

Council For Children
Gary F. Redenbacher, Chair
Gary Richwald, M.D., M.P.H., Vice-Chair
Bill Bentley
Denise Moreno Ducheny
Anne Fragasso
John M. Goldenring, M.D., M.P.H., J.D.
Hon. Leon S. Kaplan (Ret.)
David Meyers
Thomas A. Papageorge
Gloria Perez Samson
Ann Segal
John Thelan

Emeritus Members
Robert L. Black, M.D.⁺
Birt Harvey, M.D.
Louise Horvitz, M.S.W., Psy.D.
James B. McKenna⁺
Paul A. Peterson
Blair L. Sadler
Alan Shumacher, M.D.
Owen Smith

Executive Director
Robert C. Fellmeth *Price Professor of Public Interest Law, USD School of Law*



Children's Advocacy Institute



University of San Diego School of Law
5998 Alcalá Park / San Diego, CA 92110
(619) 260-4806 / (619) 260-4753 (Fax)

1043 57th Street
Sacramento, CA 95819 / (916) 844-5646

727 15th Street, NW, 12th Floor
Washington, DC 20005 / (917) 371-5191

Reply to: ☐ San Diego ☐ Sacramento ☐ Washington
info@caichildlaw.org / www.caichildlaw.org

January 22, 2021

To: President Joseph Biden and Vice President Kamala Harris
Domestic Policy Council
From: Amy Harfeld, National Policy Director
The Children's Advocacy Institute (CAI)
Re: Welcome and Introduction to CAI's Advocacy on Behalf of Children and Youth

Welcome to you and your team. We can hardly wait to start "building back better" with you! Thank you for all you are already doing to advance the well-being of children and families, particularly during this global pandemic when parents are struggling more than ever to adequately care for their children. Through our Washington DC office, established in 2010, we hope to work closely with your policy team to identify policy priorities and solutions and assist in ensuring a strong and inclusive alliance of stakeholders to make critical changes to better serve America's vulnerable children, foster kids, and youth aging out of care.

The Children's Advocacy Institute (CAI), founded at the nonprofit University of San Diego School of Law in 1989, is one of the nation's premiere academic, research, and advocacy organizations working to improve the lives of children and youth, with special emphasis on improving the child protection and foster care systems and enhancing resources that are available to youth aging out of foster care. CAI's advocacy, conducted through its offices in San Diego, Sacramento, and Washington, D.C., seeks to leverage change for children and youth through impact litigation, regulatory and legislative advocacy, and public education. We work closely with the National Child Abuse Coalition, the Child Welfare and Mental Health Coalition, the Children's Budget Coalition, the National Association of Counsel for Children, the Partnership for America's Children, the Coalition on Human Needs and the Transition Age Foster Youth Coalition to leverage critical reform for children. In addition, our National Policy Director runs the National Coalition to End Child Abuse Deaths.

We know that you are both already strongly committed to strengthening families and keeping children safe. President Biden was [quoted](#) saying, "Nobody, nobody has a right to abuse a child. They can't protect themselves. You and I have an obligation to protect them. It's the moral obligation of our time. It will be the measure of how we are judged as civilization." We couldn't agree more. Vice President Harris has long said that a society should be judged by the way it treats its children. She has a proven record of addressing

violence against children, from abuse to trafficking. Having established the first-ever Bureau of Children's Justice in California, Vice President Harris shares our mission to protect the rights of children and focus the attention and resources of law enforcement and policymakers on the importance of safeguarding every child so that they can meet their full potential. We are confident that these values will translate to reform, and we eagerly await the chance to collaborate with your Administration to accomplish these shared goals. Following are descriptions of some of CAI's primary areas of advocacy, and issues we look forward to further discussing with you.

Transition Age Foster Youth

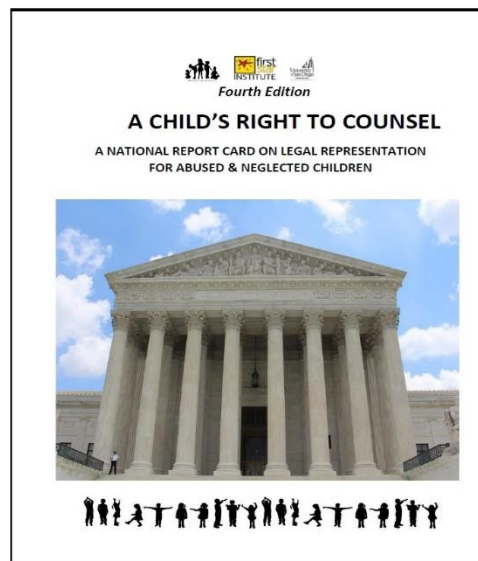
CAI is working to improve outcomes for youth aging out of foster care by increasing the quality and quantity of programs and services available to that vulnerable population. Each year, 20,000 of the nation's foster children "age out" of the foster care system and are expected to become independent, self-sufficient and contributing members of society with little or no assistance from others. The consequences of our failure to adequately prepare foster youth for life on their own are woven throughout every aspect of their lives after foster care. They are evident in the bleak outcomes and challenges these youth face in the areas of educational attainment, employment, housing, homelessness, physical and mental health issues, credit issues, and identity theft.

