP-NMD providers. After the interview, Junior
23 R. learned that his application had been rejected due to comments he made during the
24 interview, including him questioning why the program was run like a group home.
25 Junior R. was not permitted any opportunity to challenge the denial of placement.
26 After Junior R.’s THPP-NMD application was rejected, DCFS urged that he consider
27

28

¹¹ Cal. Welf. & Inst. Code § 16501(a)(5)

1 the reality of DCFS's limited placement capacity in Los Angeles County. DCFS also
2 threatened to seek closure of Junior R.'s dependency case if he did not resume work
3 or school soon, despite his homelessness.

4 110. Instead of continuing to look for a safe, stable and appropriate placement
5 or extending emergency hotel aid for Junior R., DCFS moved him back to his
6 grandmother's care in April 2023, despite her legal guardianship having been
7 terminated years earlier. This was not a trauma-responsive plan attuned to Junior R.'s
8 needs and experiences. Junior R. was wary of the placement and anticipated potential
9 tension because he knew he and his grandmother did not share the same religious
10 beliefs. Junior R. asked to visit the home and to negotiate an expectations list with
11 his grandmother before moving back in. However, move-in was rushed and DCFS
12 did not fulfill either of these requests. Predictably, conflict escalated between Junior
13 R. and his grandmother, and he experienced threats of physical harm. Within a few
14 months, Junior R. left his grandmother's home and DCFS agreed to transport him to
15 a friend's home in a town over an hour from Los Angeles. Junior R. has been able to
16 receive SILP benefits through this placement.

17 111. Junior R. has been diagnosed with depression, anxiety, and attention
18 deficit hyperactivity disorder. His placement instability has caused him to experience
19 panic attacks and suicidal ideation. Junior R.'s mental health conditions and
20 experiences of trauma substantially limit one or more major life activities. Yet, DCFS
21 has failed to help him adequately access the supports and services he needs. Junior
22 R. had to ask DCFS to make referrals for therapy for months before he was finally
23 able to connect with the services he needs.

24 112. Throughout Junior R.'s time in care, DCFS failed to provide him with
25 adequate transition planning support. DCFS failed to ensure Junior R. had a safe,
26 stable and appropriate placement at all times. DCFS placed unrealistic educational
27 and work expectations on Junior R. despite knowing of his tremendous placement
28 instability. In April 2023, after repeated threats, DCFS asked the court to close Junior

1 R.'s case due to alleged noncompliance with extended foster care participation
2 criteria¹² because he was not in school or employed. It is unreasonable to expect
3 Junior R. to have been able to maintain full-time school attendance or employment
4 when he was being shuttled between shelters and motels. Junior R. has experienced
5 bias in his interactions with DCFS and his racial identity has not been affirmed and
6 supported.

7 113. Junior R. has been rejected from placements for asking questions to
8 determine if the placement would be a good fit and because DCFS informed its
9 prospective placement providers of Junior R.'s prior discharges and loss of placement.
10 For example, one THPP-NMD rejected Junior R. because of its perception of his
11 reputation from prior placements. DCFS has failed to communicate Junior R.'s
12 specific, individual needs to each prospective placement, coordinate with DMH, or
13 serve as a champion and advocate for him. DCFS's systematic practice of informing
14 prospective placement providers about a transition age foster youth's previous
15 placement discharges, without providing the youth the opportunity to explain their
16 version of those events or to ask for any needed accommodations, predictably results
17 in youth like Junior R. being denied placement opportunities.

18 114. Junior R.'s history of instability and neglect has made him wary and
19 untrusting of adults. His time in foster care has been defined by placements that do
20 not meet his needs. When Junior R. has advocated for himself and his needs, DCFS
21 has dismissed him as stubborn and problematic. For example, DCFS has repeatedly
22 expressed frustration when Junior R. turned down placements, even though he had
23 legitimate reasons for doing so, such as concerns about religious intolerance, lack of
24 privacy, or unaffordability given his limited resources. Instead of situating Junior
25

26 ¹² Foster youth must meet one of five Participation Requirements to maintain eligibility for the
27 Extended Foster Care program: 1. Work toward completion of secondary education or an
28 equivalency program; 2. Enroll in an institution that provides postsecondary or vocational
education; 3. Participate in a program or activity designed to promote or remove barriers to
employment; 4. Be employed at least 80 hours per month; or 5. Be unable to do any of the above
due to a verified medical condition. Cal. Welf. & Inst. Code § 11403.

1 R.'s behavior as emergent from his needs and experiences, DCFS has routinely
2 blamed Junior R. for his situation and provided poor alternatives.

3 115. Junior R. wants the foster care system to provide needed placements and
4 services to youth.

5 **V. DEFENDANTS FAIL TO MEET THEIR LEGAL OBLIGATIONS TO**
6 **TRANSITION AGE FOSTER YOUTH**

7 **A. Under State and Federal Law, Defendants Are Responsible for the**
8 **Administration, Oversight, and Provision of Safe Stable and**
9 **Appropriate Placement and Medicaid Services to Transition Age**
10 **Foster Youth.**

11 116. California has a complex foster care system that regulates when the
12 government removes children and youth from their families for abandonment, abuse,
13 or neglect. The purpose of California's foster care system is to provide for the care,
14 placement, and protection of the children and youth entrusted to the State's care.
15 Federal and State law places responsibilities on government agencies to ensure safe,
16 stable and appropriate placements and care for transition age foster youth at all times.

17 117. The federal government provides the largest single source of funding for
18 California's foster care system through Title IV-E of the Social Security Act. Long
19 established federal legal frameworks mandate specific responsibilities to states that
20 accept federal dollars to administer foster care programs, including the obligation to
21 comply with federal requirements under AACWA.

22 118. To comply with the federal funding requirements, California designated
23 CDSS, a department of CalHHS, to be the single state agency responsible for
24 administering the State foster care system.¹³ CDSS is responsible for licensing and
25 overseeing placement programs and services in California for youth in foster care,
26
27

28

¹³ 42 U.S.C. § 671(a)(2).

1 including establishing and maintaining standards for foster family homes and
2 childcare institutions. DCFS administers those programs at the County level.

3 119. CDSS and DCFS, together with DHCS and DMH, are public agencies
4 that all accept federal dollars¹⁴ and are responsible for ensuring that youth in the foster
5 care system with mental health conditions are served in accordance with federal law,
6 including the ADA and Section 504. Medicaid is the primary payer for a wide range
7 of medical, behavioral health, and supportive services health care for foster children.
8 The importance of coordination between the agencies responsible for the foster care
9 system and the Medicaid program cannot be overstated, as both programs have duties
10 to identify and meet the health and mental health needs of transition age foster youth,
11 as well as to coordinate and oversee the delivery of these services.

12 **B. Defendants Must Provide Safe and Stable Placement and Services**
13 **that Are Appropriate for the Needs of Transition Age Foster Youth.**

14 120. Defendants' programs for transition age foster youth must account for
15 the developmental and psychological realities of adolescence, especially when a
16 youth has compounded experiences of trauma. Both before and during their time in
17 foster care, transition age foster youth are highly likely to have experienced complex
18 trauma, a term that describes children's exposure to multiple traumatic events, often
19 interpersonal in nature, as well as the impact of this exposure. When unaddressed,
20 the neurobiological effects of trauma exposure often substantially impact activities
21 such as emotional self-regulation, concentration, sleep, verbal processing and
22 communication, and cognition. The impact of trauma often delays the development
23 of coping skills necessary for independence. The wounds inflicted by disruption and
24 trauma caused by Defendants may be invisible, but they are unmistakably revealed
25 by brain imaging of children exposed to traumatic experiences such as abuse,
26 abandonment, and neglect.

27
28 _____
¹⁴ Cal. Code Regs. tit. 22 § 50004.

1 121. Fundamental brain development takes place during adolescence,
2 including the development of brain functions that govern reasoning, decision-making,
3 judgment, and impulse control. The vital need for sustained support during this period
4 of “emerging adulthood” is even more pronounced for transition age foster youth,
5 who generally cannot rely on traditional familial structures. Transition age foster
6 youth sorely lack necessary life skills. They often struggle with long term planning.

7 122. These manifestations of adolescence and trauma are well-known. Due
8 to transition age foster youth’s developmental needs, Defendants must ensure such
9 youth can access the safe, stable, and appropriate placement, supports, and services
10 they need for their safety and well-being at all times.

11 **C. Defendants’ Failure to Meet Their Obligations to Transition Age**
12 **Foster Youth Results in a Foster Care to Homelessness Pipeline.**

13 123. Roughly one in every five transition age foster youth in California
14 reports experiencing homelessness while in extended foster care. In 2022, more than
15 4,200 youth aged sixteen to twenty-one years old were in foster care in Los Angeles
16 County. Based on the best available data, more than 1,000 of these young people will
17 become unhoused at least once while in Defendants’ care.

18 124. The harmful impacts of Defendants’ failures to meet their legal duties to
19 transition age foster youth are pronounced and concrete, including harms from being
20 cycled through multiple unsuitable placements, loss of important relationships, abuse
21 and neglect while in care, and homelessness. The longer young people endure
22 homelessness, the more they are exposed to numerous adversities, traumas, and
23 survival risk behaviors, and the greater their risk for re-entering homelessness once
24 they do get housed. Nationally, almost two-thirds of transition age foster youth who
25 experienced homelessness also reported being physically assaulted, robbed, sexually
26 assaulted or raped, or threatened with a weapon while unhoused. Without the support
27 of an effective extended foster care program, youth are also more likely to drop out
28

1 of school, struggle with mental health conditions and substance abuse disorders,
2 experience unemployment, and enter the criminal justice system.

3 125. In addition, the harms of Defendants’ failures disproportionately fall on
4 already marginalized youth—youth of color, queer youth, pregnant and parenting
5 youth, and youth with disabilities—as these youth are vastly over-represented in the
6 Los Angeles County foster care population. Out of the 2,460 youth ages eighteen to
7 twenty-one in extended foster care in Los Angeles County in 2022, eighty-six percent
8 (86%) were Black or Latino (32% Black and 54% Latino). Roughly one in five foster
9 youth in transitional placements for nonminor dependents in 2021 identified as
10 LBGTQ+. That same year, there were over 250 youth, ages 10 to 20, who were
11 themselves parents and in foster care in Los Angeles County.

12 126. Defendants’ failures are numerous and interrelated. As a threshold
13 matter, Defendants do not have a minimally adequate array of safe and stable
14 placements for all the transition age foster youth in their care, resulting in major
15 placement instability for those youth. Defendants exacerbate placement instability by
16 maintaining arbitrary application and termination procedures that deny youth their
17 right to contest denial of placement. Placement instability is also exacerbated by
18 DCFS’s failure to assist transition age foster youth with case planning and transition
19 planning for safe, stable and appropriate placement and a variety of other services,
20 including healthcare and mental health services.

21 127. Treacherous for all transition age foster youth, Defendants’ policies and
22 practices are particularly egregious for pregnant and parenting youth, who are denied
23 access to placement where they can live with their children. Outcomes are even worse
24 for transition age foster youth with mental health disabilities. Defendants’ policies
25 and practices erect barriers that make it difficult for youth with mental health
26 disabilities to access placement, remain in placement, and avoid placement in unduly
27 restrictive settings.

28

1 128. Finally, placement instability is compounded by Defendants' failure to
2 provide necessary mental and behavioral health services to transition age foster youth,
3 which also contributes to youth's unnecessary placement challenges.

4 **VI. DEFENDANTS' FAILURE TO DEVELOP A MINIMALLY**
5 **ADEQUATE ARRAY OF SAFE AND STABLE PLACEMENTS**
6 **PUSHES TRANSITION AGE FOSTER YOUTH INTO**
7 **HOMELESSNESS**

8 129. Defendants have failed to develop even a minimally adequate array of
9 safe and stable placements in violation of transition age foster youth's substantive due
10 process rights. DCFS's failure to develop such an array of placements results in long
11 placement delays and exposes transition age foster youth to a grave risk of
12 homelessness and other harms. In further violation of Defendants' duty to transition
13 age foster youth, Defendants fail even to evaluate the adequacy of their placement
14 resources or to assess whether they have an adequate number of safe and stable
15 placements to meet the needs of all of the transition age foster youth in care.¹⁵
16 Defendants also fail to maintain sufficient emergency placements for youth who
17 unexpectedly lose their placement. Defendants have been aware of the need to
18 increase the number of safe and stable placements for transition age foster youth since
19 2018, if not earlier, and have failed to ameliorate these structural systemic failures.

20 **A. DCFS and CDSS Supervise and License Placements for Transition**
21 **Age Foster Youth.**

22 1. *SILP and THPP-NMD Programs Are the Primary Placement*
23 *Options for Transition Age Foster Youth Ages eighteen to twenty-*
one.

24 130. Transition age foster youth ages eighteen to twenty-one have two
25 primary placement programs available to them under California law: SILPs and
26 THPP-NMDs.¹⁶

27
28 ¹⁵ Cal. Welf. & Inst. Code § 16001(a).

¹⁶ Cal. Welf. & Inst. Code § 11400(x).

1 131. Youth in SILP settings are provided a monthly stipend that they use to
2 pay for the rent of their living arrangement once it is approved by DCFS. That stipend
3 is set and does not change even if the cost of room and board exceeds the stipend
4 amount. The youth must find a person or landlord who is willing to rent them a space
5 to serve as their SILP, which can include an apartment, a rented room, or a college
6 dorm.¹⁷ Once a youth identifies a SILP, DCFS is responsible for inspecting and
7 approving the SILP in a timely manner and for documenting the SILP in the youth's
8 case plan.¹⁸

9 132. For California's fiscal year 2022-23, NMDs could receive a monthly
10 SILP payment of one thousand one hundred and twenty-nine dollars (\$1,129
11 U.S.D.).¹⁹ Youth in SILPs must rely on the SILP payment to cover all their basic
12 living expenses, not just placement costs.

13 133. Transitional housing programs offer supervised transitional housing
14 services to youth in foster care between ages sixteen and twenty-one.²⁰ Transitional
15 Housing Placement Programs for transition age foster youth eighteen and over are
16 known as THPP-NMDs, and Transitional Housing Placement Programs for sixteen
17 and seventeen-year-olds are known as THPPs.²¹

18 134. Depending on the provider, youth in THPPs may live with certified host
19 families, at sites staffed with THPP employees, or in independent apartments paid for
20 by the THPP.²² DCFS has delegated the essential government function of providing
21 safe and stable placements for many of the transition age foster youth under DCFS's
22 care and supervision to DCFS's contracted THPP-NMD providers. Because THPP-
23 NMDs are one of only two primary placement options available to transition age
24 foster youth between eighteen and twenty-one, and because DCFS does not operate
25

26 ¹⁷ All-County Letter 11-77, p. 6.

27 ¹⁸ *Id.* at 6-7, 10.

28 ¹⁹ All-County Letter 22-59, p. 5.

²⁰ Cal. Health & Safety Codes §§ 1559.110(b)-(c).

²¹ *See* Cal. Welf. & Inst. Code § 16522.1(a)(2).

²² Cal. Health & Safety Code § 1559.110(d)(1)-(3).

1 its own THPP-NMD programs, the contracted providers’ operation of the THPP-
2 NMD programs is indispensable to DCFS’s ability to meet its duty to provide out-of-
3 home care to transition age foster youth.

