



February 25, 2012

To the Members of the Congressional Caucus on Foster Youth:

With over 58,000 children and youth in out-of-home placement, California's child welfare system is the nation's largest. The federal government is an essential partner in California's ability to ensure the permanency, safety and well-being of these children, as well as strengthen families to prevent out-of-home placement.

The recommendations highlighted in this letter are drawn from a more comprehensive list of recommendations developed by a diverse cross-section of leaders in the child welfare community, including attorneys, social workers, judges, youth, parents, public administrators, and representatives of community-based organizations. *See, Memo from John Burton Foundation for Children Without Homes to Congressional Caucus on Foster Youth* (February 25, 2012).

The undersigned organizations believe that the federal government's first steps towards improving the nation's safety net for abused and neglected children should include: ensuring a fiscally sound funding base for state child welfare systems; enhancing federal support for foster youth in transitioning to adulthood; and eliminating needless and harmful restrictions on states' ability to make case-by-case decisions on approving relative caregivers for foster children.

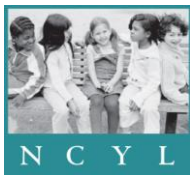
### 1. Reform Criteria for Determining Federal Foster Care Eligibility

California's child welfare leaders recognize that the system is underfunded and financed in a manner that fails to address the most serious challenges facing families, namely their mental and physical health, housing and substance abuse needs.

With the leadership of the Congressional Caucus on Foster Youth, Congress and the Administration should reform the "look back" provision that links eligibility for Title IV-E federal foster care funding to the 1996 income requirements of the former AFDC program. Although AFDC was eliminated in 1996 as part of welfare reform, eligibility for federal foster care continues to be based on the 1996 AFDC income standard. Simply put, for a child to be eligible for federal foster care, the family from which he/she was removed must have income at or below the 1996 income standard, which has not been adjusted for inflation. If a child is not federally eligible, the federal government will not pay its share of the cost (50% in California); instead 100% of the cost gets picked up by the states. As a matter of



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equity, it makes little sense to base support for an abused child on the circumstances of the parents who have perpetrated the abuse or neglect.

From a practical standpoint, the 1996 “look back” is increasingly absurd as a measure of need. With each passing year, these 1996 income standards drift farther and farther from a valid measure of whether a foster child is linked to a needy family; state child welfare system resources are wasted in the needless administrative costs of determining eligibility under outdated and irrational criteria, and aggregate federal financial participation in state child welfare systems dwindles each year.

A number of ideas have surfaced about how to address this issue. Unfortunately, some think that in order to reform the “look back” we have to weaken the child welfare entitlement by artificially capping it at the federal level to “incentivize” case load decrease. However, this solution is unlikely to produce the desired outcome given that caseloads are at record lows. Here in California, the incidence of foster care participation has almost dropped in half, from 10.8 cases per 1,000 children in 2000 to 5.6 in 2011. At some point, if the emphasis continues to be on case load reduction, we risk putting children in harm’s way by failing to provide the protective services to which they are entitled.

Instead, we believe the Caucus should undertake comprehensive financing reform, which would include reforming the “look back” in order to more fully support children at risk of abuse and neglect. Congress made some progress towards eliminating the “look back” in the *Fostering Connections to Success Act* (Public Law 110-351) by delinking eligibility for Adoption Assistance payments from the 1996 AFDC rules. However, the link still exists for foster care expenditures and guardianship assistance payments. We urge the Caucus to continue the work of financing reform in order to provide states the resources they need to support the full continuum of services youth in the child welfare system need.

