

June 30 2022

Secretary Xavier Becerra
200 Independence Avenue, S.W.
Washington, D.C. 20201

Assistant Secretary January Contreras
330 C. Street, S.W.
Washington, D.C. 20201

Associate Commissioner Aysha E. Schomburg
330 C. Street, S.W.
Washington, D.C. 20201

Dear Secretary Becerra, Assistant Secretary Contreras, and Associate Commissioner Schomburg:

We write as advocates for young people to ask that you take immediate action to ensure that LGBTQI+ young people in foster care are protected from harm and treated with dignity and respect.¹ Ensuring the protection and well-being of young people is the core function of our child welfare system. Unfortunately, LGBTQI+ youth and families continue to be under attack across the country. Recent actions in several states have resulted in LGBTQI+ children being both directly and indirectly harmed. As ACF states in its [Information Memorandum](#) of March 2nd, “[r]esearch and best child welfare practices clearly demonstrate that every child and youth in foster care should be affirmed and supported, including children and youth who are LGBTQI+ or who have a non-conforming gender identity or expression. Supporting and affirming LGBTQI+ children and youth in foster care is an overarching equity issue...” LGBTQI+ young people deserve the protection of law and regulation to ensure that the states’ obligation to provide appropriate care is carried out equitably with respect to all young people.

The recent report from the GAO entitled, [“Foster Care: Further Assistance from HHS Would be Helpful in Supporting Youth's LGBTQ+ Identities and Religious Beliefs”](#) (GAO-22-104688, May 20, 2022), makes clear that states need federal guidance and direction to ensure that the rights and well-being of LGBTQI+ youth are protected. The President’s Executive Order, issued on June 15, 2022, acknowledged the obligation of the federal agencies to address the discrimination faced by LGBTQI+ youth and families connected with the child welfare system: “The Federal Government must take action to address the significant disparities that LGBTQI+ youth face in

¹ In this document we use LGBTQI+ to be inclusive of individuals who have non-conforming gender identity or expression.

the foster care system, the misuse of State and local child welfare agencies to target LGBTQI+ youth and families, and the mental health needs of LGBTQI+ youth.” [Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals](#), Section 2 (June 15, 2022). The Executive Order directs federal agencies to take action to address discrimination and barriers faced by LGBTQI+ children, youth, parents, caretakers, and families in the child welfare and juvenile justice systems. *Id* at Section 5.

There is much that must be done in law, policy, and practice to provide equity and to assure the well-being of LGBTQI+ youth in foster care. To ensure that youth are not harmed due to their LGBTQI+ identity and that the child welfare and related systems provide care to youth and families that is affirming and supports their well-being, we ask that you immediately take the following administrative actions listed below:

1. Ensure that nondiscrimination protections such as those that appear in the 2016 Grants Rule, 45 C.F.R. Part 75, remain part of federal law and that the agency does not permit the 2021 HHS Grants Rule, which gutted critical protected classes from the rule, to take effect.
2. Formally nullify the Notification of Nonenforcement of Health and Human Services Grants Regulation, 84 Fed. Reg. 63,809, issued on Nov. 19, 2019.
3. Issue regulations pursuant to the final [rule](#) issued in 2016, which were scheduled to take effect in 2019 and require that state child welfare agencies collect and report important LGBTQI+-related data under AFCARS and critical data elements related to implementation of the Indian Child Welfare Act.

These three actions are critical to provide basic safety and care to young people by making clear that the prohibition on discrimination applies to all child welfare agencies and their grantees who are receiving federal child welfare dollars. Requiring that the specified data be collected will help ensure that LGBTQI+ youth and families are treated fairly and that all young people are affirmed and provided the services and supports that meet their needs. Without this critical data it is impossible to move towards evidence-based practices, to have clear data regarding numbers of LGBTQI+ youth in care nationwide, and to have data regarding the particular experiences and outcomes for LGBTQI+ youth of color in care.

Thank you for considering this request. We look forward to working with you.

National Organizations

Center for the Study of Social Policy
The Children’s Advocacy Institute

Children's Defense Fund
Children's Rights
Child Welfare League of America
First Focus Campaign for Children
FosterClub
Foster Youth in Action
GLBTQ Legal Advocates & Defenders
iFoster
Juvenile Law Center
National Association of Counsel for Children
National Disability Rights Network
Think of Us
Youth Law Center
Youth Villages

State Based Organizations

ACTION Ohio
Advokids (CA)
California Youth Connection
Center for Children's Justice (PA)
Children's Action Alliance (AZ)
Children's Law Center of California
Citizens' Committee for Children of New York
Common Good Iowa
Connecticut Voices for Children
Florida's Children First
Florida Youth SHINE!
Fostering Forward Michigan
Foster Success (IN)
Georgia's Children
Hawai'i Children's Action Network
John Burton Advocates for Youth (CA)
Lawyers Club of San Diego
Nebraska Appleseed
OHIO YAB
Oklahoma Institute for Child Advocacy
Massachusetts Law Reform Institute
Michigan's Children

Partners for Our Children (WA)
Pennsylvania Partnerships for Children
Rhode Island KIDS COUNT!
Voices for Georgia's Children
Voices for Vermont's Children
Voices for Virginia's Children

CC: Hannah Bristol, White House Office of Public Engagement