



HOUSE COMMITTEE ON WAYS & MEANS

CHAIRMAN RICHARD E. NEAL

CHILDREN AT RISK: THE TRUMP ADMINISTRATION'S WAIVER OF FOSTER CARE NONDISCRIMINATION REQUIREMENTS

Majority Staff Report Finds that HHS Waiver of Foster Care Discrimination Protections was Improper, Contrary to the Best Interest of Foster Children, and Harmful to LGBTQ Youth

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In January 2019, the U.S. Department of Health and Human Services (HHS) granted a waiver to South Carolina that allowed federal funds to be spent in a discriminatory manner within the state's child welfare system. A new Committee on Ways and Means Majority Staff report finds that, by granting this waiver, **the Trump Administration caused HHS to fail its mandate to act in the best interest of abused and neglected children** who have been removed from their homes and temporarily placed in federally-funded foster care.

The child welfare system provides both in-home services designed to strengthen the family and, in cases where children cannot remain safely at home, temporary out-of-home foster care placements. When children must be removed from home to ensure their safety, federal law requires that they be placed in the most family-like setting possible, and that the placement match their needs. **Congress entrusted HHS with the responsibility to ensure that children are safe.**

The Committee on Ways and Means has legislative jurisdiction over many child welfare programs, including foster care. Shortly after the South Carolina waiver was approved, then-Subcommittee on Oversight Chairman **John Lewis** and Subcommittee on Worker and Family Support Chairman **Danny K. Davis** launched an investigation to ensure that the waiver complied with federal law and was in the best interest of foster youth.

The Majority Staff report found that:

- ***The waiver permitted discrimination within the child welfare system based on religion and sexual orientation, resulted in harm to LGBTQ children and families, and is not in the best interest of children;*** and
- ***Agency documents show that the waiver was driven by Trump Administration appointees who excluded policy experts from the decision-making process.***

Research shows that nondiscrimination protections, coupled with diversity and inclusion efforts, not only increase the supply of qualified foster parents but are in the best interest of children. Excluding LGBTQ adults from serving as caretakers ensures that foster parents who share the youth's identity are not an option and makes it more difficult to ensure a good and affirming match. It also reduces the supply and diversity of available foster homes for all youth. Such issues are critical for LGBTQ and other minority youth who are over-represented in foster care and have lower rates of successful placements.

In light of its findings, the Majority Staff report offers **recommendations to HHS**, urging the agency to: withdraw the South Carolina waiver, consult with child welfare experts, and ensure that federal grants do not fund discrimination against individuals based on organizational beliefs.