4 ^{135.} To become a THPP-NMD, a provider must be certified by the county
5 and meet statutory requirements before being licensed by CDSS.²³ In particular,
6 DCFS must certify that the prospective provider would be able to “effectively and
7 efficiently” operate the program and that the plan of operation is suitable to meet the
8 needs of transition age foster youth and maintain case-manager-to-youth participant
9 ratios of one to twelve.

10 136. THPP-NMD providers’ policies, procedures, and day-to-day operations
11 are heavily regulated at the State and County level. To obtain and maintain licensure,
12 providers must adhere to CDSS’s Interim Licensing Standards.²⁴ The Interim
13 Licensing Standards govern all aspects of providers’ operations, including record
14 maintenance, procedures against assessment, selection , removal and discharge of
15 program participants, safeguarding program participants’ valuables, transportation of
16 program participants, food services; occupancy limits for bedrooms, and even the
17 provision of bed linens to program participants.

18 137. In addition to the requirements of the Interim Licensing Standards,
19 THPP-NMD providers’ operations are regulated through the providers’ contract with
20 Los Angeles County and the requirements of DCFS’s certification process for
21 providers. DCFS and its providers have undertaken a deeply intertwined process of
22 selecting youth whom DCFS and its providers deem appropriate for THPP-NMD
23 placements, providing placement to those youth, and, in many cases, refusing
24 placements for other youth deemed non-suitable or involuntarily discharging youth
25

26 ²³ Cal. Welf. Inst. Code § 16522.1(c).

27 ²⁴ CDSS Interim Licensing Standards for Nonminor Dependents in Foster Care (AB 12),
28 Transitional Housing Placement Programs, Ver. 2,
[/https://www.cdss.ca.gov/Portals/9/CCL/Childrens-Residential-Licensing/ILS/AB12-THPP-ILSVer2.pdf?ver=2021-11-04-122728-973](https://www.cdss.ca.gov/Portals/9/CCL/Childrens-Residential-Licensing/ILS/AB12-THPP-ILSVer2.pdf?ver=2021-11-04-122728-973) (retrieved 8/19/23).

1 from their placement. For example, DCFS pre-selects which transition age foster
 2 youth apply for the THPP-NMD program and helps prepare and submit their
 3 applications to the providers. DCFS convenes regular meetings with its contracted
 4 THPP-NMD providers to discuss operational issues and challenges that arise in the
 5 context of providing placement to transition age foster youth. Prior to discharging a
 6 program participant, the providers inform DCFS staff of the decision, and DCFS and
 7 the provider work together to decide on the discharge plan and timeline.

8 2. *Resource Family Homes Are the Primary Placement Option for*
 9 *Transition Age Foster Youth Ages Sixteen and Seventeen.*

10 138. Transition age foster youth ages sixteen and seventeen are not eligible
 11 for SILP and THPP-NMD programs. Although CDSS has created a Transitional
 12 Housing Placement Program (“THPP”) for foster youth ages sixteen and seventeen,
 13 DCFS does not presently contract with any THPP providers or offer any county-run
 14 THPP placements. Therefore, this placement option is foreclosed to sixteen and
 15 seventeen year old transition age foster youth in Los Angeles County.

16 139. Like NMDs, sixteen and seventeen-year-olds who have mental health
 17 disabilities do not have access to a minimally adequate array of safe and stable
 18 placements. If they need more support than what can be provided by a resource parent
 19 and outpatient services, their only real placement option is STRTP, which may be
 20 overly restrictive for many youth and which is not meant to be a long-term placement
 21 option.

22 140. The primary placement options available to sixteen and seventeen-year-
 23 old foster youth in Los Angeles County is the Resource Family Home (formerly
 24 referred to as “foster homes”). Resource Families include relatives, non-related
 25 extended family members, and foster families licensed by both DCFS and foster
 26 family agencies.

27 **B. DCFS’s Placement Options for Transition Age Youth Are Scarce**
 28 **and Inadequate.**

1 141. Despite DCFS’s duty to provide a minimally adequate array of safe and
2 stable placements for all transition age foster youth at all times, on information and
3 belief, many languish waiting for placement, forcing them into homelessness for
4 weeks—in some cases months—at a time.

5 142. Transition age foster youth encounter a number of barriers in accessing
6 SILP as a placement option. First, transition age foster youth find it challenging to
7 cover the cost of rent, food, transportation, utilities, and other basic expenses relying
8 solely on the SILP rate. Further, transition age foster youth do not have adequate
9 credit or income for most landlords to be willing to rent to them. In addition, the
10 SILP process is slow and cumbersome. DCFS generally takes at least sixty days to
11 approve a SILP and to issue funding to a transition age foster youth.²⁵ Given this
12 lengthy process, transition age foster youth cannot access SILP funds in time to pay
13 a security deposit or their first month’s rent, as would be required for most leased
14 apartments. Therefore, unless transition age foster youth are able to identify a friend
15 or relative who is willing to forego a security deposit, accept below-market rent, and
16 wait two months to receive the first payment, the SILP option is foreclosed to them.
17 Moreover, even when a youth finds a willing friend or relative, it is often not a safe
18 and stable placement and merely a stopgap solution with little security and no services
19 or support.

20 143. The other primary placement option is the THPP-NMD program. As
21 with SILP, however, Defendants’ actions and omissions have made THPP-NMDs
22 inaccessible to many transition age foster youth. On information and belief, the total
23 number of available placements is far smaller than the number of foster youth for
24 whom a THPP-NMD placement would be a safe and stable placement. Youth who
25 cannot find a SILP, or youth who can find a SILP but for whom a SILP is not
26 appropriate because they need a greater level of support in their placement, must wait
27

28 _____
²⁵ Supervised Independent Living Placement 0100-560.40 (rev.10/27/22), 10, 13.

1 indefinitely for a transitional housing program placement to become available. Due
2 to DCFS’s failure to develop a minimally adequate array of safe and stable THPP
3 placements, Plaintiffs have struggled with homelessness, living in shelters, in cars,
4 and on friends’ couches for weeks at a time. They have experienced harm while living
5 in unsafe and unsuitable settings while awaiting a safe and stable placement. Erykah
6 B.’s experience as a victim of attempted sexual assault while left to live on the streets
7 evidences the gravity of harms facing unhoused foster youth.

8 144. CDSS also has created a placement option for foster youth with
9 significant needs known as the Intensive Services Foster Care (“ISFC”) program.
10 However, on information and belief, DCFS has identified only a small number of
11 ISFC providers, and therefore ISFC is unavailable to most of the transition age foster
12 youth whose individual needs would be met by this placement option.

13 145. DCFS further violates its duty to provide safe and stable placements to
14 transition age foster youth by actively encouraging youth to access housing programs
15 through the Los Angeles Homeless Services Authority (“LAHSA”), pushing youth
16 out of extended foster care and into the already overburdened adult homelessness
17 services system. Youth have to exit extended foster care in order to access these
18 programs and lose other benefits available to them in the foster care program. DCFS
19 policy encourages social workers to direct youth to these settings,²⁶ which require
20 youth to close their foster care cases, foregoing the support and oversight of the court,
21 their lawyers, their CASAs, and their DCFS social workers.

22 **C. When Transition Age Foster Youth Become Unhoused, DCFS Fails**
23 **to Provide Safe, Emergency Housing and Support**
24
25
26
27

28 ²⁶ Los Angeles County Child Welfare Policy: *Transitional Housing Services* 0100-560.30 (Revision Date: 4/7/2017).

1 146. When a youth in foster care, including any transition age foster youth,
2 loses their placement unexpectedly, DCFS must provide them with safe emergency
3 housing to ensure that they do not experience homelessness while in care.²⁷

4 147. The California Legislature authorized counties to approve “transitional
5 living setting[s]” for transition age foster youth who are entering or reentering foster
6 care or transitioning between placements.²⁸

7 148. **A Transitional Living Setting (“TLS”)** is an emergency, non-shelter
8 setting for youth who have recently re-entered extended foster care or have
9 experienced a placement disruption and need an alternative to homelessness.²⁹
10 Transition age foster youth who are placed in a TLS can receive a monthly payment
11 equivalent to the SILP rate, which was one thousand one hundred and twenty-nine
12 dollars (\$1,129 U.S.D.) for fiscal year 2022/2023.³⁰ However, DCFS has been slow
13 to implement this program. According to data released by DCFS, between January
14 2021 and July 2023, DCFS provided direct TLS funding to only eleven transition age
15 foster youth, and DCFS issued TLS funding for a hotel on behalf of one hundred and
16 eight youth.

17 149. In addition, DCFS arbitrarily pays for a TLS placement for only seven
18 days at a time although that timeline is not found in statute, undermining the stability
19 of the TLS. At the seven-day mark, DCFS often fails to reauthorize the funding or to
20 find an alternative safe and stable placement for the youth. Moreover, emergency
21 housing is largely ad hoc, and the process takes too long to prevent homelessness
22 when placement is disrupted.

23 150. DCFS’s failure to gather meaningful data related to homelessness among
24 transition age foster youth has served as another barrier to creating sufficient
25 emergency housing. DCFS has reported that it does not know how many nonminor
26

27 ²⁷ Cal. Welf. & Inst. Code § 16001(a)(2).

28 ²⁸ Cal. Welf. & Inst. Code § 11400(x)(4).

29 ²⁹ Id. .

30 ³⁰ All-County Letter 22-59, p. 5.

1 dependents need emergency housing at a given time or whether DCFS has the
2 capacity to meet those emergency housing needs. As a result, transition age foster
3 youth and their families have had to resort to couch-surfing, vehicular homelessness,
4 and sleeping in homeless shelters for weeks at a time. For youth like Junior R., the
5 lack of safe emergency housing results in more trauma, worsening mental health, and
6 disruption of their ability to obtain employment or attend school.

7 151. Rather than implementing the TLS program in a trauma-responsive
8 manner, DCFS created a policy that unnecessarily places transition age foster youth
9 at risk of physical and emotional harm. DCFS forces transition age foster youth and
10 their social workers to prove that they have made exhaustive efforts to find a non-
11 hotel emergency housing option before agreeing to pay for a hotel. In addition,
12 DCFS's practice is to wait until the evening that a young person is to become
13 unhoused before it will agree to place the youth at a hotel.³¹ DCFS follows this
14 practice even in situations where DCFS has had months of advance notice that a
15 young person would lose their placement by a specific deadline. If all TLS contracted
16 hotel spaces are occupied, the DCFS social worker generally will instruct the youth
17 to go to a shelter. This practice unnecessarily causes transition age youth emotional
18 harm and increases the likelihood that they will experience homelessness and its
19 attendant health and safety risks.

20 152. If youth in foster care are not in an approved placement, they are
21 deprived of foster care benefits. For example, youth who are unhoused cannot receive
22 monthly SILP payments or infant supplement payments, even if the youth are
23 otherwise eligible for these benefits. The destabilizing effects of these acute periods
24 of homelessness often follow youth even after they have found a new placement. For
25 example, because the only placement Rosie S. could find as a SILP is out of state and
26 she is still waiting to be moved to a THPP-NMD placement in Los Angeles County,
27

28 ³¹ DCFS For Your Information No. 22-06 (REV), dated 3/11/22.

1 she is unable to obtain stable employment. Because DCFS delayed helping her
2 transfer her Medicaid, she was unable to obtain vital health care services, like prenatal
3 care. For Onyx G. and Junior R. their placement instability disrupted their ability to
4 finish high school. For all Named Plaintiffs, placement instability has harmed their
5 ability to create and sustain the supportive connections with others that are vital for
6 their long-term wellbeing.

7 **D. Defendants Have Deliberately Ignored the Need to Evaluate and**
8 **Expand the Number of Safe, Stable, and Appropriate Placements.**

9 153. On November 20, 2018, the Los Angeles County Board of Supervisors
10 (“Board”) unanimously passed a motion recognizing an “acute need for youth in
11 extended foster care and youth exiting foster care to have access to housing
12 programs.” In pertinent part, the motion required DCFS to report back within 90 days
13 on available funding to increase the capacity of THPP-NMD by “at least 33%.”³²

14 154. When DCFS finally reported on available funding to increase placements
15 in April 2019, it claimed that contracted providers “would be able to support a
16 capacity increase” and “accommodate more youth.” On information and belief,
17 DCFS has failed to implement these needed capacity increases.

18 155. In December 2019, DCFS reported that it was adding ten beds to the
19 existing five hundred and thirty-three (533) beds in the THPP-NMD program, a
20 meager two percent (2%) increase. On March 3, 2020, DCFS reported that “THPP-
21 NMD inventory remains unchanged since our last report” and admitted that “capacity
22 building challenges” are a “standing agenda item.”

23 156. Since March 3, 2020, DCFS has failed to report any further progress to
24 the Board. On information and belief, the capacity of the THPP-NMD program has
25 actually decreased during that period.

26
27
28 ³² THPP-NMD was formerly known as Transitional Housing Program plus Foster Care, or
“THP+FC”

1 157. DCFS’s failure to expand the capacity of the THPP-NMD program to
2 the levels deemed necessary by the Board, despite the stated availability of both the
3 funds and the contractor capacity to do so, shows a deliberate indifference to the
4 reasonable safety and minimally adequate care to which the transition age foster youth
5 in its care are entitled.

6 158. DCFS has also failed to collect the most basic data about whether they
7 are meeting their obligations to provide safe and stable placements for transition age
8 foster youth at all times. For instance, to this day, DCFS claims not to know or track
9 how many transition age foster youth are waiting for a safe and stable placement.

10 159. Recognizing the need for data to ensure accountability and effective
11 management, on November 20, 2018, the Board required DCFS to “report back within
12 180 days on implementing enhanced data collection and reporting for transition age
13 foster youth housing programs, including establishing universal data elements and
14 semi-annually reporting key variables including the length of waitlists and time on
15 waitlists,” among other data. DCFS did not provide any of the requested waitlist data
16 to the Board.

17 160. On information and belief, as of the date of this Complaint, nearly five
18 years after the Board recognized the acute shortage of placements for transition age
19 foster youth and requested basic data about waitlists, DCFS still does not effectively
20 track the transition age youth who applied for and are waiting to be placed with THPP-
21 NMD providers.

22 161. As the Board recognized, without tracking basic information about
23 waitlists, it is not possible to effectively manage placement programs for transition
24 age foster youth and ensure that those programs are not a pipeline to homelessness.
25 DCFS’s failure to collect and report this data, and its failure to provide for a minimally
26 adequate array of safe and stable placements for transition age foster youth, shows its
27 deliberate indifference to their right to reasonable safety and minimally adequate care.
28

1 **VII. DEFENDANTS FAIL TO HAVE A SYSTEM TO ENSURE**
2 **TRANSITION AGE FOSTER YOUTH RECEIVE INDIVIDUALIZED**
3 **PLANNING FOR THEIR TRANSITION TO ADULTHOOD**

4 162. State and federal law require DCFS to provide transition age foster youth
5 ages sixteen through twenty-one with individualized case plans that address their need
6 for safe, stable and appropriate placements and other critical services. Recognizing
7 that many dependent youth become homeless shortly after aging out of the foster care
8 system at age twenty-one, state and federal law also require DCFS to assist transition
9 age foster youth in planning their eventual transition out of state care. DCFS is
10 systematically failing to meet this obligation, resulting in increased placement
11 instability among transition age foster youth.

