

November 26, 2019

Department of Health and Human Services  
Office of the Secretary  
Room 550-G.5,  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

RE: Proposed Rule on Health and Human Services Grants Regulation; Docket No. HHS-OS-2019-0014-0001; RIN 0991-AC16.

Dear Richard Brundage:

Thank you for the opportunity to comment in opposition to the U.S. Department of Health and Human Services' proposed changes to their grants regulation.

Kansas Action for Children (KAC) is a nonprofit, nonpartisan organization committed to improving the lives of Kansas children and families by providing comprehensive data, advocating for sound public policy, and collaborating with lawmakers. We are state advocates for policies that affect young children, including the foster care and adoption system, and early childhood education programs.

One of the most fundamental building blocks for the developing child is having supportive caregivers in their lives—and it doesn't matter if the caregiver is a biological parent, straight, gay or any other identity. It's that they love and care for the child.

We are concerned that this proposed rule will have detrimental effects on foster care youth, with the new vague language laying the foundation for potential discrimination against prospective foster parents because they are gay, lesbian, bisexual, or transgender.

In recent years, Kansas has seen large increases in our foster care population. Between FY2010 and FY2019, the average out of home placement on the last day of the month increased from 5,111 to 7,484, a 46 percent increase.<sup>i</sup> Due to the increase in out of home placements, Kansas foster care contractors are keeping children overnight in their offices rather than in foster homes or other appropriate facilities. Between January and May 2019, "more than 70 children have been kept overnight in the offices of the two nonprofit agencies providing foster care services."<sup>ii</sup> In addition, foster care children have been injured or sexually assaulted at foster care offices, in addition to going missing.<sup>iii</sup> There is a demonstrated need in Kansas for additional licensed foster care homes and parents.

In FY2019, 1,210 adoptions were finalized, about half of the average of 2,391 children in out of home placements that had the permanency goal of adoption during the fiscal year. There is a demonstrated need in Kansas for additional adoptive parents.

The proposed rule would "remove language protecting LGBTQ people and others from discrimination in programs funded by grants from the Department of Health and Human Services."<sup>iv</sup> This change could allow "faith-based foster care and adoption agencies...[to] continue getting taxpayer funding even if they exclude

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LGBTQ+ families and others from their services based on religious beliefs.”<sup>v</sup> This could further reduce the population of foster care and adoptive parents in Kansas and nationally. Children deserve better. This proposed rule is discriminatory and limits opportunities for foster care children to live in safe and loving homes.

Other HHS programs could also be affected, including “Head Start grant recipients and other federally funded child care facilities [which] could refuse to serve transgender youth and children with LGBTQ+ parents.”<sup>vi</sup> Head Start and child care assistance programs are vital for child development, particularly for low-income children. High-quality early education programs help children enter school prepared to learn. Research has found early childhood education reduces the percentage of children repeating a grade by 15 percent and reduces the rate of special education placement by 10 percent. When children start kindergarten unprepared, it can lead to long-term consequences, including lower high school and college completion rates. One study found being part of an intensive early childhood education program starting in preschool led to a 47 percent increase in those earning an associate’s degree and a 41 percent increase for a bachelor’s degree. While a college degree is no guarantee to equitable economic outcomes for students of color, college completion does boost future wages and improves health outcomes. Limiting access to these programs is harmful for children and their families.

But LGBTQ+ Americans “aren’t the only ones to be affected by the proposal— because there is no federal statute specifically banning HHS programs from discriminating on the basis of religion, Christian foster care and other agencies could refuse to place children with parents who are not Christian.”<sup>vii</sup> In addition, unmarried women could be discriminated against. The proposed rule is subjecting LGBTQ+ people, same-sex couples, and other marginalized communities, such as unmarried women and non-Christians, to “discriminatory treatment in taxpayer-funded services in contravention of the law.”<sup>viii</sup>

It is clear that we have far to go to strengthen programs both in our state, as well as federally, that help children and families, including the foster care and adoption systems and early childhood education programs. The proposed rule will make it harder for children and families to access the programs and services they need. We strongly oppose the proposed change and believe it is crucial that the U.S. Department of Health and Human Services continue to support every family, regardless of sexual orientation, gender identification, marital status, or religious affiliation.

