



# ACHIEVING PERMANENCY FOR CHILDREN AND FAMILIES

## **FOSTER CARE AND STRENGTHENING PERMANENCY**

The Adoption and Safe Families Act (ASFA; P.L. 105-89) was enacted in 1997 to ensure safety and expedite permanency for children in the child welfare system. One of its primary missions was to ensure children did not remain in foster care for too long, and instead became part of permanent and safe families.

States enacted new legislation and promulgated regulations to expedite permanency, consistent with ASFA. Generally, jurisdictions moved toward holding permanency hearings sooner, often practicing some type of concurrent planning, and establishing a more expedited track for filing petitions to terminate parental rights when reunification was not possible or appropriate. The length of time before deciding on a permanency plan was also reduced. The most positive and obvious outcome was an increase in the number of legalized adoptions with annual numbers of adoptions increasing by 57% between 1998 and 2001, from 37,000 in 1998 to more than 50,000 in 2001.

Reunification is the first permanency option state and local child welfare agencies consider for children entering care. Yet, in many ways, it is the most challenging. In 2006, while 49% (248,054) of the children in care had a case plan goal of reunification with their parents or other principal caretaker, 53% (154,103) returned to their parents' or caretakers' home. In 2002, reunification was at 56%.

Successful permanency through reunification requires many things, including skilled caseworkers, readily available support and treatment resources, clear expectations and service plans, and excellent collaboration across involved agencies.

Perhaps as a result of ASFA, some jurisdictions have noted additional practice improvements, with an increased use of family-based approaches and interventions, including family group conferencing, family mediation, and Family-to-Family and other neighborhood and local agency-based foster care approaches. These approaches stress non-adversarial, collaborative efforts to achieve permanency for children.

Family preservation services also can be effective if implemented in a planned way. These programs are comprehensive, short-term, intensive services for families. Services are delivered primarily in the home and designed to prevent unnecessary out-of-home placement of children.

A recent update of research on the Homebuilders family preservation model showed some promising findings. Conducted by the Washington Institute for Public Policy, the update looked at that body of research that found family preservation to have no overall effect. The Institute pulled out those programs that followed the Homebuilders model and found significant savings and impact, with a savings of \$2.59 for each dollar spent.

### ***Role of Foster Care in Permanency***

Foster care refers to children in the child welfare system who are placed away from their homes when their parents or other primary caregivers are unwilling or unable to provide care and safety. Although the child welfare system's primary concern is the well-being of children and maintaining them in their own homes, out-of-home placements must be used when the risk of abuse and neglect makes it impossible for children to remain safely with their families.

Residential group care encompasses an array of services for children with pronounced special needs. Residential services are highly flexible and provide for varying lengths of stay, based on individual needs. Length of stay may range from a short respite due to tense family situations, to long-term therapy for problems such as drug or alcohol addiction. Although long-term stays in family-like, community-based group homes best serve some children's needs, residential group care is usually a temporary placement. Many children in residential care have emotional or physical conditions that require intensive, on-site therapy; others receive services from day treatment programs in their communities.

Family foster care should be a planned, goal-directed service in which the temporary protection and nurturing of children take place in the homes of agency-approved foster families. Most children in family foster care return safely to their birth families. The needs of the child in family foster care for treatment services should be met within a family

foster care setting when this arrangement is in the best interests of the child. A growing number of children in out-of-home care require treatment services to meet their individual medical and behavioral needs. Some needs may be met by services such as day treatment, but for children in family foster care whose treatment needs would in years past have required group care or residential treatment, the services inherent in treatment foster care have become a critical component in a comprehensive service system. Treatment foster care, also known as therapeutic foster care, combines the benefits of the protection, support, and nurturing of a family foster care setting with the benefits of treatment services provided by specially trained, highly qualified, and intensively supervised foster parents.

Foster care is a critical service in the child welfare system for vulnerable children and their families. As is the case in other parts of our nation's child welfare system, this one service cannot address all the challenges as we confront child abuse and neglect. It represents one part of a comprehensive system of support, from prevention to early intervention services to reaching the goal of permanency for children, including reunification, adoption, or kinship care, along with the accompanying services and supports for each of these families.

On September 30, 2006, 510,000 children were in foster care, with an average stay of 15.5 months. Over the course of a year, nearly 800,000 children will spend time in foster care. In 2006, 303,000 children entered foster care, and 289,000 exited care. That year, 9% of those in care—26,428 young people—left care because they aged out: They turned 18 and were thus too old to be covered by federal or state foster care programs.

