



April 6, 2026

**BY ELECTRONIC SUBMISSION**

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

Re: Request for Public Comment Concerning Proposed Regulations Regarding Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children; Rescission; RIN 0970-AD19

Dear Sir or Madam:

The Ethics & Religious Liberty Commission (ERLC) of the Southern Baptist Convention (SBC) respectfully submits the following comments regarding our support of the proposed “Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children; Rescission.”

The ERLC is the public policy entity of the SBC, which has roughly 13 million members in over 46,000 churches in the United States. We are tasked by the SBC with equipping churches by addressing ethical and moral concerns affecting issues such as the sanctity of human life, religious liberty, marriage and family, and human dignity.

The ERLC is encouraged to see the Department of Health and Human Services (henceforth referred to as the Department) rescinding the 2024 Final Rule on “Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children,” which flagrantly distorted the term “safe and proper” foster care in Title IV-E and IV-B of the Social Security Act to discriminate against religious and faith-based foster care providers.<sup>1</sup> This interpretation perpetuated a narrative from the federal government that religious families and foster care providers could not provide adequate care for children who identify as LGBTQ, a false and degrading prejudice against millions of Americans of faith.

In 2023, the ERLC filed public comments with the Department opposing the Notice of Proposed Rulemaking regarding “Safe and Appropriate Foster Care Placement Requirements for Titles

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<sup>1</sup> 89 Fed. Reg. 34818 (Sept. 28, 2023)



IV-E and IV-B,” (RIN 0970-AD03), which was later finalized as the “Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children.”<sup>2</sup>

**The ERLC opposed the proposed rule in 2023, communicating Southern Baptists adherence to biblical views of gender and sexuality held jointly with our support for children in foster care, citing a clear lack of statistical evidence, and affirming the rights of biological parents.**

As its reason for issuing the 2023 Proposed Rule, the Department cited cherry-picked studies as evidence that raising children in LGBTQ-affirming homes reduces mental and emotional health concerns among this group of children. While LGBTQ identifying children do report higher rates of anxiety, depression, and other mental health challenges, there is little causative evidence to prove the presence of healthcare and family placements affirming their identity reduces suicidality and self-harm.<sup>3</sup> Other studies show that more than affirmation through social transitioning, a child’s wellbeing is dependent on strong peer relationships.<sup>4</sup>

Overlooking such studies, the evidence cited by the Department was used to erroneously substantiate claims that religious and faith-based foster care providers could not welcome LGBTQ-identifying children into their homes because they believe Scripture sufficiently details God’s good design for our lives and abide by their deeply-held beliefs. Religious foster families can both stand on truth and welcome vulnerable children into their homes from all walks of life, demonstrating and sharing the love of Christ with children at difficult moments in their lives.

In 2022, Southern Baptists resolved “to continue and increase their efforts to serve and support ... foster-care and adoptive families, doing invaluable and often under-recognized work in the care of women and children at every stage of life.”<sup>5</sup> Additionally, Southern Baptists desire for children to be cared for in safe and loving homes, yet it is unfair to claim religious foster homes

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<sup>2</sup> ERLC. *Public Comments - HHS - Safe and Appropriate Foster Care Placement Requirements for Titles IV-E and IV-B* (November 27, 2023), <https://erlc.com/wp-content/uploads/2023/11/Public-Comments-HHS-Safe-and-Appropriate-Foster-Care-Placement-Requirements-for-Titles-IV-E-and-IV-B.pdf>

<sup>3</sup> D’Angelo, Roberto, Ema Syrulnik, Sasha Ayad, Lisa Marchiano, Dianna Theadora Kenny, and Patrick Clarke. “One Size Does Not Fit All: In Support of Psychotherapy for Gender Dysphoria.” *Archives of Sexual Behavior* 50, no. 1 (2020): 7–16. <https://doi.org/10.1007/s10508-020-01844-2>.

<sup>4</sup> Wong, Wang Ivy, Anna I. van der Miesen, Tjonnie G. Li, Laura N. MacMullin, and Doug P. VanderLaan. “Childhood Social Gender Transition and Psychosocial Well-Being: A Comparison to Cisgender Gender-Variant Children.” *Clinical Practice in Pediatric Psychology* 7, no. 3 (2019): 241–53. <https://doi.org/10.1037/cpp0000295>.

<sup>5</sup> “On Anticipation of a Historic Moment in the Pro-Life Movement.” SBC.net. Accessed March 25, 2026. <https://www.sbc.net/resource-library/resolutions/on-anticipation-of-a-historic-moment-in-the-pro-life-movement/>.



cannot offer that environment to children regardless of their purported identity. It is further incorrect to assert that the only way to love a child identifying as LGBTQ is to affirm them. The affirmation of biological and biblical truth is not unloving; it is the truth of the Word of God that is the most loving, powerful, and redemptive force known to mankind.

