

Testimony of
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before the

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Subcommittee on Income Security and Family Support

on

Challenges Facing the Child Welfare System

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As chairman McDermott stated in an announcement of today's hearing, "There are a number of obstacles that undermine the ability of the child welfare system to ensure safe, nurturing and permanent homes for children in the foster care system. Overcoming these obstacles is critical to achieving positive outcomes for our most vulnerable children."

We at the North American Council on Adoptable Children (NACAC) believe that, of the many barriers that keep children from achieving permanence, the following are some of the most significant. First and foremost, the federal child welfare financing system relies too heavily on foster care rather than investing in preserving and rebuilding families or better supporting new permanent families for children who cannot return safely home. Below we detail four ways to invest in families to achieve better outcomes for children: (1) implement federally supported guardianship; (2) provide support to birth families; (3) increase access to adoption assistance; and (4) fund post-permanency support.

One of the more significant barriers facing children and youth of color in foster care, however, has little to do with financing. Currently children of color, primarily African American children, are over-represented in care and stay in care too long. Although states are required to recruit permanent families from communities that reflect the foster children in their care, we have seen little action in this area. Reform is needed to improve recruitment and retention of families of color who can provide permanency for these children.

Implement Federally Supported Subsidized Guardianship

About one-quarter of foster children are cared for by grandparents or other relatives.¹ Right now, almost 20,000 of these children cannot return to their birth families and have been with their relatives for at least a year.² These stable, loving kin families are a perfect permanent resource for many foster children, but the children remain stuck in foster care simply because adoption is not the right choice for their family.

For families like these, guardianship is the right option. Iowa resident Helen has been caring for her 10-year-old grandson Cordell for years and is committed to him. Adoption, however, is not the right choice for Cordell. Helen explains, "He has enough problems without his aunts and his mother becoming his sisters. That's like a bad rap song." Helen has adopted four foster children, but knows that in Cordell's case guardianship would provide the permanence he needs without rearranging family boundaries. At the same time, Helen needs assistance to help meet Cordell's significant needs. Iowa's waiver allows only children older than Cordell to receive government-supported guardianship.

Illinois resident Rob knows firsthand the value of guardianship. Placed in foster care due to his mother's mental health, he and his two sisters eventually ended up in a subsidized guardianship placement with his aunt. One of the first children served through Illinois'

¹ Generations United. (2006). *All children deserve a permanent home: Subsidized guardianships as a common sense solution for children in long-term relative foster care*. Washington, DC: Author.

² Children and Family Research Center. (2004). *Family ties: Supporting permanence for children in safe and stable foster care with relatives and other caregivers*. Urbana-Champaign, IL: School of Social Work, University of Illinois at Urban-Champaign.

guardianship waiver, Rob found safety, stability, and love with his aunt while maintaining ties to the mother he loves. For Rob, guardianship was a lifesaver that should be available to more children and youth. He explains, “I was able to find my miracle through subsidized guardianship, but other foster children are not so lucky. The federal government should provide funding to states for children who leave foster care to live permanently with grandparents, aunts, uncles, or other guardians. In many cases, if relatives choose to become legal guardians rather than foster parents, they lose federal foster care assistance, which pays for things like food and clothing. That just isn’t right.”

For children like Cordell who remain in foster care, life is unnecessarily complicated—they cannot sleep over a friend’s house without social worker approval. They cannot receive routine medical care without the government getting involved. Children like Cordell and Rob need the permanency option of federally supported guardianship.

Recommendation: Federal waivers have proven the efficacy of subsidized guardianship. In the nine years since Illinois implemented its guardianship program, 9,596 children have left foster care to legal, supported guardianships.³ While waivers allow states to experiment with needed innovations, they are temporary. We now need subsidized guardianship to be an approved permanency option, included in the Title IV-E program like adoption assistance. Children in stable foster placements with relatives and other committed caregivers would benefit from greater federal support for guardianship, allowing children to leave care, eliminate costly caseworker visits, and reduce unnecessary court oversight. A federally supported guardianship program could help almost 20,000 children leave foster care to a permanent family *right now*. Thousands more could be served each year in the future.

