



every child
deserves a
FAMILY

Opposing the HHS License to Discriminate Rule

What is the Proposed Rule and What Does It Do? (RIN 0991-AC16)

In 2016 the Obama Administration updated the rules that govern non-discrimination for recipients of Health and Human Services (HHS) grants. That rule – which underwent the required notice and comment period (all comments submitted were supportive of the change) – provided that “it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation.”

On Friday, November 1, 2019—the first day of National Adoption Month—the Trump Administration released a Notice of Proposed Rule Making (NPRM) saying that it would remove all those protected categories that are not explicitly listed in a statute passed by Congress and that, effective immediately, it would cease all enforcement of the previous Obama Administration rule. In practical terms, this means that the administration will begin to permit discrimination in the administration of HHS programs and services on the bases of religion, sex, gender identity, and sexual orientation.

What Programs Will This Proposed Rule Affect?

The proposed rule will affect nearly all HHS health and human services grants and contracts - worth over \$500 billion - including foster care, Head Start, HIV prevention, community health care centers, energy assistance, and many more.

How Will This Proposed Rule Affect Foster Care?

The net impact of this proposed rule change will be to turn away qualified prospective parents based on their religion, sexual orientation or gender identity—limiting the pool of homes available to the 440,000 children in foster care (20,000 of whom will age out without a finding forever families) and leaving them to:

- remain in care longer than they need to;
- be placed in, or remain in, congregate care rather than be placed in a family-like setting or with LGBTQ kin;
- age out of the system without finding a permanent placement.

Youth in foster care who identify as LGBTQ, or are of a different faith or have no religious beliefs could also be harmed by not finding accepting, affirming families who will love them for who they are and respect their identities. Over 1 in 5 youth in foster care identify as LGBTQ.

In short, **the proposed rule wrongly puts the personally-held beliefs of child welfare service providers above the needs of the most vulnerable children in America** – children who have been separated from their families of origin and are entrusted to the state for care, stability, and safety.

Two-thirds of Americans – including a majority of both Republicans and evangelicals – oppose providing taxpayer funding to agencies which refuse to place children with gay or lesbian people. And, leading child welfare organizations (including the Child Welfare League of America, the National Association of Social Workers, the



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American Medical Association, American Academy of Pediatrics and Voice for Adoption) have endorsed the federal Every Child Deserves a Family Act, which bans discrimination in taxpayer funded adoption and foster care services based on religion, sex, sexual orientation, or gender identity.

More information and a comment portal to collect comments opposing the rule is at fmeq.co/comments.

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