

Elissa Hyne
On behalf of the undersigned organizations that participate in
the State Policy Advocacy and Reform Center (SPARC)
c/o Partnership for America's Children
5335 Wisconsin Ave. NW, Suite 440
Washington, DC 20015

April 17, 2023

Kathleen McHugh
Director, Policy Division
U.S. Department of Health and Human Services
Administration for Children and Families (ACF)
Washington, D.C.

Re: Notice for Public Comment
Proposed Separate Licensing Standards for Relative or Kinship Foster Family Homes
Document Number: 2023-03005

Dear Director McHugh:

The undersigned organizations participate in the State Policy Advocacy and Reform Center (SPARC), a network of state child advocacy organizations, legal advocates, and organizations with the goal of accelerating and supporting policy change in state child welfare systems throughout the nation. We thank you for the opportunity to submit the following comments in strong support of the proposed rule to allow title IV-E agencies to adopt commonsense licensing or approval standards for relative and kinship foster family homes that are different from those used for non-kin foster family homes. We deeply appreciate ACF's work in proposing this important rule that will facilitate the placement of children with loving relatives and kin, and the equitable treatment of all children in foster family homes.

This proposed rule is a significant step forward for thousands of children who are placed with relatives and kin in foster care and yet do not receive monthly financial assistance to meet their needs. These children, who are disproportionately Black, Indigenous, and/or in underserved rural areas, do not receive this support simply because their relatives and kin are not licensed according to standards that were developed for non-kin foster homes.

By allowing different licensing or approval standards for relatives and kin, the proposed rule will promote equity for all children in family foster homes and will prevent children from entering group or institutional placements when they can instead be placed with loving and supported kin. Children who are placed in group homes often have kin nearby who want to provide them with a home. However, without monthly support, which is tied to kin meeting stringent state licensing standards that lack a clear nexus to safety, many kin are not able to provide

placement. Kin may have a home full of love, but not enough windows. The proposed rule will help ensure children can be placed in these loving kin homes.

To achieve the laudatory objectives of the proposed rule, ACF's guidance in the background section is fundamentally important: "ACF encourages title IV-E agencies to strongly consider developing standards for relative and kinship foster family homes that meet only the requirements in the Act described earlier (i.e., section 471(a)(10)(A) and (a)(20)), and not additional standards the agency requires non-relative foster family homes to meet."

In line with this strong suggestion and to support the potential regulatory change, national organizations in collaboration with states, tribes, and territories, caregivers, and other stakeholders are creating a set of model relative and kin-specific licensing or approval standards that title IV-E agencies may adopt. The model will be limited to important federal safety requirements and be tailored to the strengths and challenges of relatives and kin. Among the national organizations collaborating on this model are those responsible for the NARA Model Family Foster Home Licensing Standards, on which ACF's National Model relied heavily: the American Bar Association Center on Children and the Law, Generations United, and NARA. Other key national partners include A Second Chance, Inc., Children's Rights, CWPpolicy, National Indian Child Welfare Association, New America's Resource Family Working Group, and Think of Us.

Requested Clarifications

To facilitate the effective use of a different licensing or approval process for relatives and kin, we request three clarifications to the proposed rule:

Specify When Kin/Relatives Can Begin to Receive Foster Care Maintenance Payments (FCMPs)

The proposed rule is clear that title IV-E agencies may have different licensing or approval standards for relatives and kin and, if they do, they must financially support children with approved relatives and kin in the same way as they do children with licensed non-kin. However, the proposed rule does not clarify when title IV-E agencies will begin to receive federal reimbursement and hence when these children can begin to receive FCMPs.

To promptly support children and families, we ask that in the final rule you explicitly provide that FCMPs must be provided from the time title IV-E reimbursement is available to the agency. Those FCMPs, and agency reimbursement, will begin as of the date the child is placed in the kin's home by the agency pursuant to their relative/kinship licensing or approval process. This clarity will ensure that children and their caregivers are supported from the time of placement, just as non-kin are.

Prevent Placement Delays

We ask that you further clarify that the relative/kin licensing or approval process may be adapted from provisional or emergency licensing standards designed to allow

immediate placement with kin. We request language that a kin or relative's home may be considered licensed or approved under this proposed rule once in-state criminal and child abuse/neglect registry checks show that the applicant does not have a relevant Adam Walsh felony conviction, an appointment is scheduled for the applicant's fingerprints to initiate a national criminal database check and, if an out of state child abuse registry check is necessary, it has been requested. This can ensure basic safety standards have been put in place without delaying a child's placement with their relative or kin due to the time needed to obtain fingerprints, conduct a national criminal database search, or, if needed, obtain an out of state child abuse registry check.

Broadly Include Kin

The background section to the proposed rule states that "[f]or purpose of this NPRM, ACF uses the term 'relative(s) and kin(ship)' to allow title IV-E agencies to adopt one set of licensing or approval standards for individuals related to a child by blood, marriage, ***tribal custom and/or (language added)*** adoption and other individuals who have an emotionally significant relationship with the child ***or the child's parents or other family members (language added)***, including fictive kin, that is different from the licensing or approval standards used for non-relative foster family homes." While we applaud that this definition includes individuals who have an emotionally significant relationship with the child, we ask that you also include individuals who have similar relationships with the child's parents and other family members, as noted in bold italics.

The inclusion of tribal affiliation and close family friends or "individuals who have an emotionally significant relationship with the parents or other family members" acknowledges the importance of culture and community. Children may be too young to have emotionally significant relationships with anyone, or they may simply not know the kin prior to placement. But kin caregivers who have relationships with the family, their history, their tribe, and their culture help keep children connected to their communities and are a critical inclusion in the definition.

Thank you again for the opportunity to provide comments, and for your ongoing commitment to equitably support all children in foster care. If you have any questions, please feel free to contact SPARC's Senior Child Welfare Policy Manager, Elissa Hyne at (203) 561-7212 or ehyne@foramericaschildren.org.

Sincerely,

Advocates for Children of New Jersey
Children's Action Alliance (Arizona)
Florida's Children First
Foster Success (Indiana)
Nebraska Appleseed

Our Children Oregon
Partners for Our Children (Washington)
Pennsylvania Partnerships for Children
Virginia Poverty Law Center