Provide Support to Birth Families

The *Green Book* states: “It is generally agreed that it is in the best interests of children to live with their families. To this end, experts emphasize both the value of preventive and rehabilitative services and the need to limit the duration of foster care placements.”⁴ Federal funding does not reflect this priority—90 percent of federal funding can be used by states only after Title IV-E-eligible children have entered foster care or been adopted.⁵

Since so much federal funding is for children who have entered care, states do not have sufficient resources to invest in birth family support and reunification. In recent years, we have seen the percentage of foster children who reunite with their birth families go

³ Personal communication with Leslie Cohen. (March 2007). Children and Family Research Center.

⁴ U.S. House of Representative, Committee on Ways and Means. (2004). *2004 green book: Section 11,- child protection, foster care, and adoption assistance*. [Online]. Available: http://frwebgate.access.gpo.gov/cgi-bin/multidb.cgi?WAISdbName=108_green_book+2004+Green+Book+%28108th+Congress%29&WAISqueryRule=%28%24WAISqueryString%29+AND+%28reptype%3D%24sect+OR+reptype%3D%24sect1+OR+reptype%3D%24sect2%29&WAISqueryString=duration+of+foster+care+placements&WAISemplate=multidb_results.html&Submit.=Submit&WrapperTemplate=wmprints_wrapper.html&WAISmaxHits=40. [Retrieved May 7, 2006.]

⁵ In FY 2006 the appropriation for Title IV-E foster care and adoption assistance programs is \$6.48 billion while the funding for Title IV-B Parts 1 and 2 (Safe and Stable Families Program) is only \$721.7 million.

down—from 62 percent in 1998 to 54 percent in 2005.⁶

Children can reunify with their birth families when parents get needed support. Tennessee resident Melissa was once addicted to drugs and at risk of losing her son Marley. With perseverance, she found an innovative drug treatment program that keeps parents and children together, rather than placing children away from their families in foster care. Melissa explains how hard it would have been for Marley to enter care rather than staying with her during treatment: “The pain of his mother being sick and gone ... I know that would have been devastating. He would have gone through things he shouldn’t have to. None of it was his fault. To be able to heal with him while I was healing—that was just a beautiful thing.” Melissa is now a proud soccer and Cub Scout mom who loves her job as a private duty certified nurse technician.

Kelly of Baltimore is the mother of three young children who are thriving today. Life was not so good five years ago: Kelly was addicted to drugs and her children entered foster care. After struggling to kick her habit, Kelly found a program that helped her put her life back together. Kelly explains, “I had everybody pulling for me as far as my social worker and my counselors at the program trying to help me get immediate Section 8 housing.” She continues, “They also funded my counseling, and they got me parenting classes.” Life in recovery is so good and so wonderful,” Kelly says. “Honestly, I don’t have any desire to go back to that way of life. I’m grateful for my life today.

Kelly and Melissa, sadly, are not typical in that they were able to receive the comprehensive services they need. As noted in the advisory announcing this hearing, states have expressed dissatisfaction with the level of substance abuse services for parents. A recent survey of child welfare administrators found that substance abuse and poverty are the most critical problems facing families being investigated for child maltreatment.⁷ In some areas, substance abuse is an issue for one-third to two-thirds of the families involved in child welfare.⁸ Unfortunately, only 10 percent of child welfare agencies report that they can find drug treatment programs for clients who need it within 30 days.⁹ Almost no drug-addicted parents can access drug treatment programs with a mother-child residential component, and few are able to participate in comprehensive programs that address issues of parenting and housing along with substance abuse. For families dealing with poverty and housing issues, support is also hard to come by. As the National Center for Child Protection Reform notes, “Three separate studies since 1996 have found that 30 percent of America’s foster children could be safely in their own homes right now, if their birth parents had safe, affordable housing.”¹⁰

⁶ U.S. Department of Health and Human Services. (2006). AFCARS report #10 (Preliminary FY 2005 estimates). [Online]. Available: http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report13htm [Retrieved February, 2007].