Major law and policy changes are needed to offer youth a meaningful opportunity to thrive by ensuring they can become financially independent and self-sufficient after leaving foster care. We have worked to ensure that youth in extended foster care retain access to their attorney or court representative throughout their duration in foster care to ensure access to services and assist with civil legal matters, a provision included in the bipartisan [House Stronger CAPTA reauthorization bill](#) just reintroduced in the House. We continue to work to protect youth and their Chafee dollars from abuses by predatory private, for-profit colleges, as detailed in our report, [Failing U: Do State Laws Protect Our Veterans and Other Students from For-Profit Postsecondary Predators](#). CAI is proud to be working with Congressional leadership to protect the [public benefits of foster youth](#) from being intercepted and pocketed by state agencies, without due process or accountability, as outlined in our report [The Fleecing of Foster Youth](#). Our work continues to advance [federal law and policy](#) to address this unethical practice. [Powerful new research](#) highlighting the voices of young people with lived experience in foster care by Think of Us highlights the need for the flagship [Transition Life Coach \(TLC\) pilot for youth aging out of care](#) proposed by CAI.

CAI successfully collaborated with a diverse array of allies and youth to press for introduction of the [Supporting Foster Youth and Families through the Pandemic Act \(H.R. 7947\)](#) and inclusion of its provisions in the most recent relief bill. Changes signed into law include an infusion of \$400 million in Chafee funds, which will help youth with housing, education, employment, financial management, emotional support and support services, expanding Chafee eligibility through age 26, waiving education and work requirements for extended foster care during the pandemic, removing the 30% cap on room and board, increasing the Education and Training Voucher (ETV) grant from \$5,000 to \$12,000 per individual per year, and placing a moratorium on aging out of foster care (and allowing for re-entry into care).

A Child's Right to Counsel

Due process and procedural justice require that every child subject to a child protection proceeding must be provided an independent, competent, and zealous attorney, trained in relevant law and social science, with adequate time and resources to handle the case. These are complex legal matters — often implicating numerous federal and state laws, expert testimony from clinicians, and the intersection of education, medical, and mental health systems. Displaced from home, school, and important relationships, children are typically the parties most profoundly affected by government interventions and judicial decisions, yet they are least equipped to independently communicate their desires to the court. Children possess the most up-to-date and unvarnished information about their own physical and emotional safety, but without the assistance of counsel, their wishes, and even their participation in hearings, can be diminished by virtue of their age. CAI has played a leadership role in this cornerstone issue for over a decade, issuing 4 editions of our seminal report, [A Child's Right to Counsel: A National Report Card on Legal Representation for Abused & Neglected Children](#) with partner First Star Inc.



Although existing federal law in the Child Abuse Prevention and Treatment Act is currently out of step with evolving evidence in allowing, but not requiring, legal representation for dependent children, the Children's Bureau of the U.S. Department of Health and Human Services revised policy in 2019 to [allow title IV-E agencies to claim federal financial participation \(FFP\)](#) for legal representation of children who are candidates for title IV-E foster care, and their parents, at all stages of foster care legal proceedings. This decision reflects an evolving understanding of the due process liberty rights at stake for children in abuse and neglect cases faced with being involuntarily placed in state custody, aka foster care, and an emerging national consensus around the need for high-quality legal representation for all parties in these cases. Just this month, the Children's Bureau issued further guidance reflecting the latest evidence on a right to counsel for children, [Utilizing Title IV-E Funding to Support High Quality Legal Representation for Children and Youth in Foster Care, Candidates for Foster Care and their Parents and to Promote Child and Family Well-being](#), highlighting a solid and growing body of evidence demonstrating the importance, effectiveness, and fiscal prudence of ensuring legal representation for dependent children.

Protection from Abuse & Neglect

Recently released [federal data from 2019 shows](#) that more children than ever before were killed by child maltreatment. Child abuse fatalities claim [more lives](#) annually than all childhood cancers combined. Approximately [70%](#) of the over 1800 children who die from abuse and neglect each year are younger than three. [Fatalities for Black children are 2.8 times greater](#) than those of White children. For every child killed due to child maltreatment, the [total lifetime economic burden stands at \\$16.6 million](#). Yet most fatalities are preventable, and we know how to reduce or eliminate this profound tragedy.