### **The Challenges**

The challenges to making foster care into what it should be are numerous. The most glaring deficiency in foster care and in strengthening permanency is financing. The current requirements condition a child's eligibility for federal foster care funding on whether the child was removed from a family that would have been eligible for the now nonexistent Aid to Families with Dependent Children (AFDC) cash assistance program as it existed on July 16, 1996. As CWLA indicated in its annual study, "In 1998, well over half of the children entering foster care—55% by our analysis—qualified for federal assistance. In 2006, slightly more than 42% qualified—a 23% decline."

This decline in federal funding gradually shifts the cost of foster care more to the states and private agencies that serve these children. Title IV-E foster care is intended as a federal matching program in which expenses are shared with states, but over time the erosion of eligibility means the federal government is becoming less of a partner. That means less support not just for foster children and families, but also less for caseworker support. Ultimately, state budgets may pull from other child welfare areas, such as prevention and family support, to make up for a shrinking pool of funds.

The ultimate goal of better-funded foster care is a new casework model for child welfare services that is grounded in best practice and supported largely by more resources in

both Title IV-B and a more flexible IV-E federal funding source. We need to strengthen a system that will result in more skilled workers, trauma-based care and services, lower and redefined casework responsibility, and treatment-focused foster care services.

The need exists to recruit more foster parents and provide greater support through better foster care maintenance rates and more casework support. The recent report *Hitting the M.A.R.C.* documents a diversity of rates and methodology in how they are set. National rates generally were found to be 36% below what was calculated as minimum adequate rates. Inadequate rates affect the ability to recruit and retain skilled families, likely increase financial stress, and directly affect the quality of care.

Successful family reunification requires some of the same services used to implement a successful family preservation approach: small caseloads; access to services, including health, mental health, and substance abuse treatment; counseling; and sound best practice. Support for reunification is limited. Only one federal funding source, Title IV-B part 2, Promoting Safe and Stable Families (PSSF), allocates a portion of its \$370 million for reunification services. Other reunification services may have to be drawn from other programs or sources, including some of the case management costs that may be drawn from the administrative costs under Title IV-E foster care. Once a child has been reunified with his or her family, access to aftercare may be limited since Title IV-E funds provide for support only when a child is in foster care, not after.

## **RECOMMENDATIONS**

### **Short-Term Actions:**

- ★ The new Administration should include increased technical assistance and training to states in strategies to recruit more foster parents.
- ★ Following the lead of at least one state, and consistent with April as Prevent Child Abuse Month, May as Foster Care Month, and November as Adoption Month, Congress and the new Administration should declare a month in honor of Reunification.

### **Long-Term Actions:**

- ★ Congress and the new Administration should eliminate the current eligibility link between Title IV-E foster care and the Aid to Families with Dependent Children (AFDC) program. Federal eligibility should extend to all children in foster care. If it is not possible to cover all children at once, eligibility can be phased in, allowing full coverage based on the age of the child, or when children enter care, similar to the phase-in of adoption assistance under the Fostering Connections Act.
- ★ Congress and the new Administration should strengthen current funding dedicated to reunification services. Although regulations through PSSF require at least 20% of funds be designated for reunification services, there is little information on how these dollars are spent or allocated, or if 20% of funding is truly going to reunification.



## ACHIEVING PERMANENCY FOR CHILDREN AND FAMILIES

- ★ Congress and the new Administration should extend Title IV-E funding to aftercare follow-up services. With this added flexibility, funding linked to outcome-based data and new research could lead to evidence-based practices.
- ★ Congress and the new Administration should provide funding to research and analysis of best reunification practices.
- ★ Congress and the new Administration should require State plans to include a description of the methodology used to set foster care reimbursement rates.

### **KINSHIP CARE AND STRENGTHENING PERMANENCY**

Although ASFA recognized placements with relatives or legal guardians as permanency options for children in foster care, the federal government failed to make funds available on a continuing basis to help those relatives care for the children.

Through 2008, states working with private agencies have used a variety of sources to fund subsidized guardianship placements for children. Some states have received federal funding through a Title IV-E child welfare waiver to provide support for guardians of children who have been in foster care previously. States also rely on other sources of federal funding to support these placements, including Temporary Assistance for Needy Families (TANF) and the Social Services Block Grant (SSBG). Other states have relied exclusively on state and local funds.