⁷ National Center on Child Abuse Prevention Research. (2001). *Current trends in child abuse prevention, reporting, and fatalities: The 1999 fifty state survey*. Chicago: Prevent Child Abuse America.

⁸ U.S. Department of Health and Human Services. (1999). *Blending perspectives and building common ground: A report to congress on substance abuse and child protection*. Washington, DC: U.S. Government Printing Office.

⁹ U.S. Department of Health and Human Services. (1999). (See complete citation above.)

¹⁰ National Coalition for Child Protection Reform. (2004). *Who is in “the system” and why* [Online]. Available: <http://www.nccpr.org/newissues/5.html> [May 7, 2006].

Recommendations: Currently, for every dollar that the federal government spends on family preservation and post-permanency support, nine dollars are spent on IV-E children who are in foster care or who have been adopted from care. The federal government must significantly increase its investment in Title IV-B Parts 1 and 2, and provide states with increased flexibility in how they spend federal child welfare monies.

In addition, if states successfully reduce the use of foster care, they should be able to reinvest federal dollars saved into preventive and post-permanency services. Currently, when states reduce the number of IV-E eligible children in foster care, the federal government reduces its payment to the state. We recommend that the federal government provide states with an amount equal to the money saved in Title IV-E maintenance payments, training, and administration. This would provide an incentive to keep or move children out of care, while also beginning to address the vast imbalance in federal funding.

Investing in at-risk families has been shown to work. Using a IV-E waiver, Delaware demonstrated that investing in substance abuse treatment had positive outcomes for children: the project's foster children spent 14 percent less time in foster care than similar children who did not participate in the waiver, and total foster care costs were reduced.¹¹ Certain counties in North Carolina used a federal child welfare waiver to cut down on out-of-home placements by investing in court mediation, post-adoption services, intensive family preservation services, and other interventions.¹²

Protect and Expand Adoption Assistance

Between 1998 and 2004, more than 330,000 foster children were adopted into loving, caring families. But adoption is not a giant eraser. Children who have been abused or neglected—and bounced from foster home to foster home—do not emerge unscathed. The government has a moral obligation to make a long-term commitment to adoptive and guardianship families who take into their homes foster children who have languished in care for far too long, many of whom are older and have multiple special needs.

Adoption assistance (or subsidy) is one critical support for families who adopt children with special needs from the foster care system. Subsidies help strengthen these new families and enable many foster parents to adopt children already in their care by ensuring that they do not lose support as they transition to adoption.

Michigan resident Vernard adopted his son Alex when he was three. “Alex had been in 10 placements before I got him,” says Vernard. Because of Alex’s diagnosis of reactive attachment disorder and other special needs, Vernard recalls, “I made absolutely sure I received adoption medical subsidy prior to the adoption, because I knew accepting even a

¹¹ U.S. General Accounting Office. (2002). *Recent legislation helps states focus on finding permanent homes for children but long-standing barriers remain*. Report to Congressional Requestors. [Online]. Available; <http://www.gao.gov/new.items/d02585.pdf>. [Retrieved May 7, 2006].

¹² Usher, C., Wildfire, J., Brown, E., Duncan, D., Meier, A., Salmon, M., Painter, J. & Gogan, H. (2002). *Evaluation of the Title IV-E waiver demonstration in North Carolina*. Chapel Hill, NC: Jordan Institute for Families, University of North Carolina.

minimum amount of subsidy would be in Alex’s best interest. I knew that if Alex required residential treatment or out-of-home placement—due to his multiple placements, and the neglect and physical and sexual abuse he experienced—there was no way I could afford \$300 to \$400 a day or even trained respite support.” Alex receives a \$300 monthly subsidy, but during their first four years together, Vernard spent more than \$850 per month to meet Alex’s needs, including four different therapies to help Alex.

