

June 13, 2018

Ms. Kathleen McHugh  
U.S. Department of Health and Human Services  
Administration for Children and Families  
Director, Policy Division  
330 C Street SW  
Washington, D.C. 20024  
[CBComments@acf.hhs.gov](mailto:CBComments@acf.hhs.gov)

**RE: Proposed rulemaking for Adoption and Foster Care Analysis and Reporting System (AFCARS) data elements, 45 CFR 1355 (Mar. 15, 2018) [RIN 0970-AC72]**

Dear Ms. McHugh:

On behalf of our 800,000 members, Equality California appreciates the opportunity to express our views regarding the Department of Health and Human Services' implementation of the Final Rule for the Adoption and Foster Care Analysis and Reporting System (AFCARS) for the Administration for Children and Families, Administration on Children Youth and Families, and Children's Bureau.

Equality California, the nation's largest statewide lesbian, gay, bisexual, transgender and queer (LGBTQ) civil rights organization, works within California, at the Federal level, and directly with other states to win and protect full equality for LGBTQ people through education, electoral, advocacy and mobilization programs to achieve our mission.

Comprehensive data collection by government agencies is essential – the quality, utility, and clarity of the data collection guides the subsequent allocation of Federal and state funding. It is shocking that AFCARS has not been updated since its inception in 1993, given that its very description is the “only Federal national data set that collects case level information on all children in foster care and children adopted with the involvement of the title IV-E (child welfare) agency.” The Children's Bureau own website explains its mission is to “collect demographics on foster/adopted children and biological/foster/adoptive parents, the number of children entering/exiting foster care and awaiting adoption, and information on placements and permanency plan goals.”

Of the more than 437,000 youth in foster care nationwide in 2016, nearly 55,000 lived in California. Numerous studies indicate that many of those children are LGBTQ; while data is limited because there is no Federal requirement to track this data, existing research indicates LGBTQ youth are overrepresented in the foster care system – possibly as high as 19%. But until states and tribes have more information about these youth, their experiences and their outcomes, institutions will be unable to meet the needs of acutely vulnerable children.

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LGBTQ youth enter foster care for the same reasons as their non-LGBTQ peers — abuse, neglect and parental substance abuse. But many have experienced further trauma stemming from family rejection or mistreatment and school bullying because of their sexual orientation, gender identity or gender expression. Presumably as a direct result of discrimination and its resulting trauma, LGBTQ youth in foster care have a higher average number of placements and a higher likelihood of living in group homes than their non-LGBTQ peers. The impact is highest on children of color who comprise more than 50% of children in foster care, including Alaskan and Native American children who are subject to the Indian Welfare Act.

Once LGBTQ youth enter the foster care system, they're less likely than their non-LGBTQ peers to be placed in a safe and supportive home; according to [a 2014 Williams Institute survey](#), 12.9% of LGBTQ youth (aged 12-21) in Los Angeles County reported being treated poorly by the foster care system, compared to 5.8% of non-LBTQ youth. This finding is highly disturbing, given that California's non-discrimination protections are far more robust than in most states in the country.

Unsupported foster youth are more likely to experience school interruptions, fall behind academically, and be truant, which too often translates into eventual school drop-out, putting young people at much higher risk for poverty, homelessness, incarceration, and early parenthood. Nor are the effects confined to education; LGBTQ youth are more likely to be hospitalized for emotional reasons and self-harm -- lesbian, gay and bisexual youth are 3-4 times more likely than their non-gay peers to attempt suicide, and a staggering 60% of transgender youth report having suicidal ideation.

Equality California opposed the delay in implementing the Final Rule, and we believe that claims that data elements in the Final Rule are 'burdensome' are marginal in importance when weighed against the potential benefit of more informed state and Federal policy resulting in improved outcomes for some of the most marginalized children in the child welfare system and reduced systemic costs. We therefore strongly oppose the dropping of voluntary questions related to sexual orientation, gender identity and gender expression for those in the child welfare system who are 14 and older, so that affirming permanent homes can be found for LGBTQ youth.

Equality California strongly urges the retention of the data element related to the removal of a child from a family home due to "family conflict related to child's sexual orientation, gender identity or gender expression" because if social services have funding and supportive resources in place to encourage family acceptance and family preservation, LGBTQ children might not enter the foster care system in the first place.

Equality California also strongly supports the retention of a voluntary question about sexual orientation of prospective guardians, adoptive and foster parents because this is most likely where loving and affirming homes will be found. In advocating for affirming placements at the national and state level, Family Equality Council cites [Williams Institute findings](#) that nearly two million LGBTQ adults have expressed interest in becoming foster or adoptive parents. Moreover, same-sex couples are [six times more likely](#) to foster children and at least four times more likely to adopt than non-LGBTQ

couples. Sadly, because of systemic discrimination, far too many of the 111,000 youth who are eligible for adoption will “age out” of foster care, despite the willingness of prospective LGBTQ adoptive and foster parents to provide permanent homes.

For the reasons set forth above, we urge the U.S. Department of Health and Human Services, ACYF, ACF, Children’s Bureau to retain all of the data elements in the 2016 AFCARS Final Rule, including the data elements related to sexual orientation and gender identity and expression.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie Ploumpis". The signature is fluid and cursive, with the first name "Valerie" being more prominent than the last name "Ploumpis".

Valerie Ploumpis  
National Policy Director  
Equality California