Kinship care is a situation in which an adult family member, such as a grandparent, aunt, uncle, or other relative, provides a caring home for a child who is not able to live with his or her parents. The practice is not new, but it is growing partly because repeated studies and CWLA Best Practice Guidelines have demonstrated the value of placing children with relatives when appropriate. The financial difficulties many relatives experience, however, threaten this practice.

Kinship care and subsidized guardianship programs allow qualified relatives or nonrelatives to step in and provide care which they may not have been able to provide otherwise because of the financial burdens such a role requires. Additionally, these relative placements may offer emotional and cultural benefits to children who cannot return safely to their parents and for whom adoption is not appropriate.

Recognizing the successes some states and agencies have accomplished in the increased use of kinship care, Congress in 2008 changed the funding structure of Title

IV-E, allowing states the option of extending these funds to kin families. The Fostering Connections Act is not as expansive as some of the earlier kinship care legislation, but it makes some significant improvements in the use of Title IV-E funds. States must still have the same foster care (nonsafety) licensing requirements in place, but the new law strengthens legislative and federal intent that states can suspend nonsafety and health licensing to facilitate and support kinship care. The new law also requires a child to be IV-E eligible and in state custody, and the possibility of adoption and reunification must be ruled out. The law also changes the nature of some of the case planning and, hopefully, the provision of support services.

The Fostering Connections Act also includes several other improvements that have been a part of earlier kinship legislation. All states will be required to have in place a notification process for relatives when a child comes in to care. The law establishes a new mandatory fund of \$15 million in Family Connections Grants. These funds, at least in part, will go to encourage the development and expansion of kinship navigator programs. These programs, intended to support kin families of all backgrounds and economic makeup, are growing in popularity. Under the expanded use of Title IV-E training funds, states will be able to use these funds for kin parents.

The Family Connections Grants can also be applied to family-finding models. Many jurisdictions used these initiatives as a tool to find relatives of children in care. Through the use of modern technology, including the Internet, some programs have shown great success in matching foster children with extended family members.

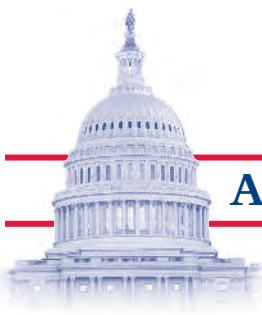
### **RECOMMENDATIONS**

#### **Short-Term Actions:**

- ★ The new Administration should act quickly to provide guidance and, if needed, regulation to facilitate the states ability to convert their current kinship programs to Title IV-E kinship programs.
- ★ The new Administration should issue regulations and guidance that are flexible and encourage states to use their waiver authority in the application of licensing requirements, adhering to the health and safety of the child while assisting in kinship placements.

#### **Long-Term Actions:**

- ★ Congress and the new Administration should follow through with the total elimination of the Title IV-E eligibility link to the July 1996 Aid to Families with Dependent Children (AFDC).



## ACHIEVING PERMANENCY FOR CHILDREN AND FAMILIES

- ★ Congress should follow the progress and expansion of kinship navigator programs and family finding programs that result from the Family Connections Grants and determine whether or not the success of these efforts demand significant increases in funding.

### STRENGTHENING ADOPTIONS FROM THE CHILD WELFARE SYSTEM

Adoption has long been a vital service for children who need families, bringing children whose birth parents cannot or will not be able to provide for them together with nurturing adults who seek to build or add to their families. Although approximately 3% of the U.S. population is adopted, adoption touches the lives of many more people. In fact, a recent survey indicates 47% of adults have been touched by adoption in some way.

CWLA published the first professional standards to guide adoption agencies in 1938. Since then, families choosing to adopt have become increasingly diverse. A growing number of foster families, families of color, older individuals, families with children, two-parent working families, single parents (both male and female), gay and lesbian couples, families with modest incomes, individuals with physical disabilities, and families of all education levels, religious persuasions, and from all parts of the country now adopt. These individuals and families have one important characteristic in common, however: They are willing and able to make a lifelong commitment to protect and nurture a child not born to them by providing that child a safe and loving family.

CWLA's focus has been the adoption of children from the child welfare system. More than 124,000 children in the child welfare system are classified as "waiting to be adopted." In many states, that means parental rights have been terminated. In other states, the process may be somewhat different, and parental rights have not been ended, but the state has determined that the child cannot be reunified with the birth parents and the route to permanency is adoption.