12 **A. Defendants Must Adequately Plan for Transition Age Foster**
13 **Youth’s Transition to Adulthood.**

14 163. When a child or transition age youth enters foster care, DCFS must
15 develop a “case plan,” a single written document that includes a discussion of the
16 safety and appropriateness of the child’s placement and a plan for assuring that the
17 child receives safe and proper care and services to address the child’s needs.³³ A case
18 plan is not a pro forma document; rather, the California Legislature declared the case
19 plan “the foundation and central unifying tool in child welfare services” and specified
20 that case plans must meet a child’s individual needs.³⁴ The case plan is the roadmap
21 for the remainder of the child’s time in foster care, and agency decisions and actions
22 should be driven by the case plan and its components.

23 164. AACWA requires that a written case plan shall also include (1) a
24 “discussion of the safety and appropriateness of the placement;”³⁵ and (2) assurance
25 that the “child receives safe and proper care and that services are provided...and
26

27 _____
³³ 42 U.S.C. § 675(1)(A)-(B).

28 ³⁴ Cal. Welf. & Inst. Codes §§ 16501.1 (a)(1), (d)(1).

³⁵ 42 U.S.C. §§ 671(a)(16), 675(1)(A).

1 address the needs of the child while in foster care.”³⁶ California also requires that a
 2 case plan to include the reasoning behind the choice of placement, which must be
 3 based on selecting a “safe setting that is the least restrictive family setting that
 4 promotes normal childhood experiences and the most appropriate setting that meets
 5 the child’s individual needs and is available, in proximity to the parent's home, in
 6 proximity to the child’s school, and consistent with the selection of the environment
 7 best suited to meet the child’s special needs and best interests.”³⁷

8 165. State and federal law, as well as the California Title IV-E State plan, also
 9 impose duties related to transition planning.³⁸ Transition planning is intended to help
 10 youth transition successfully into adulthood and live independently outside of foster
 11 care.

12 166. California’s IV-E plan incorporates AACWA’s requirements related to
 13 case planning and transition planning for transition age foster youth in the care of the
 14 State and all of its political subdivisions, including Los Angeles County.³⁹

15 167. When a child in foster care turns sixteen years old, their case plan must
 16 include a “transitional independent living plan” (“TILP”), which is “a written
 17 description of the programs and services that will help the child, consistent with the
 18 child’s best interests, to prepare for the transition from foster care to successful
 19 adulthood.”⁴⁰

20 168. In the 90-day period before the youth turns eighteen, DCFS staff “shall
 21 provide the youth or nonminor dependent with assistance and support in developing
 22 the written 90-day transition plan, that is *personalized* at the direction of the child,
 23 information as detailed as the participant elects that shall include, but not be limited
 24 to, options regarding housing, health insurance, education, local opportunities for
 25

26 ³⁶ 42 U.S.C. §§ 671(a)(16), 675(1)(B).

27 ³⁷ Cal. Welf & Inst. Code § 16501.1(d)(1) (emphasis added); 42 U.S.C. § 675(5)(A).

28 ³⁸ 42 U.S.C. § 675(1); Cal. Welf. & Inst. Code § 11400(y), 16501.1(g)(16).

³⁹ See California IV-E State Plan, pp. 22-26 (citing Cal. Welf. & Inst. Code § 16501.1).

⁴⁰ Cal. Welf & Inst. Code § 16501.1(g)(16)(A)(ii).

1 mentors and continuing support services, and workforce supports and employment
2 services, a power of attorney for health care, and information regarding the advance
3 health care directive form.”⁴¹

4 169. Nonminor dependents are also entitled to a “transitional independent
5 living case plan pursuant to Section 475(8) of the federal Social Security Act.”⁴²
6 California requires that safe and appropriate placement planning for nonminor
7 dependents shall be based upon the young adult’s developmental needs by providing
8 opportunities to have incremental responsibilities that prepare them to transition to
9 successful adulthood.⁴³

10 **B. Defendants Have Failed to Create a Case Planning System that**
11 **Ensures all Transition Age Foster Youth Receive Transition**
12 **Planning.**

13 170. On information and belief, DCFS uses TILPs in lieu of case plans when
14 engaging in transition planning for transition age foster youth. TILPs generally do
15 not contain information that is required under AACWA for transition planning. Most
16 significantly, DCFS’s TILPs routinely fail to discuss the safety or stability of the
17 foster youth’s current placement, the reasoning behind the choice of placement, or
18 even the type of placement in which the youth is residing. Even when the foster youth
19 placement is referenced, the plan does not account for whether the placement is in
20 proximity to services, family, school, or other needs. Nor are the plans regularly
21 updated to reflect new placements, circumstances, or the goals of the individual youth.
22 DCFS’s failure to include this information in their case plans undermines its transition
23 planning efforts and contributes to placement instability and homelessness among
24 transition age foster youth.

25
26
27 ⁴¹ Cal. Welf. & Inst. Code § 16501.1(g)(16)(B) (emphasis added).

28 ⁴² See Cal. Welf. & Inst. Code §11400(v) (defining a “nonminor dependent” as a “foster child” as described in 42 U.S.C. § Section 675(8)(B)) .

⁴³ Cal. Welf. & Inst. Code § 391.

1 171. In violation of federally mandated case planning requirements, when
2 DCFS develops case plans, the plans are formulaic, merely checking boxes on the
3 forms. Youth plans often do not identify where the youth is living or wants to live.
4 The plans lack description of individualized trauma-responsive supports and
5 treatments needed by the youth. When the need for mental health services is raised
6 with transition age foster youth, DCFS resorts to vague recommendations for
7 counseling or anger management, and Defendants fail to include specific trauma
8 treatments or other mental health services responsive to the specific needs identified
9 by the individual youth in their case plans and transition plans. In short, the plans are
10 not specific to the individual transition age foster youth's care needs. As a result,
11 youth are provided with generic, cookie-cutter services, like Onyx G.'s life skills
12 worksheets.

13 172. This violation of duties under AACWA has devastating consequences
14 for transition age foster youth. Rather than effectively engage youth in collaboratively
15 learning about trauma-treatments to which they are entitled, DCFS wields mental
16 health services as a condition of extended foster care. Mental health services are
17 presented to youth as one more way of blaming them for their circumstances and
18 telling them that they need to be fixed, rather than serving as a resource for healing.

19 173. DCFS, as the agency responsible for Plaintiffs' placement and care , has
20 failed to develop a system for ensuring all youth receive legally compliant case plans
21 and had abandoned the role of the case plan as a central unifying document in its
22 provision of services. CDSS, as the single state agency charged with complying with
23 the case planning and transition planning provisions of AACWA, has failed to
24 monitor and ensure that DCFS is meeting its legal obligations. As a result of
25 Defendants' failures, youth in foster care between the ages of sixteen and twenty-one
26 lack the supports and services they need to achieve their goals and often struggle in
27 placements that do not meet their needs.

28

1 **VIII. DEFENDANTS’ PROCEDURES DEPRIVE TRANSITION AGE**
2 **FOSTER YOUTH OF DUE PROCESS WHEN DENIED OR PUSHED**
3 **OUT OF PLACEMENT**

4 174. Defendants’ procedures deny transition age foster youth the right to due
5 process in applying for and maintaining their placement benefit. When transition age
6 foster youth experience an abrupt loss or denial of placement, the news often comes
7 verbally, from a social worker or case manager. Youth across the extended foster care
8 program, including those in THPP-NMDs and SILPs, do not receive adequate notice
9 of a decision that will jeopardize their placement stability, nor are they provided
10 meaningful opportunities to contest the decision. Instead, transition age foster youth
11 are one arbitrary decision away from homelessness.

12 175. Plaintiffs have a legitimate claim of entitlement to a placement benefit at
13 all times. Defendants have no discretion to deny this essential benefit to Plaintiffs.
14 The deprivation of this benefit, including unwarranted delays in placements,
15 constitutes a grievous loss. Thus, Plaintiffs have a protectable property interest in
16 their placement benefit and are entitled to due process when applying for, appealing
17 the denial of, or contesting the termination of, that benefit. Defendants violate these
18 due process rights in multiple ways.

19 **A. Application Procedures for Placement Benefits are Arbitrary and**
20 **Opaque, and Youth Do Not Have Notice or Meaningful**
21 **Opportunities to Contest a Denial.**

22 176. Even when DCFS identifies the THPP-NMD program as the most
23 appropriate placement option for a transition age foster youth, the youth must first
24 apply to and be accepted into a THPP-NMD program. DCFS works in close
25 consultation with their contracted THPP-NMD programs to select and evaluate
26 candidates, such that any rejections are either actions of Defendants or so inextricably
27 intertwined with Defendants as to effectively constitute the actions of Defendants.
28 Rejected applicants, like Rosie S. and Junior R., rarely learn the reason their

1 application was denied, and they have no opportunity to contest these denials.
2 Frequently, youth receive no response to their application at all. This uncertainty adds
3 to feelings of helplessness and hopelessness, which contribute to worsening mental
4 health for many transition age foster youth.

5 177. On information and belief, during the THPP-NMD application process,
6 social workers screen out youth whom they perceive as unmotivated, irresponsible,
7 and/or struggling to manage their medical or mental health conditions, even when the
8 youth is eligible for and entitled to a THPP-NMD placement. DCFS does not afford
9 transition age foster youth a meaningful opportunity to challenge these
10 determinations. Onyx G., for example, fears that these opaque and unfair processes
11 will prevent her from finding a THPP-NMD placement when she turns eighteen.

12 178. If the social worker determines that the transition age foster youth is
13 eligible and appropriate for the THPP-NMD program, the social worker instructs the
14 transition age foster youth to complete an application that asks them to disclose, *inter*
15 *alia*, their health conditions, mental health diagnosis, any mental health issues (past
16 or present), their therapist's name, and any medications they are currently taking. As
17 part of the application materials, the social worker includes a summary of the
18 transition age foster youth's medical history known as the "Health and Education
19 Passport." The social worker then submits the transition age foster youth's
20 application packet to DCFS's contracted THPP-NMD providers, and subsequently
21 follows up with the providers to schedule an interview for the transition age foster
22 youth.

23 179. Neither DCFS policy nor the Interim Licensing Standards identify a
24 process for informing transition age foster youth whether their THPP-NMD
25 application was denied or the reason for the denial, and, on information and belief, no
26 such process exists. Frequently, transition age foster youth who are denied entry to
27 THPP-NMDs never receive any response at all to their application. Instead, the
28 transition age foster youth is left to surmise that their application must have been

1 denied after significant time passes without any response. In addition, because DCFS
2 does not maintain waitlists for THPP-NMD placements, DCFS is unable to inform
3 transition age foster youth how long they must wait to be accepted into a THPP-NMD
4 program. Ocean S. was able to successfully pursue an opening only when she learned
5 of it through a peer, rather than through Defendants. The absence of any coherent
6 waitlist or notification system also leads directly to tragic and unnecessary loss of
7 benefits, such as when Defendants failed to notify Erykah B. that she had in fact
8 received a placement.

9 180. In addition to the lack of process around applications and notices of
10 denial, applicants have no opportunity to challenge a denial decision. Transition age
11 foster youth who are denied THPP-NMD placement due to concerns about their
12 medical/mental health condition have no opportunity to contest the provider's
13 assessment of their needs or to seek a reasonable accommodation. The THPP-NMD
14 provider's application denial is effectively a denial of the entire THPP-NMD
15 placement option because of the limited THPP-NMD spots, leading to homelessness
16 and/or housing instability. Transition age foster youth who are denied placement
17 because of a perceived lack of compliance with the extended foster care participation
18 criteria have no opportunity to show that they are in fact enrolled in school, employed,
19 or otherwise meeting the requirements. Transition age foster youth who are denied
20 placement due to a lack of openings have no means of assessing if an opportunity will
21 become available in the near term, or at all.

22 181. For example, as discussed in Part VI below, Defendants illegally
23 discriminate against Plaintiffs with mental health disabilities. Jackson K. learned of
24 several denials by THPP-NMD programs, some due to concerns about possible
25 behavioral problems. Jackson K. never had an opportunity to present his side of the
26 story, let alone discuss reasonable accommodations that might have allowed him to
27 succeed in the placement programs.

28

1 182. Many transition age foster youth experience unreasonable delays in the
2 SILP approval process. If a transition age foster youth identifies a place to live that
3 they want DCFS to approve as a SILP, their social worker must first assess the youth's
4 readiness for a SILP. If DCFS determines that a transition age foster youth is not
5 ready for a SILP, the youth is entitled to a grievance procedure or to raise the issue
6 with the Dependency Court. On information and belief, youth often are informally
7 counseled away from SILPs to which they are entitled without understanding their
8 options to pursue a grievance process or request court review.

9 183. If the social worker determines that a transition age foster youth is ready
10 for the SILP option, the social worker must then conduct a physical inspection of the
11 home before the issuance of any foster care funding. Under the best case scenario,
12 transition age foster youth have to wait several months after identifying a SILP for
13 DCFS to conduct the physical inspection of the home, resulting in several additional
14 months of funding delays. But often it takes longer than several month for DCFS to
15 conduct the inspection, and DCFS frequently fails to provide transition age foster
16 youth with any explanation for the delay or notification of their appeal rights. Once
17 the social worker finally completes the physical inspection of the home and approves
18 the SILP, DCFS routinely takes approximately 60 days from the time of the inspection
19 until the issuance of foster care funding.

20 184. In the case of Rosie S., the slow and opaque approval process delayed
21 her SILP benefits for nearly three months, putting her placement stability at risk.
22 Although state law entitles transition age foster youth to written notice and an appeal
23 through the CDSS State Hearings process for any adverse decision related to their
24 SILP approval, transition age foster youth do not consistently receive notice or any
25 information about their right to appeal delays or denials of SILP approval. This lack
26 of adequate process leaves them without an opportunity to challenge a SILP delay or
27 SILP denial and jeopardizes their efforts to secure a stable placement.

28

1 **B. Youth Losing Placement Benefits Receive Limited Notice and Lack**
 2 **Meaningful Opportunities to Contest the Discharge.**

3 185. Transition age foster youth who are able to obtain a THPP-NMD
 4 placement can lose it quickly, with little to no meaningful process to be heard before
 5 or after the discharge. Because DCFS lacks sufficient emergency housing options for
 6 transition age foster youth, youth who are involuntarily discharged often face a grave
 7 risk of homelessness. Despite the grievous harm at issue, Defendants deprive
 8 transition age foster youth of any meaningful opportunity to challenge the loss of their
 9 placement benefit.

10 186. First, CDSS and DCFS policy do not provide youth with sufficient notice
 11 when a transition age foster youth is facing “push-out” from a THPP-NMD program.
 12 CDSS’s THPP-NMD Interim Licensing Standards require that in non-emergency
 13 circumstances, a written notice must be given to the youth seven days prior to
 14 discharge, with a copy sent to the county placing agency.⁴⁴ The written notice must
 15 be based on a specific reason, including that the youth has reached the maximum age
 16 for THPP-NMD, that the THPP-NMD agency’s license has changed, or (most
 17 commonly) that the THPP-NMD agency “is no longer able to meet the needs” of the
 18 nonminor dependent.⁴⁵

19 187. Comparatively, minors in any foster care placement are entitled to
 20 fourteen days notice of any placement change.⁴⁶ Residents of licensed adult
 21 residential facilities receive up to thirty days’ written notice.⁴⁷ Seven days is
 22 insufficient notice for transition age foster youth to meaningfully contest their
 23 discharge or for DCFS to arrange for alternative, safe, stable and appropriate
 24
 25

26 _____
 27 ⁴⁴ Interim Licensing Standards 86268.4(c)(1).