CAI has actively engaged in fatality prevention advocacy on a number of fronts. We have [demanded](#) more robust funding of CAPTA and other child welfare laws, which have been anemically funded for decades. We have pressed aggressively for more robust data and reporting requirements, and greater accountability by states and by ACF in enforcing existing child welfare laws. We exposed the extent of state non-compliance with existing CAPTA provisions in our report, [State Secrecy and Child Deaths in the U.S.: An Evaluation of CAPTA Public Disclosure Policies, with State Rankings](#), and pressed for passage of the [Protect Our Kids Act of 2012](#), which established the bipartisan federal Commission to Eliminate Child Abuse and Neglect Fatalities. We helped to track implementation of the CECANF's recommendations in our [Steps Forward: Progress Report](#) and provided critical source material for the journalistic expose by the Boston Globe & Pro Publica, "[How many children die from abuse?](#)" We believe that fatalities can be better prevented by measures including strengthening hotline and screening protocols, improved guidelines and training for mandated reporters including diversity, equity and inclusion, improving data sharing such as real-time electronic information exchanges, improved access to non-punitive primary and secondary prevention services, establishment of national uniform definitions of fatalities, improving the scope, quality and reliability of federal fatality data, and implementation of Family First required state fatality plans.

Postsecondary Education

On behalf of vulnerable adult student populations such as military veterans and former foster youth, CAI and its sister organization, the Center for Public Interest Law (CPIL), are advocating to improve the oversight and regulation of private, for-profit postsecondary schools. Too often, these for-profit schools target vulnerable students, including those with access to federal benefits such as the GI Bill or the Chaffee program, and charge high tuition, spend public funds and generate high debt for their students — with dubious results. Many of these schools engage in highly visible and potentially misleading marketing campaigns aimed solely at increasing their profits, and they are not committed to providing students with a quality education. Due in part to the lack of appropriate student support services provided by these schools, many students drop out prior to graduating, and those who do graduate rarely find the lucrative careers commonly touted in the schools' ubiquitous advertising. Either way, they are saddled with debt that many are unable to climb out from under.

A [July 2012 report](#) by Sen. Tom Harkin (D-IA) and the Senate Health, Education, Labor and Pensions (HELP) Committee revealed that although federal taxpayers are investing billions of dollars a year in for-profit colleges, "more than half of the students who enrolled in in

(sic) those colleges in 2008-9 left without a degree or diploma within a median of four months.” The substantial progress made on this issue during the Obama Administration was almost entirely dismantled during the Trump administration, but we are optimistic that you share our concern about this and will prioritize protecting and supporting students.

CAI has worked on multiple levels to better protect and support students, testifying before the FTC and Department of Education, working with the CFPB and allied states to prosecute predatory schools in dozens of states. We released our report [Failing U: Do State Laws Protect Our Veterans and Other Students from For-Profit Postsecondary Predators?](#) in 2018 and launched www.fosteringqualityeducation.org, a website aimed at empowering transition age foster youth to make fully informed decisions about their postsecondary options. We have worked to support [suits by state attorneys general](#) against predatory schools in their states, and attempted to [inform continued good policy](#), to no avail, in the previous administration.

Stopping the Sexual Exploitation of Minors / Human Trafficking

CAI is working on several fronts to eliminate the commercial sexual exploitation of children (CSEC) and improve outcomes for CSEC victims. A recent study found that in San Diego County alone, the underground sex trafficking economy generates over \$800 million a year. Many victims start out as minors; the average age of a victim entering the industry is 16, with recruitment commonly taking place on high school and middle school campuses and in group homes serving foster children. CAI is engaged in a variety of forms of advocacy on behalf of CSEC, such as engaging in executive branch advocacy to assure effective enforcement of current CSEC statutes, highlighting CSEC as a priority for current statewide planning and prevention, promoting attorney education on CSEC issues, monitoring federal legislation on CSEC practice online and beyond, and improved enforcement by FTC and U.S. Attorneys on behalf of CSEC.

In addition to collaborating with allies on federal reform, CAI sponsored [AB 2207](#) making legislative findings and declarations related to CSEC in California, the intersection between CSEC and the child welfare system, and the provision of services to these youth by the state, to develop model policies, procedures, and protocols to assist counties achieve goals related to the commercial sexual exploitation of youth receiving child welfare services. CAI-sponsored [AB 2105](#), creating enhanced civil penalties, tripling any existing statutory civil penalty and providing an alternative \$10,000 to \$50,000 fine if no civil penalty is provided by statute, for acts that constitute the commercial sexual exploitation of a minor or nonminor dependent.

The Children’s Advocacy Institute looks forward to collaborating with you on these important issues during your Administration. Please include us in announcements and gatherings pertinent to these issues. I am reachable at **amyharf@hotmail.com or 917-371-5191**. We hope to meet with Domestic Policy Council staff in the next month or so. Thank you for your dedication and leadership as we move through this difficult period in our nation towards a brighter future for us all, and especially for our children.