Of the children waiting to be adopted from foster care, a disproportionate number are from minority populations. National statistics generally follow the data from the most recent year available, 2006: 32% were black non-Hispanic, 38% were white non-Hispanic, 20% were Hispanic, 4% were mixed race non-Hispanic, 2% were Native American or Alaska Native non-Hispanic. This disproportionality, or overrepresentation, of certain ethnic or racial groups can be more pronounced in certain parts of the country. For example, a state with a greater Native American population will show greater disproportionality than the national data indicates.

The Title IV-E Adoption Assistance program is the primary federal support for adopting children from foster care. In FY 2009, the federal government will provide a projected \$2.2 billion for adoption assistance payments, services, and administrative costs associated with placing children in adoptive homes. In 2009, adoption assistance payments will assist an average of 427,000 children a month.

Currently, children's eligibility for Title IV-E Adoption Assistance is linked to the outdated 1996 AFDC eligibility standards. Congress changed this requirement in 2008, with the reforms enacted through the Fostering Connections Act. This new law will slowly repeal the link to AFDC and tie eligibility to federal funds to a child's special-needs status.

Adoption Incentives is another adoption program first enacted as part of ASFA in 1997 to promote greater permanence for children. The Adoption Incentive Program is designed to encourage states to finalize adoptions of children from foster care, with incentives tied to the number of adoptions of special-needs children in foster care.

In 2006, the median age of children waiting to be adopted was 8.2 years. Of these children, 4% were younger than 1 year, 33% were ages 1–5, 25% were ages 6–10, 29% were 11–15, and 8% were 16–17. Between 2002 and 2005, 27 states reduced the percentage of older children (ages 9–18) waiting to be adopted, although most were by small percentages. The percentage of older children waiting to be adopted ranged from a state low of 26% to a high of 62%.

The Fostering Connections Act extends the Incentive Program again and adds a smaller adoption incentive for states that increase their adoptions above a certain rate. This was enacted to address those states that may have falling foster care caseloads and fewer children available for adoption. These states may still have more adoptions, but the actual numbers may not demonstrate that. The new law also expands the incentive for both special-needs and older-child adoptions; an increase in the number of older-child adoptions results in an \$8,000 incentive per child.

Other smaller adoption programs include the Adoption Opportunities Program, which provides discretionary grants for demonstration projects that promote special-needs and minority adoptions and provide post-adoption services. Funding for this initiative has generally remained at the \$27 million mark since 2003. Examples of Adoption Opportunities recipients include the National Resource Center on Special Needs Adoption and the National Adoption and Foster Care Recruitment Campaign.

Most federal adoption support has been targeted toward promoting adoptions. As time passes and the number of adoptive families increases, there is a corresponding need to address, through post-adoption services,



## ACHIEVING PERMANENCY FOR CHILDREN AND FAMILIES

some of the challenges that may surface in later years for these families. The most common post-adoption services include support groups, crisis intervention, child and family advocacy, adoption searches, case management, family therapy, mental health treatment, respite care, and targeted case management. Some adoption agencies also provide chemical abuse treatment, day treatment, and intensive in-home supervision, indicating a strong commitment to making adoption placements work.

An important backdrop to the issue of adoptions from foster care is the overrepresentation of children of color. Key to this debate is the enactment of the Multiethnic Placement Act (MEPA) in 1994. The debate in 1994 was that children were being denied placements due to a heavy reliance on policies that took into account the racial and ethnic makeup of the prospective adoptive family. MEPA prohibited the use of a child's or prospective parent's race, color, or national origin to delay or deny the child's placement, and required diligent efforts to expand the number of racially and ethnically diverse foster and adoptive parents. MEPA was amended two years later to clarify its intent.

CWLA firmly believes the best interest of the child must be paramount in any decisions that surround placement and services. The CWLA Standards of Excellence for Adoption Services highlight certain key principles, including:

- When consistent with the child's best interest, the agency providing adoption services should honor the birth parents' request that a family of the same race or ethnic background adopt the child. The child's adoption, however, should not be denied or delayed if the agency is unable to recruit adoptive parents of the child's race or culture and adoptive parents of other cultural or racial groups are available.
- All children deserve to be raised in a family that respects their cultural heritage.
- In any adoption plan, the best interests of the child should be paramount.
- All decisions should be based on the needs of the individual child. If aggressive, ongoing recruitment efforts are unsuccessful in finding families of the same race or culture as the child, other families should be considered to ensure the child's adoptive placement is not delayed.
- Assessment and preparation of a child for a transracial/transcultural adoption should recognize the importance of culture and race to the child and his or her experiences and identifications. The adoptive family should demonstrate an awareness of and sensitivity to the cultural resources that may be needed after placement.