28 ⁴⁵ Interim Licensing Standards 86268.4(c)(1)(B), (d)(4). For an emergency removal, no notice is required. Interim Licensing Standards 86268.4(b).

⁴⁶ Cal. Welf. & Inst. Code 16010.7(e).

⁴⁷ 22 C.C.R. 85068.5(a).

1 placement, particularly in light of the critical shortage of placements for transition age
2 foster youth.

3 188. Second, the procedures that the Defendants created do not provide youth
4 in THPP-NMD programs with a meaningful opportunity to be heard. The youth
5 facing discharge may submit a complaint against the THPP-NMD program to CDSS's
6 Community Care Licensing Division ("CCLD"). Upon receiving the complaint,
7 CCLD must investigate the discharge.⁴⁸ On information and belief, however, youth
8 are not given notice of this procedure. In Los Angeles County, youth discharged from
9 THPP-NMD placement theoretically may submit a grievance or Advocacy Review to
10 the THPP-NMD program or DCFS, respectively, but the written notices transition age
11 foster youth receive, if any at all, do not explain that a grievance procedure is
12 available.⁴⁹ There is no opportunity for transition age foster youth to present their
13 complaint in person or to have a neutral arbiter consider the evidence, nor is there any
14 mechanism to ensure that transition age foster youth remain housed while the
15 complaint is pending.

16 189. Finally, once a transition age foster youth is discharged from a THPP-
17 NMD, other THPP-NMD providers may rely on the prior discharge as a basis for
18 denying the youth admission to their programs. Defendants do not afford youth any
19 privacy regarding the circumstances of their discharge, and once a discharged youth
20 applies to a new THPP-NMD program, the prospective program is able to obtain
21 information from the previous provider and from the youth's own social worker about
22 the reason for the discharge. Thus, Defendants' denial of due process rights is
23 compounded into loss of future placement benefits as well.

24 190. CDSS's Interim Licensing Standards provide that THPP-NMD
25 programs may conduct a removal without *any* notice or opportunity for youth to be
26
27

28 ⁴⁸ Interim Licensing Standards 86268.4(e).

⁴⁹ THPP-NMD Statement of Work, section 10.4.6.1.

1 heard in “emergency” circumstances.⁵⁰ Such circumstances include when the youth
2 must receive emergency medical or psychiatric care, or “when the health and safety
3 of the nonminor dependent or others in the THPP is endangered by the continued
4 presence of the nonminor dependent in the THPP.”⁵¹ Defendants have created a
5 system that deprives transition age foster youth of any opportunity to contest whether
6 the circumstances surrounding the discharge qualified as a true emergency or an
7 otherwise valid basis for discharge. Foreseeably, the complete lack of due process
8 associated with emergency discharges, combined with the fact that Defendants do not
9 afford transition age foster youth the right to maintain their placement while DCFS
10 attempts to locate an alternate placement for them, often results in homelessness for
11 transition age foster youth. Jackson K., for example, was given a three-day notice to
12 vacate his THPP-NMD placement that did not cite any program rules violation and
13 noted that it was his responsibility to find a placement once he was discharged.

14 191. On information and belief, in the absence of any meaningful procedural
15 protections, many discharges are misclassified as “emergency” discharges in order to
16 avoid even the minimal and inadequate notice and appeal procedures available for
17 “ordinary” discharges. No accountability mechanism exists to prevent this abuse of
18 “emergency” discharges. These misclassified “emergency” discharge decisions are
19 inextricably intertwined with actions of Defendants. For example, on information and
20 belief, Defendants can and do reverse the discharge decisions of their contracted
21 THPP-NMD providers when they disagree with those decisions.

22 192. Youth in SILP placements also lack adequate procedural protections.
23 DCFS may suspend or terminate funding to youth whose SILPs are approved but later
24 determined not to meet the eligibility requirements for funding. In these
25 circumstances, transition age foster youth are entitled to request an administrative
26 hearing with CDSS’s State Hearings Division. However, on information and belief,
27

28 ⁵⁰ Interim Licensing Standards 86268.4(b)(1).

⁵¹ Interim Licensing Standards 86268.4(b)(2)(B).

1 transition age foster youth lose their SILP funding without notice or explanation, and
2 without being informed of the option to request an administrative hearing.

3 193. Without the ability to timely request a hearing, transition age foster youth
4 unexpectedly lose their SILP payments, often their primary financial means for
5 paying rent. Without this critical source of funding, transition age foster youth may
6 be evicted or forced to move out of their SILPs and experience homelessness, couch-
7 surfing and sleeping in shelters and cars until they can find another place to live.
8 Junior R., for example, was forced to leave SILP with no written explanation or
9 meaningful opportunity to be heard. This exit resulted in homelessness.

10 **IX. DEFENDANTS VIOLATE TRANSITION AGE FOSTER YOUTH'S**
11 **RIGHT TO FAMILIAL ASSOCIATION**

12 194. There are nearly three hundred transition age youth in Los Angeles
13 County's foster care system who are parenting their own young children. On
14 information and belief, DCFS does not track the number of expecting or parenting
15 youth who are experiencing homelessness or on waitlists for safe, stable and
16 appropriate placements.

17 195. Navigating the foster care system is even more complex and burdensome
18 if the foster youth is pregnant or is parenting their own child like Rosie S. and Ocean
19 S. Transition age foster youth who are parents need safe, stable and appropriate
20 placements at all times for themselves and their children, support to develop positive
21 and supportive relationships, and caregiving assistance. To help preserve their family
22 unit, parenting transition age foster youth should be provided with access to services
23 for which they are eligible that are specifically targeted at supporting, maintaining,
24 and developing both the parent-child bond and the parent's ability to provide a
25 permanent and safe home for the child.⁵²

26
27
28 _____
⁵² Cal. Welf. & Inst. Code § 16002.5.

1 196. However, rather than implementing policies that promote family stability
2 and wellbeing, Defendants deny pregnant and parenting youth and their children
3 access to safe, stable and appropriate placement, which can be a contributing factor
4 in family separation. These practices interfere with transition age foster youth's right
5 to familial association under the First and Fourteenth Amendments.

6 197. In Los Angeles County, foster youth are regularly told that there are no
7 available openings in THPP-NMD programs that accept pregnant or parenting youth,
8 denying and/or delaying access to this placement option. DCFS policy permits THPP-
9 NMD programs to reserve most of their units for non-parenting youth and to accept
10 only a limited number of parenting youth in the program. Consequently, parenting
11 youth are often forced into inappropriate and unstable placements in order to live with
12 their children.

13 198. DCFS also permits providers to discharge transition age foster youth
14 who become pregnant after being accepted into a THPP-NMD program, if the
15 provider designated that youth's apartment as a non-parenting unit. Some programs
16 restrict the number of children in the home or their ages, meaning that a participant
17 could be discharged for a subsequent pregnancy or when their infant becomes a
18 toddler. And THPP-NMD programs frequently interpret CDSS's authorized grounds
19 for emergency removal and discharge in a manner that discriminates against pregnant
20 youth—for example, terminating a pregnant youth without adequate notice because
21 the program claims it can no longer meet that youth's needs.

22 199. Even if a pregnant or parenting transition age foster youth is able to
23 secure a placement, Defendants allow their contractors to operate placements that are
24 hostile to pregnant and parenting youth. THPP-NMD programs are allowed to
25 establish arbitrary rules such as limiting which rooms can be used to feed children.
26 Other THPP-NMD programs have strict employment or educational requirements that
27 force pregnant or parenting youth to return to work before they are physically or
28 mentally ready, often much sooner than the federal standards for parental leave.

1 Violation of THPP-NMD rules often leads to involuntary discharges from THPP-
2 NMD, which may result in homelessness and thereby contribute to the risk of family
3 separation.

4 200. Neither CDSS (the licensing agency) nor DCFS (the certifying and
5 contracting agency) penalize THPP-NMD programs for discriminating against
6 pregnant and parenting participants. On information and belief, DCFS fails to directly
7 monitor THPP-NMD programs to ensure that they are not discriminating against
8 pregnant and parenting participants, and DCFS does not enforce any contract terms
9 that prohibit such discrimination. DCFS has declined opportunities to train THPP-
10 NMD programs on nondiscrimination law and the rights of transition age parenting
11 youth in transitional placements.

12 201. DCFS's failure to provide a minimally adequate array of safe and stable
13 placements appropriate to meet the needs of all transition age youth, including
14 expecting and parenting youth, directly and significantly interferes with familial
15 association in at least two ways.

16 202. First, far too many parenting youth and their children often experience
17 homelessness, which can contribute to the risk of family separation and
18 intergenerational cycles of foster care system involvement. DCFS has initiated
19 dependency proceedings against over 20 percent of the parenting youth in its care,
20 placing their children in foster care due to safety concerns that may be exacerbated,
21 in part, by DCFS's own failure to provide safe, stable and appropriate placement and
22 required services to the family. For example, DCFS explicitly told Rosie S. that there
23 were no openings for parenting youth at any contracted THPP-NMD providers.

24 203. Second, for parenting transition age foster youth who have been
25 separated from their children, DCFS often imposes housing as a condition of family
26 reunification, meaning that DCFS' failure to provide a minimally adequate array of
27 safe and stable placements serves as a known barrier to transition age foster youth
28 regaining custody of their children. For instance, although Ocean S. is eagerly

1 working to get her daughter back, Ocean S. was caught in a vicious cycle—she could
2 not get her daughter back without stable housing, but she was ineligible for the limited
3 THPP-NMD placements available for parenting youth without having physical
4 custody of her daughter. DCFS’s failure to immediately provide her with an alternate
5 safe, stable and appropriate placement prolonged her homelessness and created an
6 additional barrier to reunification, until Ocean S. eventually was able to find her own
7 SILP.

8 **X. DEFENDANTS DISCRIMINATE AGAINST YOUTH WITH MENTAL**
9 **HEALTH DISABILITIES**

10 204. Defendants are well aware that many transition age foster youth have
11 mental health disabilities, including impairments associated with complex trauma that
12 substantially limit one or more major life activity. The Americans with Disabilities
13 Act (“ADA”) and Section 504 of the Rehabilitation Act (“Section 504”) impose
14 affirmative duties on Defendants to provide meaningful access to their services and
15 programs to transition age foster youth with mental health disabilities. Defendants
16 have gone in the opposite direction: they have erected burdensome, arbitrary, and
17 discriminatory barriers for transition age foster youth with mental health disabilities.

18 205. All transition age foster youth with mental health disabilities, including
19 complex trauma, are otherwise qualified to participate in California’s foster care
20 system and Medicaid program. Defendants’ programs receive financial assistance,
21 including federal funds, and are public entities. Members of the ADA Subclass have
22 been subjected to unlawful disability discrimination.

23 **A. Youth with Mental Health Conditions Which Substantially Limit**
24 **One or More Major Life Activity are Protected from Discrimination**
25 **on the Basis of Disability.**

26 206. Many transition age foster youth experience complex trauma that is
27 related to their exposure to traumatic events; complex trauma that substantially limits
28 one or more major life activity is a protected disability. It is all too common for

1 transition age foster youth to have experienced and continue to experience traumatic
2 events that profoundly affect their psychological, emotional, and physical well-being.
3 They may have experienced physical, emotional, or sexual abuse; emotional or
4 physical neglect; homelessness; the death, incarceration, or deportation of a parent;
5 domestic violence; parental substance abuse or mental illness; and/or maltreatment
6 while in foster care. The trauma of abuse, abandonment, neglect, and instability is
7 often compounded by unfair treatment and discrimination due to their race or
8 ethnicity, sexual orientation, or gender identity, as well as extreme poverty and other
9 socioeconomic hardship.

10 207. Although even a single traumatic event can impair a young person’s
11 mental health, for transition age foster youth these events often do not take place in
12 isolation. Too often, transition age youth in foster care are subjected to multiple,
13 repeated, and sustained traumatic experiences. The trauma they experienced with
14 their families is compounded by their experiences in foster care, including unstable
15 and unsafe placements, separation from their siblings or their own children, and lack
16 of appropriate treatment and services.

17 208. Many transition age foster youth, including Plaintiffs, members of the
18 ADA Subclass, experience complex trauma, a term that describes children’s exposure
19 to multiple traumatic events, often interpersonal in nature, as well as the wide-ranging
20 and long-term impacts of this exposure. The effects of complex trauma cause
21 impairment that limits an individual’s ability to perform major life activities,
22 including without limitation sleeping, concentrating, long-term planning, and
23 emotional self-regulation. Not only can complex trauma induce changes in the brain.
24 and impair cognition, learning, and social skills, it can manifest in diagnoses like
25 PTSD, depression, anxiety, and bipolar disorder.

26 209. The definition of “an individual with a disability” under the ADA and
27 Section 504 includes someone who has “a physical or mental impairment that
28

1 substantially limits one or more major life activities.”⁵³ Under federal regulations,
 2 certain psychiatric diagnoses presumptively substantially limit major life activities.⁵⁴
 3 Plaintiffs with other mental health conditions which substantially limit one or more
 4 major life activities, including those with complex trauma, have mental impairments
 5 that also meet the definition of “individuals with disabilities” under federal anti-
 6 discrimination laws. Over sixty percent (60%) of transition age youth in foster care
 7 meet the criteria for at least one mental health disorder, and studies have observed
 8 PTSD in transition age foster youth at over twice the rate of transition age youth in
 9 the general population. The ADA and Section 504 protect transition age foster youth
 10 with mental health disabilities from discrimination on the basis of disability.

11 **B. DCFS’s Placement Application Process Discriminates on the Basis**
 12 **of Disability.**

13 210. ADA Subclass members struggle to navigate DCFS’s byzantine
 14 application processes for gaining access to least restrictive placements available to
 15 their non-disabled peers such as THPP-NMDs and SILPs. Already challenging for
 16 any youth, deciphering the intricacies of transition age foster youth placement options
 17 is particularly arduous for youth with mental health disabilities. Defendants’
 18 application process erects barriers for transition age youth with disabilities to even
 19 apply to community-based placements that would allow them to live with their non-
 20 disabled peers.

21 211. Instead of giving transition age foster youth with mental health
 22 disabilities the program-wide supports and trauma-responsive accommodations they
 23 require to complete transitional placement applications, Defendants leave class
 24 members to navigate the process on their own, whether that requires decoding the
 25 alphabet soup of placement programs and application procedures or accomplishing
 26 predicate steps for program participation, like obtaining a state-issued ID and other
 27

28 ⁵³ 42 U.S.C. §§ 12102(1)(A), (2)(A).

⁵⁴ 29 C.F.R. § 1630.2(j)(3)(iii); *see* 42 U.S.C. § 12102(2)(B).

1 vital documents. For any eighteen-year-old, this would be a tall order, but for one
2 with a mental health disability, it may be insurmountable. The result is that transition
3 age foster youth with mental health disabilities are systemically excluded from even
4 applying to less restrictive programs like SILPs and THPP-NMD.

5 212. In addition, youth with mental health disabilities are often excluded from
6 accessing THPP-NMD because intake policies adopted by Defendants allow, and
7 even encourage, THPP-NMD programs to refuse to serve foster youth based on their
8 disabilities.

9 213. First, DCFS train their staff considering eligibility for THPP-NMD
10 programs to screen out transition age foster youth with mental health disabilities who
11 report mental health diagnoses or display behaviors consistent with trauma. As a
12 result, evidence of a mental health disability is functionally a basis for denial of less
13 restrictive placement.

