ADVANCING AMERICAN FREEDOM
FOUNDATION

April 6, 2026

Robert F. Kennedy, Jr.
Secretary
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

RE: "Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children; Rescission" RIN 0970-AD19

Dear Mr. Secretary:

On behalf of Advancing American Freedom's 150,374 supporters, we are writing to file a comment in response to the Administration for Children and Families' (ACF) proposed recission of "Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children." We applaud the Department of Health and Human Services' (HHS) diligence in removing rules that are no longer in effect or enforceable.

The final rule required title IV-E/IV-B agencies to ensure that a "designated placement" is available for all children in the foster care system who identify as "LGBTQI+," provided procedural steps for the agencies to implement "Designated Placements," and required agencies to monitor the compliance of "Designated Placements." The U.S. District Court for the Eastern District of Texas was correct when it vacated the rule in its entirety, finding that the rule exceeded HHS's statutory authority.

Advancing American Freedom has filed amicus curiae briefs defending parents' rights to direct the upbringing of their children in ten of the thirteen U.S. Federal Courts of Appeals. Through our work, we have repeatedly seen disastrous effects when the state attempts to remove children from the care and authority of their parents, absent an overwhelming need to do so.

Often, these cases have involved secret efforts by public schools to socially transition children without the consent of their parents. Rather than experiencing improved mental health, some of

these children have attempted suicide and even cite the school's intervention as the source of their mental decline.[1]

Challenged in the ongoing case *International Partners for Ethical Care v. Ferguson* and similar to the HHS's rescinded rule, Washington State enacted a law directing state licensed or operated shelters to notify the state's Department of Children, Youth and Family Services (DCYFS), not parents, if they took in a runaway child who is "seeking or receiving protected health care services," which includes "gender affirming treatment" and "reproductive health care." [2] Under the Washington law, DCYFS is then directed to try to contact the parents, though that effort need not be successful before DCYFS performs its other responsibility under the law: offering "to make referrals on behalf of the minor for appropriate behavioral health services."

Current law in the state of Washington incentivizes confused and vulnerable children to run away from home to a shelter where they can be referred to "gender affirming care" without parental knowledge or consent. To do so, Washington State distorted the meaning of child safety in order to subject non-affirming parents to the same treatment as parents suspected of abuse or neglect. The natural result of such a policy is self-censorship as Washington parents are afraid to alienate their children and thus drive them into the open and destructive arms of the state.

Similarly, in the rescinded rule, ACF insisted that it did not force any foster parents to accept or encourage certain viewpoints. Yet ACF sought to require that "*all* foster care placements must be safe and appropriate for *all* children—including LGBTQI+ children" (emphasis in original).[3]

As explained by the Eastern District of Texas, the rule required states to 1) "[c]ommit to establish an environment that supports the child's LGBTQI+ status or identity"; (2) "[b]e trained with the appropriate knowledge and skills to provide for the needs of the child related to the child's self- identified sexual orientation, gender identity, and gender expression"; and (3) "[f]acilitate the child's access to age- or developmentally appropriate resources, services, and activities that support their health and well-being." The rule required states to advance the Left's gender agenda at the expense of children.

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[1] See Advancing American Freedom's amicus briefs in *Mirabelli v. Bonta*, https://advancingamericanfreedom.com/aaf-files-amicus-brief-standing-for-parental-rights/ and in *Lee v. Poudre,* https://advancingamericanfreedom.com/aaf-fights-back-against-radical-gender-ideologists/.

[2] See Advancing American Freedom's amicus brief in *International Partners for Ethical Care v. Ferguson*, https://advancingamericanfreedom.com/aaf-stands-for-parental-rights-against-gender-ideology/.

[3] United States Department of Health and Human Services, "Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children," 89 FR 34818 (April 30, 2024) https://www.federalregister.gov/documents/2024/04/30/2024-08982/designated-placement-requirements-under-titles-iv-e-and-iv-b-for-lgbtqi-children.

As HHS recognized in a report in November, choosing not to affirm a child's stated identity does not amount to mistreatment, harassment, or abuse.[4]

AAF is leading the charge in protecting children and families from dangerous, progressive gender ideologues who wish to substitute their opinions for parental judgment. Advocates of "gender affirming care" have proven themselves loyal to ideology rather than evidence-based medicine. They should not be making decisions for America's children.

We applaud HHS for rescinding this rule.

Sincerely,

/s/ J. Marc Wheat

J. Marc Wheat
General Counsel
Advancing American Freedom Foundation

[4] United States Department of Health and Human Services, *Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices* (November 19, 2025) available at https://opa.hhs.gov/sites/default/files/2025-11/gender-dysphoria-report.pdf.