The Evan B. Donaldson Institute conducted a study in 2008, *Finding Families for African American Children*, which criticized the impact of MEPA, arguing its enforcement can interfere with best practices and the best interests of the child. The study also concluded that those parts of the law that require diligent recruitment of minority parents had not been enforced.

The challenges MEPA seeks to address cannot be met without a comprehensive approach to the challenges we face in the child welfare system, but there can be clearer instruction and guidance to states and agencies to assist in minority family recruitment. In addition, guidance and enforcement from HHS should not hinder innovation in recruitment and placement. Certainly, agencies or state child welfare systems should not fear serving the best interests of children and prospective families due to HHS's interpretations of MEPA.

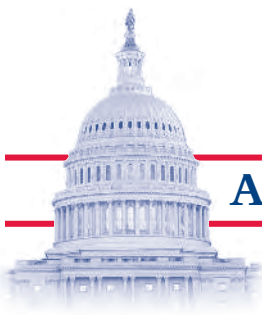
### RECOMMENDATIONS

#### Short-Term Actions:

- ★ In issuing guidance and regulation implementing the new adoption provisions, the new Administration should encourage states to reinvest any Maintenance of Effort (MOE) funds generated by phasing out the Aid to Families with Dependent Children (AFDC) link in post-adoption services.
- ★ The new Administration should focus special attention on assisting states in developing and implementing strategies to recruit more minority families for adoption and clarify that the Multiethnic Placement Act (MEPA) does not discourage such efforts.
- ★ The new Administration should focus greater attention on efforts and strategies that will facilitate the adoption of older children.

#### Long-Term Actions:

- ★ Congress and the new Administration should reauthorize and increase funding to the Adoption Opportunities program, and place a greater emphasis on spending appropriated dollars on proposals and programs that will extend post-adoption services and advance the recruitment of minority parents.
- ★ In extending the adoption tax credit, Congress and the new Administration should examine ways in which this tax benefit can focus more of its target audience on lower- and middle-income families adopting.



---

## ACHIEVING PERMANENCY FOR CHILDREN AND FAMILIES

---

### EDUCATION AND CHILDREN IN CARE

---

Schools should serve as a source of stability for a child in foster care. A child placed in foster care may have to move to a new neighborhood or area, which can mean that a foster child has to adjust to a new home as well as a new school. While some foster children may be best served by remaining in the same school despite being moved out of that district, this may not always be an option for the child and foster parent. In other instances this option may exist, but the services that would make this possible—such as transportation or covering the cost of individual transportation—are not available.

In 2008 Congress began to address these challenges with the enactment of the Fostering Connections Act. The new law now requires that the case plan of a child in foster care takes into account the suitability of the current educational setting, and ensures that the child welfare agency coordinate with the local education agency so that the child remains in the school he or she is enrolled in at the time of the foster care placement. In cases where it is not in the best interest of the child to remain in that same school, there must be an assurance by the child welfare agency and the local education agency to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the new school.

### RECOMMENDATIONS

#### Short-Term Actions:

- ★ The new Administration should provide flexible guidance and regulation that will strengthen the use of foster care maintenance payments to address the transportation costs of those foster children living in one school district but who continue to travel to their old school district.

#### Long-Term Actions:

- ★ The new Administration and Congress should include in the reauthorization of the elementary and secondary education act (No Child Left Behind Act) language similar to the directive to local child welfare agencies: that the local education agency work with the child welfare agency to assure foster children remain in their current schools when in the child's best interest, or provide immediate enrollment in a new district when that is in the child's best interest.

- ★ As part of the reauthorization of the No Child Left Behind Act, Congress and the new Administration should assure that the reauthorization of the McKinney-Vento Homeless Assistance Act includes a broader definition of homeless children to include children in foster care.
- ★ When Congress and the new Administration reauthorizes the No Child Left Behind Act, the local education agency should be directed to work in coordination with the child welfare agency on assurances that a special-needs adoptive child will have access to immediate school enrollment when health and other treatments may require a temporary relocation from their home.