14 214. Second, Defendants have established policies that encourage disability
15 discrimination by transitional placement providers. CDSS's THPP-NMD Interim
16 Licensing Standards allow THPP-NMD programs substantial access to youth's
17 medical and mental health history for use in a "Pre-Placement Appraisal." Yet after
18 DCFS social workers have supplied THPP-NMD providers with medical information
19 regarding the NMD applicant, Defendants place no legally-required guard rails on
20 how the disability can be used to assess suitability for THPP-NMD. For example,
21 based on CDSS's THPP-NMD Interim Licensing Standards, Defendants' providers
22 are not prohibited from denying an application based on the fact that the youth has
23 been prescribed psychotropic medication. Defendants all but encourage THPP-NMD
24 providers to identify class members with actual or perceived disabilities and thereby
25 exclude them from a less restrictive placement option.

26 215. For example, Onyx G. is at serious risk of being excluded from less
27 restrictive placement options due to her mental health disability. Onyx G. has been
28 diagnosed with anxiety, Major Depressive Disorder, and Disruptive Mood

1 Dysregulation Disorder, and she has struggled with self-harming behavior. While in
2 DCFS custody, Onyx G. bounced through several group homes that did not meet her
3 needs, including a lack of intensive, trauma-responsive mental health services. Under
4 DCFS's current procedures, Onyx G.'s history of mental and behavioral health needs
5 will be disclosed. Upon information and belief, providers have denied applications
6 because the transition age foster youth disclosed a history of suicidal ideation, no
7 matter how far in the distant past, which providers presume creates a per se safety risk
8 for the applicant and other program residents, again in lieu of required assessment of
9 reasonable accommodation. She will likely be labeled "higher need," and denied
10 participation in a THPP-NMD program, rather than being provided with the legally-
11 required, individualized assessment of whether she can participate with reasonable
12 accommodations.

13 216. Additionally, Defendants' procedures do not allow transition age foster
14 youth with mental health disabilities the opportunity to dispute a provider's
15 interpretation of their needs or to request a reasonable accommodation that would
16 allow them to fully access and benefit from the placements available to their non-
17 disabled peers despite their disability. Jackson K., for instance, learned of several
18 denials by THPP-NMD programs but had no opportunity to present his application or
19 respond, let alone discuss reasonable accommodations that would allow him to
20 succeed in the placement programs.

21 217. DCFS does not provide, or require THPP-NMD programs to provide,
22 reasonable accommodations or help the transition age foster youth with mental health
23 disabilities access individualized and developmentally appropriate mental health
24 services that would allow the youth to participate in THPP-NMD programs. For
25 instance, DCFS approved the decision of Ocean S.'s THPP-NMD to terminate her
26 placement after she survived a physical assault by her then-partner instead of
27 supporting her with appropriate services that could have facilitated her healing and
28 allowed her to remain in the program.

1 218. Additionally, Defendants’ administration of the SILP program
2 discriminates against transition age foster youth with mental health disabilities in
3 much the same way. For example, due to Defendants’ failure to assist with identifying
4 and arranging SILPs, many ADA Subclass members are functionally foreclosed from
5 SILPs because their mental health disabilities make it difficult to independently
6 identify a potential SILP placement, let alone one that would meet DCFS and CDSS
7 requirements. DMH does not have a functional process to provide needed Medicaid
8 services that would help youth access the SILP program.

9 219. Moreover, even if a transition age foster youth with mental health
10 disabilities is able to take the great initiative of identifying a SILP, those youth are at
11 risk of significant placement instability because the SILP option does not include any
12 supportive services. According to DCFS policy, a SILP is not appropriate for youth
13 requiring “significant supportive services,” or youth with high-risk mental/physical
14 health needs. Yet nearly half of transition age foster youth ages 18-21 reside in SILP.
15 On information and belief, many of the youth residing in SILP experience severe
16 placement instability that could be mitigated if DMH provided needed Medicaid
17 services to help youth maintain placement. Defendants Fail to Accommodate Youth
18 with Mental Health Disabilities in Placements.

19 220. Even if transition age foster youth with mental health disabilities
20 successfully obtain a THPP-NMD placement, Defendants’ policies and practices
21 prevent them from meaningfully accessing the benefits of Defendants’ programs.
22 Accommodating youth impacted by trauma requires trauma-responsive practice,
23 including centering the youth’s perspective and experiences, providing individualized
24 treatment through a culturally-sensitive lens, and ensuring that program staff are
25 trained in trauma-responsive care. Defendants’ county-certified, State-licensed
26 THPP-NMD providers routinely fail to accommodate the needs of youth impacted by
27 trauma by putting youth in situations that exacerbate their trauma, establishing
28

1 policies that frustrate recovery, and punishing manifestations of mental health
2 impairments.

3 221. Transition age youth impacted by trauma need systems of support to
4 develop positive relationships and support, yet most THPP-NMD programs certified
5 by DCFS have restrictions that undermine youth's ability to develop and maintain
6 connections to their support systems. Even though THPP-NMD programs are
7 designed for young adults, they often have restrictive visitor policies that interfere
8 with their ability to socialize with friends and peers and to arrange frequent visitation
9 with their co-parent. And there is not a single licensed transitional housing program
10 in Los Angeles County that allows the youth's non-participant partner or co-parent to
11 reside in the placement.

12 222. For transition age foster youth with mental health disabilities, including
13 those impacted by complex trauma, it may often be difficult to plan their activities
14 and socialization in a way that comports with these rules, or they may impulsively
15 decide to engage in social activity that providers prohibit. A placement system that
16 fails to encourage relationships but promotes unjustified isolation, actively punishing
17 youth when they take steps to meet their needs for connection, and fails to offer them
18 reasonable accommodations as needed, does not provide transition age youth with
19 mental health disabilities equal access to DCFS' foster care placements.

20 223. In another example, most THPP-NMD programs house youth with
21 roommates. DCFS is fully aware that roommate conflict is a primary reason for
22 placement disruption for transition age foster youth with mental health disabilities.
23 DCFS also knows that, for many transition age foster youth with mental health
24 disabilities, their disabilities impair their ability to manage relationships with others
25 and their trauma histories may include being harmed by people with whom they have
26 lived. For example, Ocean S. had to press charges against another resident at one of
27 her placements. Onyx G. was also physically assaulted by a roommate. Because so
28 many youth with mental health disabilities have been unsafe in prior placements, they

1 have good reason to fear that any roommate conflict can escalate. Many transition
2 age foster youth with mental health disabilities do not have the skills they need to
3 navigate roommate conflict and need supportive services to be able to navigate issues
4 with peers, including roommates. Without trauma responsive supports, they are often
5 unable to meet program expectations, or may feel they need to leave their placements
6 in order to be safe.

7 224. In another example, THPP-NMD programs, under the direction and
8 control of Defendants, also often refuse reasonable requests for emotional support
9 animals. Programs also require transition age foster youth with mental health
10 disabilities who have already obtained emotional support animals to give them up to
11 maintain their placement, without engaging in the interactive process required for
12 reasonable accommodation requests.

13 225. Additionally, youth, like Ocean S. and Erykah B. describe how program
14 staff often enter their private spaces without notice. For most transition age foster
15 youth with mental health disabilities, intrusion into their private space, especially an
16 unannounced and unwanted entry, is an unsafe experience and underscores ways in
17 which they lack control over their own environment. It would not fundamentally alter
18 the Defendants' programs to modify methods of monitoring youth or entering youth's
19 private spaces and to require that these activities be done in a trauma-responsive,
20 developmentally appropriate manner that protects the safety, privacy and independent
21 needs of transition age foster youth with mental health disabilities

22 226. When transition age foster youth with mental health disabilities are not
23 able to obtain a placement in a THPP-NMD program, their other practical alternative
24 is often to apply for a SILP, often with people they are related to or otherwise know.
25 SILPs with family are often fragile because these relationships may be impacted not
26 only by the needs of the transition age foster youth but also by intergenerational
27 trauma impacting the entire family. SILPs with others may demand that youth with
28 mental health disabilities interact regularly with persons who do not know or

1 understand their individual needs. Transition age foster youth with mental health
2 disabilities predictably need supports and services to manage these relationships. Yet,
3 DMH does not make available trauma treatments that would help them develop
4 strategies to be successful in SILP placements. DCFS routinely places youth in SILP
5 placements without regard to the relationships in the living space and without
6 implementing appropriate supports and services to stabilize the placement. For
7 example, Junior R. specifically asked for help setting up expectations with his
8 grandmother, which DCFS never provided. As Junior R. predicted, the result was
9 conflict and threats of physical harm that forced Junior R. to leave the placement.

10 227. Defendants' policies and practices have excluded ADA Subclass
11 members from participating in or retaining placements.

12 228. Defendants' policies and practices have excluded class members from
13 participation in or retaining safe and stable placements. There are effective and
14 reasonable modifications to Defendants' policies and practices that could be made to
15 ensure that transition age foster youth with mental health disabilities are offered and
16 provided trauma-responsive approaches and other related services needed to stabilize
17 their placements. These modifications would not fundamentally alter Defendants'
18 programs.

19 **C. Youth with Mental Health Disabilities Are Pushed Out of DCFS**
20 **Placement Because of Disability.**

21 229. When transition age youth with mental health disabilities do not receive
22 or are excluded from placements, services, and supports based on their disability-
23 related needs, their placements are predictably unstable. In transitional placement
24 settings, for example, Defendants fail to ensure that THPP-NMD staff are able to
25 properly respond to the disability-related needs of transition age foster youth with
26 mental health disabilities.

27 230. Because THPP-NMD staff often lack training in trauma-responsive
28 techniques or de-escalation tactics, they are not well-equipped to mediate disputes

1 between youth with mental health disabilities living in group settings. These
2 “roommate disputes” can lead to unlawful involuntary exits.

3 231. Staff are ill-equipped to manage and ameliorate behavioral issues that
4 stem from the compounded trauma so many transition age foster youth with mental
5 health disabilities have experienced. Any behavior that providers deem to be a
6 violation of the program’s rules may lead to an involuntary exit.

7 232. Relatedly, THPP-NMDs are often not equipped to properly manage the
8 symptoms of mental health crises. Upon information and belief, rather than working
9 with mobile crisis response services to help stabilize a dysregulated young person,
10 THPP-NMD staff instead often call police unnecessarily to address mental health
11 issues, resulting in youth with mental health disabilities being involuntarily
12 committed and/or incarcerated.

13 233. Youth with mental health disabilities who successfully obtain a THPP-
14 NMD placement are often evicted or “pushed out” of these programs for behaviors
15 related to their disabilities, a practice which State policies explicitly allow.⁵⁵

16 234. CDSS policy enumerates grounds for removal and discharge that
17 discriminate against individuals with disabilities. For example, CDSS’s Interim
18 Licensing Standards for THPP-NMDs provide a “health and safety” basis for
19 “emergency” removal when a youth participant is experiencing a behavioral or
20 psychiatric crisis.

21 235. 220. Moreover, CDSS’s Interim Licensing Standards for THPP-NMDs
22 allows programs to push out youth if the provider “is no longer able to meet the needs
23 of the nonminor dependent, youth” when the youth’s disabilities require
24 accommodations that do not align with the THPP-NMD’s programming and staffing.
25 Defendants’ policies jeopardize any sense of safety or stability for youth with mental
26 health disabilities in foster care and instead encourage disability-based discrimination.

27
28 _____
⁵⁵ Interim Licensing Standards 86268.4(b)(2), (c)(1)(B).

1 Behavior that results from impaired emotional self-regulation and heightened
2 sensitivities to stressors in the foster care environment—both symptoms of trauma—
3 does not lead to trauma-responsive interventions or provision of needed Medicaid
4 services, but rather involuntary and unlawful discharges from the placements that took
5 the youth so long to obtain. For example, Onyx G. and Junior R. were both denied
6 placements because of perceptions of their behavioral records. Erykah B. and Jackson
7 K. have both been villainized as poorly behaved, with no recognition of the ways their
8 behavioral problems are naturally emergent responses to the trauma and instability
9 they've experienced.

10 236. There are effective and reasonable modifications the Defendants could
11 implement that would create appropriate supports for transition age foster youth with
12 mental health disabilities across the foster care placement continuum and allow ADA
13 Subclass members to enjoy the benefits of Defendants' placements and services.
14 Examples include trauma-responsive training for Defendants' and their contractors'
15 staff; trauma-responsive interventions and dispute resolution processes to enable
16 youth with mental health disabilities to remain in placements at all times;
17 individualized planning; mandatory convening of a CFT meeting prior to any
18 discharge; and trauma-responsive methods of connecting youth to services; and
19 provision of needed Medicaid services.

20 **D. Defendants Unlawfully Institutionalize Youth with Mental Health**
21 **Disabilities.**

22 237. Defendants route many transition age foster youth with mental health
23 disabilities into segregated overly-restrictive institutional settings even though they
24 are eligible for less-restrictive and more integrated placement options, they could be
25 served in these less restrictive and more integrated placement options, and they do not
26 oppose being served in these community-based non-institutional settings.

27 238. Upon information and belief, Defendants place transition age foster
28 youth with mental health disabilities eligible for SILP and THPP-NMD into STRTPs,

1 which evolved from what formerly were known as “group homes.” These programs
2 are far more restrictive environments than the apartments or other homes in which
3 transition age foster youth with mental health disabilities could otherwise live.
4 STRTPs impose strict rules on their residents, including 24/7 supervision; exclusion
5 in an unlocked living, sleeping, or recreation area as a form of discipline; curfews;
6 locked doors that prevent youth from leaving; visitor rules; and restrictions on
7 telephone and internet-enabled device usage.

8 239. Although youth are only supposed to stay in STRTPs for a limited period
9 until they can be transitioned to a less restrictive environment, Defendants’ denial of
10 SILP and THPP-NMD placements forces transition age foster youth with mental
11 health disabilities to stay far longer in these institutional and congregate care settings
12 than they want or than is appropriate based on their needs.

13 240. Defendants’ failure to provide community-based behavioral and mental
14 health services through Medicaid is also a major contributor to institutionalization.
15 *See* Section VII, *infra*. In particular, Defendants’ untimely and inadequate provision
16 of services unique to the needs of the individual youth with mental health disabilities
17 harms youth like Jackson K., who was subjected to psychiatric hospitalization rather
18 than trauma-responsive crisis response, a crisis that was worsened because he was not
19 provided with adequate ASL interpretation. Defendants’ inadequate case planning
20 and failure to provide services based on the unique needs of the youth prevents youth
21 with mental health disabilities from receiving the care they need to succeed in foster
22 care, subjecting them to serious risk of segregation and often even effectively pushing
23 them into more restrictive placement than necessary.

24 241. By requiring transition age foster youth with mental health disabilities
25 who are eligible for SILP and THPP-NMD placements to remain in STRTPs even
26 after these youth stabilize and need a less restrictive placement, Defendants
27 unjustifiably institutionalize, isolate, and segregate transition age foster youth with
28 mental health disabilities from mainstream society because of their disabilities.

1 242. Defendants' failure to provide an adequate array of placements results in
2 transition age foster youth with mental health disabilities being in overly restrictive
3 placements or pushed out of the foster care system altogether. When class members
4 with mental health disabilities go unhoused for an extended period of time, as with
5 Junior R., DCFS often encourages these youth to close their dependency case,
6 advising youth that they will have a better chance of finding supportive housing
7 outside of the foster care system. Los Angeles County's supportive housing program
8 for young people ages eighteen through twenty-four is not available to foster youth.
9 Consequently, Defendants thereby force class members into a Hobson's choice
10 between the benefits and support of the extended foster care program (including
11 placement, case management support, foster care funding, representation by a court-
12 appointed attorney, and dependency court oversight of their case) or the Los Angeles
13 County homeless services program.