## **2. Monitor Implementation of State’s Use of Waiver Authority**

Recently, Congress passed legislation the *Child and Family Services Improvement and Innovation Act* (Public Law 112-34), which reauthorized the Department of Health and Human Services (HHS) to re-establish child welfare waivers. As noted above, we believe comprehensive financing reform cannot be accomplished through the use of “flexible funding” waivers, which are required to be cost neutral. Rather, the Caucus should be exploring ways to increase the investment into our child welfare system. We echo that concern that other nationally-recognized child welfare experts have made that “the reduction in foster care caseloads and expenditures will come only after the other services are firmly in place.”<sup>1</sup>

We also believe that the waivers that have been previous granted to states have not been adequately evaluated in order better assess the outcomes and capture any unintended consequences of the waiver. Fortunately, the *Child and Family Services Improvement and*

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<sup>1</sup> Testimony of Rutledge Q. Hutson, Hearing to Review the Use of Child Welfare Demonstration Projects to Promote Child Well-Being, Subcommittee on Income Security and Family Support, Committee on Ways and Means, U.S. House of Representatives (July 29, 2012)

*Innovation Act* contains two important provisions in this regard: (1) A requirement that states account for non IV-E funding, including private investments, and (2) A requirement that states compare outcomes for children and families under the waiver project with those who would have been served under the state plan without the waiver. These two provisions are critical in determining the actual costs of services states provide in a demonstration project and in avoiding any false conclusions that specified outcomes can be accomplished with less funding. In addition, these provisions will allow us to measure the effects on children and families who are not served, such as those who have been diverted from foster care. These outcomes have not been considered in the evaluation of the Flexible Funding waiver that is currently being tested in California. The Caucus should closely monitor implementation of these important provisions and ensure that states are fully accounting for their expenditures and the full range of outcomes resulting from the waivers.

### **3. Support Educational Goals of Foster Youth**

In 2008, Congress provided states with the opportunity to continue to provide support and foster care benefits to youth up to age 21 by passing the *Fostering Connections to Success Act*. California has taken advantage of this opportunity to support these young adults, recognizing that continuing assistance to foster youth to age 21 provides them with the resources to make a successful transition to young adulthood, namely a safe place to live, educational and employment assistance, and consistent adult guidance.

While *Fostering Connections* is an important step in supporting young adults in their transition out of foster care, these youth need additional support during these years to develop independent living skills, receive academic support, and access financial aid for college. Indeed, the *Fostering Connections* legislation requires that young adults participating in foster care after age 18 to work, be in school, or be doing an activity to remove barriers to employment. Despite this requirement, there was no corresponding increase in funding for the Education and Training Vouchers available through the Chafee program, which provides support to youth in these very endeavors.

The Chafee program has never been fully funded, and to be effective – particularly in the wake of the requirements in *Fostering Connections* for youth to be pursuing their education -- its funding level should be increased from the current \$45 million to the \$90 million originally intended to be allocated to help state child welfare systems provide Education and Training Vouchers to youth. We urge the Caucus to fulfill the promise of Chafee and improve the educational outcomes of these young adults.

### **4. Give States Flexibility to Approve Placement of Children with Relatives**

Currently, a provision of the Adam Walsh Act bars states from placing children in homes where any adult resides who has been convicted of certain felony offenses – no matter how long ago the conviction occurred, how little bearing the conviction has on the current safety and appropriateness of the home, and no matter how closely bonded the child and the caregiver may be. Under this rule, for example, a grandfather who robbed a bank 40 years ago, but who has

since lived a productive and crime-free life, could never be approved as a placement for his grandchild.

Contrary to the strong trend in child welfare policy toward flexibility and local decision-making, federal law gives state child welfare agencies no discretion to make case-by-case decisions based on the best interest of the child, but instead imposes a blanket federal rule without regard to individual circumstances. The Caucus should take a leadership role in revising current federal law that limits state authority to exempt certain offenses that do not present a danger to a child on a case-by-case basis.

Thank you for your service to our nation's most vulnerable children and youth. As members of the Congressional Caucus on Foster Youth, you play an important role in ensuring our national child welfare system remains a strong one and that important policy goals, such as the ones outlined in this letter, are achieved. Failure to take action on these recommendations will turn back the progress that both California and the federal government have made in the last 10 years, and return our national child welfare system to a time when it was less effective and less accountable. Together, we can work to strengthen families, prevent abuse, and provide high quality out-of-home placement for those who require it. We look forward to working together on these shared goals. Thank you once again.

Sincerely,

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