Additionally, the 2024 Final Rule was enacted without any due regard for the interests of the children’s biological parents. Foster care is designed to be a temporary placement to solve underlying issues preventing parents from adequately caring for their child. As such, the rights of biological parents are worthy of protection—including the right to oppose damaging gender ideology. As such, it is crucial to consider the impact that this rule will have on the religious liberty of the parents of children placed in foster care.

**The 2024 Final Rule was vacated by a Texas district court, finding Texas demonstrated success on the merits of their claim that the Department violated the Administrative Procedures Act.**

Following the Final Rule’s publication in 2024, the Texas Attorney General filed a lawsuit alleging the Department violated the Administrative Procedures Act for lacking statutory authority to issue its mandate and conflicting with Title IV-E of the Social Security Act.

As is noted in this Notice of Proposed Rulemaking, the district court in Texas issued a nationwide injunction on March 13, 2025, finding Texas was likely to succeed on the merits. The rule was officially vacated three months later in the final judgement.<sup>6</sup> The district court found that the Social Security Act gives the Department “only limited administrative review of States’ foster-care systems—not the authority to create a new category of foster children and require new and untested methods in fostering them.”<sup>7</sup>

In response, the Administration for Children and Families issued an information memorandum to state and tribal Title IV-E and Title IV-B foster care providers that the Final Rule and its amendment were no longer in effect.<sup>8</sup>

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<sup>6</sup> *Texas v. U.S. Department of Health and Human Services*, Case No. 6:24-cv-348-JDK (E.D. Tex.), Doc. 37 (filed June 13, 2025)

<sup>7</sup> *Ibid.*

<sup>8</sup> Joseph Bock, *Notice of court order vacating the Designated Placements Final Rule* (November 19, 2025), <https://acf.gov/sites/default/files/documents/cb/im-25-06.pdf>



## **The ERLC has repeatedly urged the Department to rescind the 2024 Final Rule.**

In addition to the ERLC’s public comments in 2023, we have thrice urged the Department to rescind the Final Rule. Following the 2024 election, the ERLC urged the Trump Administration to begin rescinding the Final Rule as a top priority as the President took office.<sup>9</sup> In response to the Office of Management and Budget’s Request for Information (RFI) on deregulation, the ERLC filed comments outlining “unnecessary, unlawful, unduly burdensome, or unsound” regulations like the 2024 Designated Placements Final Rule.<sup>10</sup> Finally, in response to the Department’s own RFI on deregulation, the ERLC filed comments again urging the rescission of this unlawful and burdensome regulation.<sup>11</sup>

## **While the rule is no longer in effect, it is essential to remove it for the sake of clarity and consistency for Title IV-E and Title IV-B foster care providers.**

In order to prevent confusion among state and tribal Title IV-E and Title IV-B foster care program agencies, it is important that the Department remove the now vacated language from the Code of Federal Regulations. Not only has this language been struck down for violating federal law, but it remains inconsistent with the policies put forth by this administration, which has issued numerous executive orders correcting the prior administration’s erroneous denial of biological realities and their egregious discrimination against people of faith who dissented due to their most deeply held religious convictions.

For example, on January 20, 2025, President Trump issued an executive order restoring biological truth to the federal government in recognizing two sexes, male and female.<sup>12</sup> This was followed by another executive order ending the weaponization of the federal government against Christians, reinforcing the First Amendment rights of Americans to freely practice their beliefs without “discrimination or retaliation from their government.”<sup>13</sup>

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<sup>9</sup> ERLC, *5 Policy Priorities for President Trump’s First 100 Days* (November 11, 2024), <https://erlc.com/policy-content/5-policy-priorities-for-president-trumps-first-100-days/>

<sup>10</sup> ERLC, *May 12 RFI Deregulation Comments* (May 12, 2025), <https://erlc.com/wp-content/uploads/2025/05/May-12-RFI-Deregulation-Comments.pdf>

<sup>11</sup> ERLC, *ERLC Comments on HHS RFI: Deregulation Ensuring Lawful Regulation and Unleashing Innovation To Make America Healthy Again* (July 14, 2025), [https://erlc.com/wp-content/uploads/2025/07/ERLC-Comments-on-HHS-RFI\\_-Ensuring-Lawful-Regulation-and-Unleashing-Innovation-To-Make-American-Healthy-Again.pdf](https://erlc.com/wp-content/uploads/2025/07/ERLC-Comments-on-HHS-RFI_-Ensuring-Lawful-Regulation-and-Unleashing-Innovation-To-Make-American-Healthy-Again.pdf)

<sup>12</sup> 90 Fed. Reg. 8615 (Jan. 20, 2025).

<sup>13</sup> 90 Fed. Reg. 9365 (Feb. 6, 2025).



The ERLC is grateful the Department is moving forward with rescinding this harmful regulation and for its commitment to ensuring religious families and faith-based foster care providers can continue welcoming and caring for all children in vulnerable situations.

Thank you for the opportunity to comment.

Respectfully submitted,

Dr. Gary Hollingsworth  
Interim President  
Ethics & Religious Liberty Commission  
of the Southern Baptist Convention