14 243. Defendants' unlawful policies result in the institutionalization and
15 confinement of transition age foster youth with mental health disabilities in overly-
16 restrictive settings in another way: by pushing them to homelessness.

17 244. Transition age youth who are homeless too often cycle between
18 homelessness and incarceration. Incarceration in the County's jails and juvenile halls,
19 notorious for their deplorable treatment of the mentally ill, is a particularly pernicious
20 form of institutionalization that retraumatizes those already suffering from complex
21 trauma; blocks their integration into the County's economic, social, civic, political,
22 educational, employment, and familial communities; and perpetuates unwarranted
23 assumptions that disabled individuals are unable to and should not be permitted to
24 participate in these essential aspects of community life.

25 245. Once released from incarceration and cycled back out onto the County's
26 sidewalks and into homeless encampments, transition age foster youth with mental
27 health disabilities experience segregation and isolation, risking yet further trauma,
28 amplified impairment, and a heightened risk of further institutionalization in the

1 County’s jails. As demonstrated by Ocean S.’s experience in seeking a placement
2 after a period of incarceration, with the heightened stressors inherent in being
3 unhoused, it is even more challenging for transition age foster youth with mental
4 health disabilities to restart the obstacle-filled process of applying for a placement.

5 246. Transition age foster youth with mental health disabilities who
6 experience homelessness are also subjected to isolation from mainstream society. On
7 information and belief, class members experiencing homelessness would accept safe,
8 stable, appropriate placements if Defendants offered them.

9 **XI. TRANSITION AGE FOSTER YOUTH ARE BEING DENIED**
10 **NECESSARY BEHAVIORAL HEALTH SERVICES.**

11 247. Developing a minimally adequate array of safe, stable, and appropriate
12 placements for transition age foster youth is impossible without coordination with
13 California’s Medicaid program. Transition age foster youth desperately need—and
14 are legally entitled to—necessary behavioral health services that will enable them to
15 maintain stable housing, accommodate for disabilities, and reduce their risk of
16 institutionalization. Yet, just as foster youth are transitioning to adulthood and need
17 increased support, they face tremendous obstacles accessing the adult-serving mental
18 health system. All Defendants, including DHCS and DMH, share responsibility for
19 the failure to provide these services to transition age foster youth.

20 **A. Transition Age Foster Youth Are Entitled to Necessary EPSDT**
21 **Services, Including Specialty Mental Health Services.**

22 248. Virtually all transition age foster youth receive their health services,
23 including behavioral health services, through Medi-Cal, California’s Medicaid
24 program. Medicaid is a cooperative federal and state funded program designed to
25 provide medical and remedial services to low income people under Title XIX of the
26 Social Security Act.⁵⁶ States that choose to participate in the Medicaid program and
27

28 _____
⁵⁶ 42 U.S.C. § 1396.

1 receive federal funding must adhere to the minimum federal requirements set forth in
2 the Social Security Act and its implementing regulations.

3 249. Federal law requires California, as a state participating in Medicaid, to
4 cover certain mandatory services, including Early and Periodic Screening, Diagnostic,
5 and Treatment (EPSDT) services for Medicaid eligible youth participants under the
6 age of 21.⁵⁷ Under the EPSDT provisions, states are required to provide screenings
7 to identify transition age foster youth’s mental and physical health needs, as well as
8 arrange for treatment services necessary to correct or ameliorate a youth’s mental or
9 physical health conditions.⁵⁸

10 250. DHCS, California’s single state Medicaid agency, is responsible for
11 administering Medicaid in California.⁵⁹ DHCS administers the EPSDT behavioral
12 health services entitlement to youth primarily through two complicated parallel
13 systems. County Mental Health Plans are responsible for providing Specialty Mental
14 Health Services (“SMHS”) under the authority of a section 1915(b) waiver approved
15 by the Centers for Medicare & Medicaid Services. Medi-Cal Managed Care Plans,
16 or fee for service providers for youth not enrolled in managed care, are responsible
17 for providing so-called non-Specialty Mental Health Services. Although states may
18 contract with organizations, including managed care entities, to oversee the delivery
19 of services, and may arrange services through provider networks, states retain
20 responsibility for ensuring compliance with Medicaid requirements, including the
21 EPSDT mandates.⁶⁰

22 251. DMH is the Los Angeles County agency responsible for providing or
23 arranging for the provision of Specialty Mental Health Services for Med-Cal
24
25

26 _____
⁵⁷ 42 U.S.C. §§ 1396a(a)

27 ⁵⁸ 42 U.S.C. §§ 1396a(a)(10)(A), 42 U.S.C. §§ 1396a(a)(43)(C); 1396d(a)(4)(B); 1396d(r)(1);
1396d(r)(5).

28 ⁵⁹ See 42 U.S.C. § 1396(a)(5); 42 C.F.R. § 431.10.

⁶⁰ 42 U.S.C. §§ 1396a(a)(5), 1396a(a)(43), 1396u-2.

1 beneficiaries, including transition age foster youth. These services are provided
2 through the Los Angeles County Mental Health Plan.

3 252. Transition age foster youth are eligible for a variety of necessary
4 Specialty Mental Health Services, including intensive care coordination, therapeutic
5 foster care, IHBS , mental health services, peer support specialists services, and crisis
6 services.

7 253. Intensive care coordination (“ICC”) is a targeted and intensive case
8 management service that facilitates the assessment of, care planning for, and
9 coordination of mental health services and includes formal and informal supports and
10 team planning.

11 254. Therapeutic foster care (“TFC”) is a service model that allows for the
12 provision of short-term, intensive, trauma-informed, and individualized Specialty
13 Mental Health Services (SMHS) for children up to age 21 who have complex
14 emotional and behavioral needs. Services include plan development and
15 rehabilitation and other needed supports. In TFC, children are placed with trained,
16 intensely supervised, and supported TFC parents.

17 255. IHBS include services that are designed to correct or ameliorate mental
18 health conditions that interfere with the youth’s functioning and to build skills to help
19 the youth function in the home and community. IHBS can be critical to stabilizing
20 placements.

21 256. Mental health services include a variety of trauma treatments designed
22 to help an individual process a trauma or multiple traumas they have experienced and
23 learn how to cope with the feelings associated with the experience (e.g., fear,
24 posttraumatic stress, anxiety, depression, etc.). Evidence-based trauma treatments
25 include: Eye Movement Desensitization and Reprocessing therapy (EMDR); Trauma-
26 focused Cognitive Behavioral Therapy (TF-CBT); Cue Centered Therapy (CCT);
27 Modular Approach to Therapy for Children with Anxiety, Depression, Trauma, or
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1 Conduct Problems (MATCH-ADTC); Dialectical Behavior Therapy (DBT); and
2 Multisystemic Therapy (MST).

3 257. Peer support specialists services are an evidence-based model of care
4 where certified support specialists provide recovery-oriented, culturally appropriate
5 services that promote engagement, socialization, self-sufficiency, self-advocacy,
6 natural supports and are trauma aware.

7 258. Crisis services provide community-based rapid response, individual
8 assessment and community-based stabilization. These services are intended to reduce
9 the immediate risk of danger and avoid unnecessary psychiatric hospitalization or law
10 enforcement involvement.

11 **B. Defendants Fail to Provide Transition Age Foster Youth with**
12 **Necessary Behavioral Health Services.**

13 259. Named plaintiffs' experiences and California's own data indicates that
14 foster youth between the ages of eighteen to twenty are far less likely to receive
15 Specialty Mental Health Services than foster youth under eighteen. Fiscal year 2021
16 State snapshot data measuring specialty mental health care visits indicates that in Los
17 Angeles County, 60.67% of 12,200 eligible foster children between the ages of 12-17
18 accessed Specialty Mental Health Services. In contrast, only 39.81% of 3,900 eligible
19 foster youth between the ages of 18-20 accessed Specialty Mental Health Services.

20 260. In Los Angeles County, the call-in line for youth with mental health
21 needs is literally called the "gatekeeper." Too often, the gate is closed. Only a small
22 fraction of foster youth are able to access supportive housing programs that offer
23 mental health supports.

24 261. At a minimum, failure to provide these necessary behavioral health
25 services results in worsening symptoms, harming youth who are entrusted to the
26 County's care. But, over time, without access to these services, youth are cycled in
27 and out of placements that do not meet their individual needs, funneled into overly
28 restrictive settings, forced into dangerous situations while unhoused, and effectively

1 abandoned by the system. Plaintiff Onyx G., for instance, was forced to leave her
2 STRTP and enter a youth homeless shelter because she did not receive necessary
3 psychological services after she reported she was sexually assaulted by her roommate.
4 Similarly, Defendants failed to provide Plaintiff Junior R. with necessary crisis
5 services when his placements destabilized, leading to homelessness. DCFS's failure
6 to find Junior R. an appropriate placement caused him to suffer from panic attacks
7 and suicidal ideation, for which he also never received necessary treatment. The
8 system sets transition age foster youth up for adverse outcomes, including chronic
9 homelessness and incarceration.

10 **C. Defendants Must Coordinate to Ensure Receipt of Behavioral**
11 **Health Services.**

12 262. ⁶¹Despite the fact that Defendants have known for decades that foster
13 youth with mental health disabilities, including transition age foster youth, need
14 access to Medicaid behavioral health services, their efforts have been woefully
15 inadequate. Meeting the State's affirmative duty to provide timely Medicaid services
16 to foster youth with mental health disabilities requires intra- and inter-agency
17 coordination, particularly the provision of intensive care coordination, IHBS , crisis
18 services, and therapeutic foster care for transition age foster youth.

19 263. At present, insufficient coordination between Defendants results in
20 transition age foster youth with mental health disabilities falling through the cracks.
21 Many transition age foster youth with mental health disabilities are still unable to
22 access legally required and necessary Specialty Mental Health Services in the home
23 and community.

24 **XII. THIS ACTION CANNOT BE BROUGHT IN THE DEPENDENCY**
25 **COURT AND IT DOES NOT INTERFERE WITH THE DEPENDENCY**
26 **COURT'S JURISDICTION.**

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28 _____
⁶¹ Cite to federal mandate on coordination between agencies.

1 Plaintiffs in this action do not challenge or seek to enjoin or otherwise interfere
2 with the Dependency Court's determinations. Plaintiffs instead challenge the
3 unlawful executive agency systemic practices of Defendants, practices that the
4 Dependency Court is incapable of remedying.

5 The systemic issues alleged in this complaint are ones that cannot be remedied
6 in the Dependency Court, because State law bars the interposition of Plaintiffs' claims
7 in Dependency Court and/or because the systemic nature of the claims and remedies
8 renders the Dependency Court an inadequate forum.

9 The Dependency Court does not have authority to:

- 10 (i) correct systemic failures to ensure there is a minimally adequate
11 placement array such that Class members have access to safe and stable
12 placements;
- 13 (ii) correct systematic failures resulting in Class members not receiving
14 legally compliant case plans and transition plans;
- 15 (iii) correct systemic failures to ensure that Class members receive adequate
16 notice and due process after any denial of placement or pushout from
17 placement;
- 18 (iv) correct systemic failures to ensure Defendants do not discriminate
19 against ADA Subclass members and instead provide them an adequate
20 array of placements and services in the most integrated, least restrictive
21 setting appropriate to their needs;
- 22 (v) correct systemic failures to ensure that ADA Subclass members and
23 Medicaid Subclass members have access to and receive the Medicaid
24 services to which they are entitled; or
- 25 (vi) correct systemic failures to ensure that Defendants do not violate the
26 Expecting and Parenting Subclass members' right to familial association.
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1 The remedies asserted herein will promote, not interfere with, the Dependency
2 Court's ability to exercise its jurisdiction and ensure the safety and well-being of
3 transition age foster youth.

4 **CLASS ACTION ALLEGATIONS**

5 264. This action is properly maintained as a class action under Rules 23(a)
6 and 23(b)(2) of the Federal Rules of Civil Procedure.

7 265. This action consists of the General Class and three subclasses:

8 a. The General Class includes all transition age foster youth who are
9 or will be in extended foster care in Los Angeles County.

10 b. The ADA Subclass includes all members of the General Class
11 with mental impairments due to mental health conditions that substantially limit a
12 major life activity.

13 c. The Medicaid Subclass includes all members of the General Class
14 who are eligible for Specialty Mental Health Services and for whom the service is
15 needed to correct or ameliorate a mental health condition.

16 d. The Expecting and Parenting Subclass includes all members of the
17 General Class who are pregnant and/or parenting.

18 266. Each class is sufficiently numerous to make joinder impracticable:

19 a. Upon information and belief, the General Class includes at least
20 four thousand two hundred (4,200) transition age foster youth, ages sixteen to twenty-
21 one, who are or will be in extended foster care in Los Angeles County. Joinder of
22 thousands of these youth would be unduly burdensome and impractical in these
23 circumstances.

24 b. The ADA Subclass is sufficiently numerous to make joinder
25 impracticable. Over sixty percent (60%) of foster youth, ages seventeen to eighteen,
26 have a mental health disability. Using sixty percent (60%) as the baseline, over two
27 thousand five hundred (2,500) transition age foster youth in Los Angeles County have
28 mental health disabilities, and those disabilities substantially limit one or more major

1 life activities. Moreover, youth who have not yet been diagnosed with a DSM-V
2 diagnosis may still be members of the subclass as they have been subjected to the
3 known trauma associated with removal from their home and communities, along with
4 other trauma and instability they have experienced. This complex trauma
5 substantially limits their functioning.

6 c. The Medicaid Subclass is sufficiently numerous to make joinder
7 impracticable. Based on the most recent publicly available data, over 1,300 young
8 people ages eighteen to twenty in Los Angeles received a Specialty Mental Health
9 Service in 2021. This number does not include subclass members ages sixteen to
10 seventeen because their Specialty Mental Health Services usage is not disaggregated
11 by age in publicly available data. Moreover, the actual number of youth in the subclass
12 will be much larger because all transition age foster youth are eligible to receive
13 Specialty Mental Health Services if they are needed to correct or ameliorate a mental
14 health condition.

15 d. The Expecting and Parenting Subclass is sufficiently numerous to
16 make joinder impracticable. In April 2023, there were over 250 youth, ages ten to
17 twenty, who were parents in foster care in Los Angeles County. Joinder is also
18 impracticable because class members lack the knowledge and the financial means to
19 maintain individual actions.

20 267. The questions of fact and law raised by Named Plaintiffs' claims are
21 common to and typical of those of the putative General Class and each Subclass.

22 268. Each General Class and Subclass member relies on Defendants for their
23 safety and well-being, both for necessities such as food and a safe and stable
24 placement, but also for mental health, permanency, and other supportive services.
25 Defendants' longstanding failures to oversee and support transition-related services
26 and to ensure a minimally adequate array of safe and stable extended foster care
27 placements harm and/or place the entire General Class and each Subclass at risk of
28 harm.