Sincerely,



John Wilson  
President

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<sup>i</sup> Kansas Department of Children and Families. Prevention and Protection Services. Foster Care/Adoption Summary Reports.

<http://www.dcf.ks.gov/services/PPS/Pages/FosterCareDemographicReports.aspx>

<sup>ii</sup> Hanna, John. "Kansas again keeping foster kids in offices." Wichita Eagle. May 17, 2019.

<https://www.kansas.com/news/politics-government/article230534164.html>

<sup>iii</sup> Bauer, Laura and Tony Rizzo. "Foster kid in Kansas' care reportedly raped at Johnson County child welfare office." The Kansas City Star. September 17, 2018.

<https://www.kansascity.com/news/local/crime/article218514440.html>

<sup>iv</sup> North, Anna. "A new Trump administration rule could hurt LGBTQ youth in foster care." Vox. November 7, 2019. <https://www.vox.com/2019/11/5/20947709/trump-hhs-lgbt-lgbtq-youth-foster-care>

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<sup>v</sup> "Sign the petition: Trump's LGBTQ+ discrimination is costing foster children safe homes." Action Network. [https://actionnetwork.org/petitions/sign-the-petition-trumps-lgbtq-discrimination-is-costing-foster-children-safe-homes?source=direct\\_link&referrer=group-coalition-on-human-needs&link\\_id=1&can\\_id=7da250a58325d87671e5ceb15905c759&email\\_referrer=email\\_664556&email\\_subject=sign-dont-let-trumps-lgbtq-discrimination-hurt-foster-children](https://actionnetwork.org/petitions/sign-the-petition-trumps-lgbtq-discrimination-is-costing-foster-children-safe-homes?source=direct_link&referrer=group-coalition-on-human-needs&link_id=1&can_id=7da250a58325d87671e5ceb15905c759&email_referrer=email_664556&email_subject=sign-dont-let-trumps-lgbtq-discrimination-hurt-foster-children)

<sup>vi</sup> "Sign the petition: Trump's LGBTQ+ discrimination is costing foster children safe homes." Action Network. [https://actionnetwork.org/petitions/sign-the-petition-trumps-lgbtq-discrimination-is-costing-foster-children-safe-homes?source=direct\\_link&referrer=group-coalition-on-human-needs&link\\_id=1&can\\_id=7da250a58325d87671e5ceb15905c759&email\\_referrer=email\\_664556&email\\_subject=sign-dont-let-trumps-lgbtq-discrimination-hurt-foster-children](https://actionnetwork.org/petitions/sign-the-petition-trumps-lgbtq-discrimination-is-costing-foster-children-safe-homes?source=direct_link&referrer=group-coalition-on-human-needs&link_id=1&can_id=7da250a58325d87671e5ceb15905c759&email_referrer=email_664556&email_subject=sign-dont-let-trumps-lgbtq-discrimination-hurt-foster-children)

<sup>vii</sup> North, Anna. "A new Trump administration rule could hurt LGBTQ youth in foster care." Vox. November 7, 2019. <https://www.vox.com/2019/11/5/20947709/trump-hhs-lgbt-lgbtq-youth-foster-care>

<sup>viii</sup> Durso, Laura E. and Sharita Gruberg. "HHS Proposal Puts Millions of Americans at Risk of Discrimination When Accessing Federally Funded Services." Center for American Progress. November 5, 2019.

<https://www.americanprogress.org/issues/lgbt/news/2019/11/05/476854/hhs-proposal-puts-millions-americans-risk-discrimination-accessing-federally-funded-services/>

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