



This rule removes protections and creates a license to discriminate. Allowing taxpayer-funded discrimination will further harm children who have already experienced trauma.

- Child welfare systems are obligated by law to promote a child's safety, permanency, and well-being. This rule allows agencies to prioritize their personal beliefs over the best interests of children – turning the cardinal responsibility of child welfare on its head.
- The impact of this discrimination will fall most heavily on children who are currently not served well by the existing child welfare system including older youth, LGBTQ+ youth, youth of minority faiths, youth of color, and youth with disabilities. Compared to their peers, these youth currently experience increased placement instability, are more likely to be placed in congregate care, and are more likely to age out of the system.

Child welfare systems are responsible for promoting the permanency of all children in foster care. There is already a significant shortage of foster and adoptive parents. Allowing discrimination will discourage qualified adults from fostering and adopting.

- Agencies must prioritize the permanency needs of the more than 125,000 children waiting to be adopted. Turning caring and able potential foster and adoptive parents away jeopardizes the permanency of each child in foster care.
- Families facing discrimination are less likely to foster or adopt when they have been turned away, even if there is another accepting provider in their area. Particularly in rural communities, finding an alternate provider can mean traveling long distances, which further discourages families from fostering or adopting.
- Being turned away by a state funded child welfare provider simply because of who they are or what they believe can have a chilling effect on a person's willingness to move forward as a foster or adoptive parent.
- Allowing agencies to discriminate does not increase available foster homes. There is no evidence that allowing discrimination helps agencies recruit foster parents.

Having enough foster parents isn't enough. We must ensure the right parents are available to care for each individual child. Recruiting parents of only one faith, background, or attitude does not meet the needs and affirm the identities of all youth in care.

- Children in the foster care are incredibly diverse. A diverse array of foster and adoptive parents is needed to ensure every child is placed in a home where their needs are met. Children should be placed with families who affirm who they are, who they love, and what they believe.
- All children deserve the right to grow up in a family that is affirming of their identity. Rejection by families, including foster families, has devastating effects on children's well-being. A system that permits discrimination will not ensure that families accept and affirm the evolving identities of children and youth.

When children cannot remain safely in their homes, child welfare agencies are responsible for providing them with a safe placement where they can thrive. This rule compromises a system's ability to ensure every child has access to a safe, supportive placement.

- Nearly 440,000 children in foster care need a temporary, loving foster home. Many states currently struggle to recruit and retain enough qualified foster parents – in some cases, this shortage leads to children having to sleep in agency offices or hotels. Agencies



should not be allowed to turn qualified foster parents away due to their personal beliefs, as doing so harms children the agency is obligated to protect.

- When there aren't enough foster and adoptive parents, children are more likely to be placed in congregate care, experience placement instability, age out of care, and spend longer times in the system instead of in loving, permanent families.
- *Research has shown that placement with relatives is a protective factor for a child who is in foster care. This rule undermines the research by allowing agencies to turn away supportive relatives solely because of their religion, sexual orientation or gender identity.*
 - Refusing to place a child with adult relatives or others who have relative-like relationships due to an agency's personal beliefs cuts off the child's connection to family, community, and culture.
 - Children in kinship care are more likely to be placed with their siblings, have greater placement stability, and experience better well-being outcomes than peers with non-kin caregivers.
 - Discriminating against potential kinship caregivers denies children potentially the best placement option and will unnecessarily exacerbate foster parent shortages.

Child welfare systems are obligated by law to support the safety and well-being of children in foster care. Removing these protections undermines this obligation, jeopardizing the safety and well-being of all children in foster care.

- *The child welfare system is responsible for ensuring children and youth in its care have access to needed supports and services. Service providers cannot be allowed to refuse services to children and youth who are in need based on their own beliefs. Children will suffer if these agencies are allowed to discriminate.*
- Allowing discrimination means fewer services will be available to help families safely reunify. Allowing providers to discriminate will also make it more difficult for parents to address mental health needs, overcome addiction, or meet any other challenges that prevent them from safely parenting. It will keep children in the system when they could return to safe and loving families.
- Children and youth in foster care have often experienced significant trauma. Access to supports and services is critical to help these youth heal and thrive. There is already a significant shortage of service providers able to serve these youth and, in many areas, only one offers all mental health or substance use treatment. These providers cannot be allowed to deny services to any youth. These providers must be able to affirm a youth's identity, if not, they will cause further trauma and harm.

Child welfare currently struggles to serve LGBTQ+ youth well. LGBTQ+ youth are overrepresented in the child welfare system and experience disparate outcomes compared to their non-LGBTQ+ peers. The existing protections ensure these youth have access to the supports and services they need to thrive. Removing these protections can have disastrous consequences.

- Studies indicate more than 20% of all foster youth identify as LGBTQ+. These studies also highlight how failures in child welfare systems can have lasting, negative impacts on LGBTQ+.



- This rule allows agencies to discriminate against and deny needed services to children in foster care because of their sex, sexual orientation, or gender identity. Doing so can compromise a child's placement, health, and well-being.
- LGBTQ+ youth report experiencing poor treatment within the system at twice the rate of their peers. These youth are also less likely to have access to the right services and affirming placements. Due to a lack of access to supports, services, and affirming placements LGBTQ+ youth experience increased placement instability and are more likely to be placed in congregate care or become homeless upon aging out than their non-LGBTQ+ peers.
- Child welfare is currently failing LGBTQ+ youth of color. Data show that LGBTQ+ foster youth of color are 65% more likely to report experiencing more than ten placements compared to their white, non-LGBTQ+ peers. The harm caused by the system's inability to support placement stability for LGBTQ+ youth of color is very real. Research shows placement instability is harmful to a youth's health, education, and well-being.
- Discrimination based on sexual orientation or gender identity can cause significant damage to a child's mental and behavioral health, in the short term and over their lifetime.
- Even if youth don't experience direct discrimination, the knowledge that a system or agency allows discrimination undermines the trust and relationships with caregivers and service providers that youth need to heal from trauma and thrive.

Research about what children need to thrive has been the basis for recent child welfare system reform. This rule contradicts the priorities of child welfare reform.

- The Family First Prevention Services Act of 2018 emphasizes the importance of family-based care. As systems shift from the unnecessary use of congregate care, the need for foster families will necessarily increase. The child welfare system will not be able to meet its obligations to children if regulations prioritize the personal beliefs of foster care providers over the needs of the children they are meant to serve.
- HHS-funded services for families play an important role in preventing child abuse and neglect. As child welfare increases investments in prevention, allowing agencies that provide those services to discriminate against parents will undermine the goal of preventing unnecessary placements in foster care.
- Turning away foster parents because of their religion will deprive children of placements in families of their same religion, in contradiction of HHS guidance which specifies that foster children have the possibility of "placement in a setting" "where their religious customs can be maintained."
- In August, the Children's Bureau released an Information Memorandum encouraging public agencies to keep youth and family voices central to child welfare planning and improvement efforts. Allowing discrimination ignores the voices of youth leaders with first-hand experience in foster care, who have worked to identify, create, and recommend policies and practices that protect youth in care from discrimination.