1 269. Questions of fact common to the classes include:

2 a. Whether Defendants have a policy, pattern, and/or practice of
3 failing to provide timely and legally compliant case plans and transition plans to the
4 General Class;

5 b. Whether Defendants have a policy, pattern, and/or practice of
6 failing to develop a minimally adequate array of safe and stable placements for
7 transition age foster youth resulting in extreme housing instability and exposing the
8 General Class to psychological, emotional, and physical harm and/or ongoing
9 immediate risk of such harm;

10 c. Whether Defendants have a policy, pattern, and/or practice of
11 failing to ensure that the General Class are not subjected to arbitrary and opaque
12 application procedures and not unlawfully rejected from or pushed out of such
13 placements without adequate notice and an opportunity to be heard;

14 d. Whether Defendants administer their placements and services in a
15 manner that discriminates against the ADA Subclass and the Expecting and Parenting
16 Subclass members, including the failure to develop a minimally adequate array of
17 safe, stable and appropriate placements and supportive services tailored to their needs;

18 e. Whether Defendants deprive the ADA Subclass members of
19 necessary and appropriate services and reasonable modifications to give them equal
20 access to integrated, least-restrictive, safe, and appropriate extended foster care
21 placements and services; and

22 f. Whether Defendants have failed to provide necessary behavioral
23 health services to the Medicaid Subclass.

24 270. Questions of law common to the General Class include:

25 a. Whether Defendants' policies and practices violate the General
26 Class's rights under AACWA to have timely and compliant case plans and a case
27 review system that ensures Class members have a transition plan designed to meet
28 their needs;

1 b. Whether Defendants’ policies and practices violate the General
2 Class’s substantive due process rights to be free from psychological, emotional, and
3 physical harm and/or ongoing immediate risk of such harm while in State custody, as
4 guaranteed by the Fourteenth Amendment to the United States Constitution;

5 c. Whether Defendants’ policies and practices violate the General
6 Class’s procedural due process rights to be free from unlawful denial of placement
7 without adequate notice and an opportunity to be heard, and involuntary and unlawful
8 pushouts without adequate notice and an opportunity to be heard, as guaranteed by
9 the Fourteenth Amendment to the United States Constitution;

10 d. Whether Defendants’ policies and practices violate the ADA and
11 Section 504 with respect to the ADA Subclass;

12 e. Whether Defendants’ policies and practices violate the Medicaid
13 Act with respect to the Medicaid Subclass;

14 f. Whether Defendants’ policies and practices with respect to the
15 Expecting and Parenting Subclass violate their rights to family association under the
16 First and Fourteenth Amendments to the United States Constitution;

17 Whether the General Class and Subclass members are
18 entitled to declaratory and injunctive relief to vindicate the
19 rights they have been denied.

20 271. The violations of law and resulting harms suffered by the Named
21 Plaintiffs are typical of the legal violations and harms (or substantial risk of serious
22 harm) that all General Class members experience. Plaintiffs Erykah B., Onyx G.,
23 Rosie S., Jackson K., Ocean S., and Junior R. have claims that are typical of claims
24 of the ADA and Medicaid Subclasses. Named Plaintiffs Rosie S. and Ocean S. have
25 claims that are typical of claims of the Expecting and Parenting Subclass.

26 272. The Named Plaintiffs will fairly and adequately represent and protect the
27 interests of the General Class and each Subclass. There are no conflicts of interest
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1 between the Named Plaintiffs and the classes they seek to represent. The relief sought
2 by the Named Plaintiffs will benefit all members of the classes.

3 273. Named Plaintiffs and the General Class are represented by attorneys with
4 extensive experience in complex civil and public interest litigation. Plaintiffs'
5 Counsel include attorneys from Public Counsel, the Alliance for Children's Rights,
6 Children's Rights, and Munger, Tolles, & Olson LLP. Plaintiffs' counsel have
7 committed sufficient resources to represent the classes.

8 **FIRST CAUSE OF ACTION**

9 **(Against the County, DCFS, Nichols, CDSS, Johnson, CalHHS, and Ghaly for**
10 **Violation of the Case Planning and Transition Planning Provisions of the**
11 **Adoption Assistance and Child Welfare Act, 42 U.S.C. 670 et. seq.)**

12 274. Plaintiffs hereby re-allege and incorporate by reference the foregoing
13 paragraphs of this Complaint as though fully set forth herein.

14 275. Defendants, while acting under color of law, have developed and
15 maintained customs, policies, and practices that deprive Plaintiffs of their statutory
16 rights under the Adoption Assistance and Child Welfare Act of 1980 ("AACWA"),
17 42 U.S.C. § 670 et. seq, by:

18 a. Failing to provide legally compliant case plans that includes a
19 description of the youth's placement, a discussion of the placement's safety and
20 appropriateness, and a plan that assures that the youth receives safe and proper care
21 that meets their needs while in a safe, stable and appropriate placement at all times,
22 42 U.S.C. § 671(1)(A)-(B); and

23 b. Failing to ensure a case review system that includes a legally
24 compliant transition plan developed during the ninety-day period immediately prior
25 to each youth's exit from foster care, that is personalized at the direction of the youth
26 and includes specific options on safe, stable and appropriate placement, health,
27 insurance, mentorship, and education and employment support, as well as the youth's
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1 birth certificate, Social Security card, and other vital documents that the youth must
2 be provided before exiting foster care, 42 U.S.C. §§ 671(a)(16), 675(5)(H), (I).

3 276. Plaintiffs and members of the Classes are entitled to appropriate relief.

4 **SECOND CAUSE OF ACTION**
5 **(Against the County, DCFS, Nichols, CDSS, Johnson, CalHHS, and Ghaly for**
6 **Violation of Substantive Due Process under the Fourteenth Amendment to the**
7 **United States Constitution)**

8 277. Plaintiffs hereby re-allege and incorporate by reference the foregoing
9 paragraphs of this Complaint as though fully set forth herein.

10 278. Foster youth, including transition age foster youth, have a federal
11 constitutional right to State protection while they remain in the care of the State.
12 Because Defendants have restrained Plaintiffs' personal liberty by taking them into
13 State custody and extending their foster care past age eighteen by operation of law,
14 Defendants owe Plaintiffs reasonable safety, placement, and minimally adequate care
15 and treatment appropriate to the Plaintiffs' age and circumstances. Due to
16 Defendants' special relationship with Plaintiffs, Defendants assumed an affirmative
17 duty under the Fourteenth Amendment to the United States Constitution to protect
18 Plaintiffs from harm, including but not limited to the harm caused by extreme housing
19 instability and homelessness.

20 279. Defendants, while acting under color of law, have developed and
21 maintained customs, policies and practices that deprive Plaintiffs of their
22 constitutional rights, in violation of 42 U.S.C. § 1983. These practices include, but
23 are not limited to, failing to provide a minimally adequate array of safe and stable
24 placements; ; failing to identify sufficient emergency housing options for youth
25 transitioning between placements or re-entering care; affirmatively issuing standards
26 and policies that undermine placement stability for transition age foster youth;
27 licensing and contracting with placement providers that do not respect and uphold the
28 rights of foster youth; failing to ensure transition age foster youth's access to critical

1 EPSDT services; and deliberately ignoring the need to evaluate and expand safe and
2 stable placement capacity for transition age foster youth.

3 280. Defendants' practices have caused Plaintiffs' conditions to deteriorate
4 and have subjected them to unsafe conditions and emotional, psychological and
5 physical harm, in violation of the Fourteenth Amendment to the United States
6 Constitution.

7 281. Defendants have failed to provide for Plaintiffs' basic needs, including,
8 without limitation, adequate safety; safe and stable placement; medical care,
9 treatment, and required services; conditions of confinement that are reasonably
10 related to the purpose of their custody; reasonable care; and freedom from
11 unreasonable risk of harm.

12 282. Defendants have acted under color of law with deliberate indifference
13 towards Plaintiffs. Defendants are aware that their failure to provide transition age
14 foster youth with safe and stable placement and required services causes youth to
15 experience homelessness and its attendant health and safety risks. Defendants' own
16 statements, and the various publications that have put them on notice, establish that
17 Defendants have knowledge of the danger to Plaintiffs and have ignored this danger.
18 In restricting Plaintiffs' access to safe and stable placement, services, and treatment,
19 Defendants abdicated their duty to provide for Plaintiffs' basic needs and have thereby
20 caused Plaintiffs' injuries.

21 283. The foregoing actions and omissions of Defendants constitute a policy,
22 pattern, practice, and/or custom that is inconsistent with the exercise of any accepted
23 professional judgment and amounts to deliberate inference to the constitutionally
24 protected liberty and privacy interests of Plaintiffs.

25 284. Plaintiffs and members of the Classes are entitled to appropriate relief.
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THIRD CAUSE OF ACTION

(Against the County, DCFS, Nichols, CDSS, Johnson, CalHHS, and Ghaly for Violation of Procedural Due Process under the Fourteenth Amendment to the United States Constitution)

285. Plaintiffs hereby re-allege and incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

286. Defendants, acting under color of law, have deprived Plaintiffs of their property without providing adequate procedural safeguards by failing to provide for sufficient notice or hearing before a neutral arbiter before a youth is denied admission to, or evicted from, programs like THPP-NMD and SILP. The CDSS THPP-NMD Interim Licensing Standards and DCFS policies require Plaintiffs to apply and interview for admission to THPP-NMD, then allow THPP-NMD programs to deny admission without written notice or a meaningful opportunity to contest the reasons for denial. Defendants’ policies also allow inadequate notice and opportunity to be heard when youth are pushed out of a THPP-NMP placement, and allow THPP-NMD programs to misclassify as “emergencies” behaviors that could be addressed through trauma-responsive approaches; by misclassifying this conduct, programs may, under Defendants’ policies, unlawfully and involuntarily exit Plaintiffs from their placements without any notice at all. Similarly, Plaintiffs may be denied or delayed a placement in a SILP, or abruptly lose financial support for their SILP, without notice and an opportunity to appeal or grieve Defendants’ actions.

287. Defendants’ actions, inactions, customs, policies, and practices deprive Plaintiffs of their property interest in extended foster care placement and services without due process, in violation of 42 U.S.C. § 1983.

288. Defendants have denied Plaintiffs foster care placement and services, resulting in a grievous loss for Plaintiffs, without providing timely notice, a pre-termination hearing, and an impartial decision-maker as required by the Fourteenth Amendment. In losing their placement without adequate procedural safeguards,

1 Plaintiffs lose not only a place to sleep, but other DCFS resources that are linked to
2 Plaintiffs' placement status, including monthly stipends to help cover the cost of food
3 and basic living expenses, clothing allowances and, for parenting youth, infant
4 supplements.

5 289. Plaintiffs and members of the Classes are entitled to appropriate relief.

6 **FOURTH CAUSE OF ACTION**

7 **On behalf of the ADA Subclass**

8 **(Against All Defendants for Violation of Section 504**

9 **of the Rehabilitation Act)**

10 290. Plaintiffs hereby re-allege and incorporate by reference the foregoing
11 paragraphs of this Complaint as though fully set forth herein.

12 291. Defendants are prohibited under Section 504 and its implementing
13 regulations from discriminating against individuals with disabilities.⁶² Defendants
14 are also prohibited from discriminating against individuals on the basis of disability
15 through contractual, licensing or other arrangements.⁶³

16 292. Plaintiffs with mental health disabilities meet the definition of
17 "individuals with disabilities" within the meaning of Section 504 and its
18 implementing regulations, 45 C.F.R. § 84.3(j).

19 293. Defendants conduct, operate, or administer the State foster care and
20 Medicaid programs, which receive federal financial assistance and are therefore
21 programs or activities within the meaning of the Section 504 of the Rehabilitation
22 Act, 29 U.S.C. § 794(b), and its implementing regulations, 45 C.F.R. § 84.3(k).

23 294. Plaintiffs are under twenty-one years of age and otherwise eligible for
24 the foster care placement and services for which Defendants receive federal funds at
25 all times.

26 295. Plaintiffs are otherwise eligible for Medicaid.

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28 ⁶² 29 U.S.C. § 794; 45 C.F.R. § 84.4(b).

⁶³ 45 C.F.R. § 84.4(b)

1 **General Discrimination**

2 296. Defendants have denied transition age foster youth the benefits of the
3 foster care system and Medicaid program solely on the basis of their disability.
4 Defendants and their contractors exclude and unjustifiably terminate transition age
5 foster youth with mental health disabilities foster care placements, including THPP-
6 NMD and SILP, and other needed services. This discrimination impairs Plaintiffs’
7 and ADA Subclass members’ ability to meaningfully access the benefits of foster
8 care, denies them equal access to placements available to non-disabled transition age
9 foster youth, denies them placement in the most integrated, least restrictive setting
10 appropriate to their needs, and denies other federally-funded Medicaid services to
11 transition age foster youth with mental health disabilities, and substantially impairs
12 accomplishment of these programs’ objectives with respect to individuals with
13 disabilities.

14 297. There are effective and reasonable modifications the Defendants could
15 implement that would allow Plaintiffs and ADA Subclass members to enjoy the
16 benefits of the foster care system and Medicaid programs. Providing these reasonable
17 modifications would not fundamentally alter the nature of the placements and services
18 that Defendants must provide at all times.

19 298. Plaintiffs have suffered irreparable injury because of Defendants’
20 discrimination on the basis of disability. Plaintiffs are without adequate remedy at
21 law.

22 **Methods of Administration**

23 299. Pursuant to the regulations implementing the Rehabilitation Act,
24 Defendants are prohibited from utilizing criteria or other methods of administration
25 “(i) that have the effect of subjecting qualified handicapped persons to discrimination
26 on the basis of [disability]; [or] (ii) that have the purpose or effect of defeating or
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1 substantially impairing accomplishment of the objectives of the recipient’s program
2 or activity with respect to handicapped.”⁶⁴

3 300. Defendants utilize methods of administration that subject Plaintiffs and
4 ADA Subclass Members to discrimination on the basis of disability. Defendants’
5 policies exclude and unjustifiably terminate transition age foster youth with mental
6 health disabilities from foster care placements, including THPP-NMDs and SILPs,
7 and other needed services. This discrimination impairs Plaintiffs’ and ADA Subclass
8 Members’ ability to meaningfully access the benefits of foster care, denies equal
9 access to placements available to transition age youth without disabilities, denies
10 placement in the most integrated, least restrictive setting appropriate to their needs,
11 and denies federally-funded Medicaid services to transition age foster youth with
12 mental health disabilities, and substantially impairs accomplishment of these
13 programs’ objectives with respect to youth with mental health disabilities.

14 301. There are effective and reasonable modifications Defendants could
15 implement that would create appropriate supports for placement and services and
16 allow Plaintiffs and ADA Subclass members to enjoy the benefits of these foster care
17 system and the Medicaid program. Providing these reasonable modifications would
18 not fundamentally alter the nature of the placement and services that Defendants
19 provide.

20 302. Plaintiffs have suffered irreparable injury because of Defendants’ use of
21 methods of administration that discriminate on the basis of disability. Plaintiffs are
22 without adequate remedy at law.

23 **Integration Mandate**

24 303. Section 504 mandates that qualified individuals with disabilities are
25 entitled to receive services in the most integrated setting appropriate to their needs.⁶⁵
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28 ⁶⁴ 45 C.F.R. § 84.4(b)(4).

⁶⁵ 28 C.F.R. § 84.4(b)(2).

1 304. Plaintiffs and ADA Subclass Members are capable of living in integrated
2 settings, and they wish to receive services in the most integrated community-based
3 settings that meet their needs, including their mental and behavioral health needs.

4 305. Defendants' fail to provide a minimally adequate array of placements
5 and needed services to meet the needs of transition age foster youth with mental health
6 disabilities,, depriving Plaintiffs and ADA Subclass members of their right to receive
7 placement and services in the most integrated, least restrictive setting appropriate to
8 their needs. Defendants have placed Plaintiffs and ADA Subclass Members in unduly
9 restrictive and segregated settings despite their ability to benefit from placements and
10 services in a less restrictive setting.

11 306. Defendants' failure to provide Medicaid services in an integrated
12 community-based setting restricts Plaintiffs' and ADA Subclass members' right to
13 receive Medicaid services in the least restrictive environment appropriate to their
14 needs.

15 307. As a result of Defendants' acts and omissions, Plaintiffs and ADA
16 Subclass Members are unnecessarily segregated or placed at risk of
17 institutionalization and lack of community integration in violation of the
18 Rehabilitation Act.

19 308. Plaintiffs have suffered irreparable injury because of Defendants' failure
20 to facilitate the receipt of services and least restrictive placement in the most
21 integrated settings appropriate to their needs. Plaintiffs are without adequate remedy
22 at law.

23 309. Plaintiffs and members of the ADA Subclass are entitled to appropriate
24 relief.

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1 **FIFTH CAUSE OF ACTION**

2 **On behalf of the ADA Subclass**
3 **(Against All Defendants for Violation of the**
4 **Americans with Disabilities Act of 1990)**

5 310. Plaintiffs hereby re-allege and incorporate by reference the foregoing
6 paragraphs of this Complaint as though fully set forth herein.

7 311. Title II of the ADA provides that “no qualified individual with a
8 disability shall, by reason of such disability, be excluded from participation in or be
9 denied the benefits of the services, programs, or activities of a public entity, or be
10 subjected to discrimination by any such entity.”⁶⁶ Defendants are also prohibited
11 under Title II of the ADA and its implementing regulations from discriminating
12 against individuals with disabilities through contractual, licensing or other
13 arrangements.⁶⁷

14 312. Plaintiffs and members of the ADA Subclass have mental health
15 disabilities that substantially limit one or more major life activities, or have a record
16 of such disabilities, and therefore have a disability as defined by the ADA, 42 U.S.C.
17 §§ 12102 et seq., and its implementing regulations, 28 C.F.R. § 35.108.

18 313. Plaintiffs and members of the ADA Subclass are “qualified individuals
19 with disabilities” as defined by the ADA, 42 U.S.C. § 12131(2), and its implementing
20 regulations, 28 C.F.R. § 35.104.

21 314. Defendants are public entities as defined by the ADA, 42 U.S.C. §
22 12131, and its implementing regulations, 28 C.F.R. § 35.104.

23 **General Discrimination**

24 315. Defendants have denied transition age foster youth the benefits of the
25 foster care system and Medicaid program by reason of their disability. Defendants
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28 ⁶⁶ 42 U.S.C. § 12132; 28 C.F.R. § 35.130.

⁶⁷ 28 C.F.R. 35.130(b)(1)(i)(ii)(iii)(v)(vii).

1 and their contractors exclude and unjustifiably terminate transition age foster youth
 2 with mental health disabilities foster care placements, including THPP-NMD and
 3 SILP, and other needed services. This discrimination impairs Plaintiffs' and ADA
 4 Subclass members' ability to meaningfully access the benefits of foster care, denies
 5 them equal access to placements available to non-disabled transition age foster youth,
 6 denies them placement in the most integrated, least restrictive setting appropriate to
 7 their needs, and denies other federally-funded Medicaid services to transition age
 8 foster youth with mental health disabilities, and substantially impairs accomplishment
 9 of these programs' objectives with respect to individuals with disabilities.

10 316. There are effective and reasonable modifications the Defendants could
 11 implement that would allow Plaintiffs and members of the ADA Subclass to enjoy
 12 the benefits of Defendants' foster care system and Medicaid programs. Providing
 13 these reasonable modifications would not fundamentally alter the nature of the
 14 placement, social services, and health services that Defendants provide.

15 317. Plaintiffs have suffered irreparable injury because of Defendants'
 16 discrimination on the basis of disability. Plaintiffs are without adequate remedy at
 17 law.

18 **Methods of Administration**

19 318. Pursuant to the regulations implementing Title II of the ADA,
 20 Defendants are prohibited from utilizing criteria or other methods of administration:
 21 "(i) That have the effect of subjecting qualified individuals with disabilities to
 22 discrimination on the basis of disability; [or] (ii) That have the purpose or effect of
 23 defeating or substantially impairing accomplishment of the objectives of the public
 24 entity's program with respect to individuals with disabilities" ⁶⁸

25 319. Defendants utilize methods of administration that subject Plaintiffs and
 26 ADA Subclass Members to discrimination by reason of disability. Defendants'

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⁶⁸ 28 C.F.R. § 35.130(b)(3).

1 policies exclude and unjustifiably terminate transition age foster youth with mental
2 health disabilities from foster care placements, including THPP-NMDs and SILPs,
3 and other needed services. This discrimination impairs Plaintiffs’ and ADA Subclass
4 members’ ability to meaningfully access the benefits of foster care; denies placement
5 and federally funded Medicaid services to transition age foster youth with mental
6 health disabilities; and substantially impairs accomplishment of these programs’
7 objectives with respect to youth with mental health disabilities.

8 320. There are effective and reasonable modifications Defendants could
9 implement that would create appropriate supports for placement and allow Plaintiffs
10 and members of the ADA Subclass to enjoy the benefits of Defendants’ foster care
11 system and Medicaid program. Providing these reasonable modifications would not
12 fundamentally alter the nature of the placements and social services that Defendants
13 provide.

14 321. Plaintiffs have suffered irreparable injury because of Defendants’ use of
15 methods of administration that discriminate on the basis of disability. Plaintiffs are
16 without adequate remedy at law.

17 **Integration Mandate**

18 322. Title II of the ADA requires that “[a] public entity shall administer
19 services, programs, and activities in the most integrated setting appropriate to the
20 needs of qualified individuals with disabilities.”⁶⁹

21 323. Plaintiffs and ADA Subclass members are capable of living in integrated
22 settings, and they wish to receive services in the most integrated community-based
23 settings that meet their needs, including their mental and behavioral health needs.

24 324. Defendants fail to provide a minimally adequate array of placements and
25 services to meet the needs of transition age foster youth with mental health
26 disabilities, depriving Plaintiffs and ADA Subclass members of their right to receive
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28 ⁶⁹ 28 C.F.R. § 35.130(d).

1 placement and services in the most integrated, least restrictive setting appropriate to
2 their needs. Defendants have placed Plaintiffs and ADA Subclass Members in unduly
3 restrictive and segregated settings despite their ability to benefit from placements and
4 services in a less restrictive setting.

5 325. Defendants' failure to provide mental and behavioral services in an
6 integrated community-based setting restricts Plaintiffs' and ADA Subclass members'
7 right to receive such services in the least restrictive environment appropriate to their
8 needs.

9 326. As a result of Defendants' acts and omissions, Plaintiffs and ADA
10 Subclass members are unnecessarily segregated or placed at risk of
11 institutionalization and lack of community integration in violation of Title II of the
12 ADA.⁷⁰

13 327. Serving the Plaintiffs and the members of the ADA Subclass in the most
14 integrated settings appropriate to their needs would not fundamentally alter the nature
15 of the Defendants' services, programs, or activities.⁷¹

16 328. Plaintiffs and members of the ADA subclass have suffered irreparable
17 injury because of Defendants' failure to facilitate the receipt of services and safe and
18 appropriate placement at all times in the most integrated settings appropriate to their
19 needs. Plaintiffs are without adequate remedy at law.

20 329. Plaintiffs and members of the ADA Subclass are entitled to appropriate
21 relief.

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28 ⁷⁰ 28 C.F.R. § 35.130(d).

⁷¹ 28 C.F.R. § 35.130(b)(7).

1 **SIXTH CAUSE OF ACTION**

2 **On Behalf of the Expecting and Parenting Subclass**
3 **(Against the County, DCFS, Nichols, CDSS, Johnson, CalHHS, and Ghaly for**
4 **Violation of Freedom of Familial Association and Right to Privacy under the**
5 **First and Fourteenth Amendments to the United States Constitution)**

6 330. Plaintiffs hereby re-allege and incorporate by reference the foregoing
7 paragraphs of this Complaint as though fully set forth herein.

8 331. Under the First and Fourteenth Amendment to the United States
9 Constitution, state actors cannot infringe on the constitutional right to form and
10 maintain certain intimate or private relationships free from unjustified governmental
11 inference, including associational rights that attend the creation and sustenance of a
12 family, including the upbringing of children.

13 332. Defendants are state actors and thereby prohibited from infringing on
14 freedom of association.

15 333. Defendants, while acting under color of law and with deliberate
16 indifference to the rights of Plaintiffs and Expecting and Parenting Subclass members,
17 have developed and maintained customs, policies, and practices that have violated
18 Plaintiffs' and subclass members' freedom of intimate association, by failing to
19 provide safe and stable placements appropriate for pregnant and parenting youth to
20 reside with their children.⁷² Because of Defendants' failures, Plaintiffs and Expecting
21 and Parenting Subclass members have experienced homelessness, a contributing
22 factor to family separation. The lack of a minimally adequate array of safe and stable
23 placements also creates barriers for Plaintiffs and subclass members seeking to
24 reunify with detained children. Defendants' practices directly and substantially
25 interfere with the ability of Plaintiffs and members of the Expecting and Parenting
26 Subclass to parent their children while participating in extended foster care .

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⁷² Cal. Health & Safety Code § 1559.110(g)(2)(E)(iii), (iv).

1 334. Plaintiffs and members of the Expecting and Parenting Subclass have
2 been harmed by Defendants' acts and omissions and are entitled to appropriate relief.

3 **SEVENTH CAUSE OF ACTION**

4 **On Behalf of the Medicaid Subclass**

5 **(Against the County, DMH, Wong, DHCS, and Baass for Violation of the**
6 **Medicaid Act, Early and Periodic Screening, Diagnostic and Treatment**
7 **(EPSDT) Services, 42 U.S.C. § 42 U.S.C. §§ 1396a(43), 1396d(a)(4)(B) and**
8 **1396(r))**

9 335. Plaintiffs hereby re-allege and incorporate by reference the foregoing
10 paragraphs of this Complaint as though fully set forth herein.

11 336. Defendants, while acting under color of law, have violated the EPSDT
12 provisions of the Medicaid Act, by failing to provide or arrange for behavioral health
13 services for the Medicaid Subclass that are necessary to correct or ameliorate their
14 mental health conditions in violation of 42 U.S.C. §§ 1396a(a)(10)(A), 42 U.S.C. §§
15 1396a(43)(C), 1396d(a)(4)(B) and 1396d(r).

16 337. Plaintiffs in the Medicaid Subclass are otherwise eligible for Medicaid.

17 338. Defendants' acts and omissions described above violate 42 U.S.C. §
18 1983 by depriving Plaintiffs and members of the Medicaid Subclass of their statutory
19 rights.

20 339. Plaintiffs and members of the Medicaid Subclass are entitled to
21 appropriate relief.

22 **REQUEST FOR RELIEF**

23 WHEREFORE, Plaintiffs respectfully request that the Court:

- 24 a. Assert subject matter jurisdiction over this action;
- 25 b. Order that this action may be maintained as a class action pursuant to
26 Fed. R. Civ. P. §§ 23(a) and 23(b)(2);
- 27 c. Declare unlawful, pursuant to Fed. R. Civ. P. § 57, Defendants' conduct,
28 as described above, in violation of: (i) Plaintiffs' substantive due process rights under

1 the Due Process Clause of the Fourteenth Amendment to the United States
2 Constitution; (ii) Plaintiffs' procedural due process rights under the Due Process
3 Clause of the Fourteenth Amendment to the United States Constitution; (iii) Title II
4 of the ADA; (iv) Section 504 of the Rehabilitation Act; (v) the EPSDT provisions of
5 the Medicaid Act; (vi) the case and transition planning provisions of the AACWA;
6 and (vii) Plaintiffs' rights to privacy and familial association under the First and
7 Fourteenth Amendments to the United States Constitution.

8 d. Grant preliminary and permanent injunctive relief, pursuant to Fed. R.
9 Civ. P. § 65, requiring Defendants to: (i) correct systemic failures to ensure there is a
10 minimally adequate placement array such that Class members have access to safe and
11 stable placements at all times; (ii) correct systemic failures to ensure that Class
12 members receive adequate notice and due process after any denial of placement or
13 pushout from placement; (iii) correct systemic failures resulting in Class members not
14 receiving mandated case plans and transition plans; (iv) correct systemic failures to
15 ensure Defendants do not discriminate against ADA Subclass members and instead
16 provide them an adequate array of placements and services in the most integrated,
17 least restrictive setting appropriate to their needs; (v) correct systemic failures to
18 ensure that Named Plaintiffs, ADA Subclass members, and Medicaid Subclass
19 members have access to and receive the Medicaid services to which they are entitled;
20 and (vi) correct systemic failures to ensure that Defendants do not violate the
21 Expecting and Parenting Subclass members' right to familial association.

22 e. Retain jurisdiction over Defendants until such time as the Court is
23 satisfied that Defendants have implemented and sustained this injunctive relief;

24 f. Award reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1920,
25 42 U.S.C. § 12205, 42 U.S.C. § 1988, and Fed. R. Civ. P. § 23(e) and (h); and

26 g. Grant such further relief as this Court may deem just, necessary, and
27 proper.

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DATED: August 22, 2023

By: _____

Attorney for Plaintiffs

GLOSSARY OF TERMS⁷³

I. Named Defendants Defined in the Complaint

- CalHHS** California Health and Human Services Agency
- CDSS** California Department of Social Services
- County** Los Angeles County
- DCFS** Los Angeles County Department of Children and Family Services
- DHCS** California Department of Health Care Services
- DMH** Los Angeles County Department of Mental Health

II. Terms Defined in the Complaint

- AACWA** Adoption Assistance and Child Welfare Act of 1980
- ADA** Americans with Disabilities Act
- ASL** American Sign Language
- A.W.O.L.** Absent Without Leave
- CCLD** Defendant CDSS Community Care Licensing Division
- CFT** Child and Family Team meeting
- EPSDT** Early and Periodic Screening, Diagnostic and Treatment
- IEP** Individualized Education Plan
- IHBS** Intensive Home-Based Services
- ISFC** Intensive Service Foster Care Program
- LAHSA** Los Angeles Homeless Services Authority
- Medi-Cal** California’s Medicaid Program
- NMD** Nonminor Dependent
- PTSD** Post-Traumatic Stress Disorder
- Section 504** Rehabilitation Act of 1973
- SILP** Supervised Independent Living Placement
- SMHS** Specialty Mental Health Services

⁷³ The defined terms are in alphabetical order in each section of this Glossary.

- 1 **STRTP** Short-Term Residential Therapeutic Program
- 2 **TFC** Therapeutic Foster Care
- 3 **THPP** Transitional Housing Placement Program
- 4 **THPP-NMD**... Transitional Housing Placement Program for Non Minor Dependents
- 5 **TILP** Transitional Independent Living Plan
- 6 **TLS** Transitional Living Setting

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DATED: August 22, 2023

MUNGER, TOLLES & OLSON LLP

By: /s/ Grant A. Davis-Denny
 GRANT A. DAVIS-DENNY
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