Currently, the federal government shares in a portion of adoption assistance costs only for children whose birth family income is below the 1996 Aid to Families with Dependent Children income standards. In contrast, states are obligated to provide protection to *every* abused or neglected child, regardless of family income. Unfortunately, a funding system that ties adoption assistance to outdated income guidelines has resulted in a system in which far fewer children are eligible for Title IV-E federal support. In 1998, 53 percent of foster children were eligible for federal support, but by 2005, the percentage had dropped to 46 percent—or 35,000 fewer Title IV-E eligible children. This number is projected to decline by another 5,000 per year.¹³ The loss of IV-E eligibility often translates into the eventual loss of IV-E adoption assistance eligibility.

As a result of this declining federal support, states and localities must share a greater burden for foster care and adoption. In some states, this has severely limited the amount of funding that can go to prevention or adoption support. Recent state legislation demonstrates the need for rapid federal action on this issue. In 2005, as allowed by federal regulations, Missouri enacted legislation that would have instituted a means test for state-funded adoption assistance agreements and would have ended more than 1,000 existing adoption assistance agreements. Although a federal district court found the law unconstitutional on May 1, other states may follow Missouri’s example in an attempt to save funds. Such short-sighted policies will relegate more children to foster care, rather than helping them leave care to a permanent family.

A recent study by Barth et al. suggests that such adoption assistance cuts are not cost-effective: “[C]uts in subsidy amounts could reduce the likelihood of adoption and ultimately increase costs for foster care.”¹⁴ In contrast, a new study suggests that a small increase in adoption assistance would result in increased adoptions, again saving money in the long run by reducing higher foster care costs.¹⁵

In the long run, adoption—even well-supported adoption—saves money. The Barth et al. study demonstrates that the 50,000 children adopted each year save the government from \$1 to \$6 billion, when compared to maintaining those children in long-term foster care. Savings result from reduced administrative costs, medical courts, court expenses, compared to the costs of seeking adoptive families and providing adoption assistance.¹⁶

Recommendations: Since 1988 NACAC has advocated for an elimination of the link

¹³ Kids Are Waiting. (2007). *Fix the Foster Care Lookback*.

¹⁴ Barth, R., Lee, C., Wildfire, J., & Guo, S. (2006). A comparison of the governmental costs of long-term foster care and adoption. *Social Service Review*, 80(1).

¹⁵ Hansen, M., & Hansen, B. (2006). The economics of adoption of children from foster care. *Child Welfare*, 85(3)

¹⁶ Barth et al. (2006). (See complete citation above.)

between birth parent's income and eligibility for Title IV-E adoption assistance. It makes no sense to tie a child's eligibility to the financial status of parents whose parental rights have been terminated. State *and federal* assistance should be required to ensure support after adoption for every abused and neglected child—not just every child born into a poor family. As proposed by Senator Jay Rockefeller, the Adoption Equality Act of 2007 would extend Title IV-E adoption assistance to every child with special needs adopted from foster care. Such legislation would also save states money currently spent on costly income-eligibility determinations. The savings could then be invested in supporting families after permanency or preventing foster care placements in the first place.

Adoption assistance is designed to help an adoptive family meet a child's needs without creating an undue financial burden on the family. Therefore, a program in which the federal government provides support to all children with special needs adopted from foster care must maintain the federal prohibition against using the adoptive family's income to determine eligibility.

Fund More Intensive Post-Permanency Support

While adoption assistance is a necessary support for children adopted from foster care, it is often not enough. As Babb and Laws detail, children adopted from foster care face a variety of special needs: mental illness, fetal alcohol spectrum disorder, attention deficit hyperactivity disorder, emotional disabilities, attachment disorder, as well as physical disabilities.¹⁷ Groze and Gruenewald agree that “[f]amilies face enormous challenges and strains in adopting a special-needs child.”¹⁸

While adoptions doubled from 1997 to 2004, post-adoptive services failed to keep pace. More people are adopting more children, and the children are often older, have been in care longer, and face daunting special needs. The Center for Advanced Studies in Child Welfare notes that older children and children with disabilities are at highest risk for adoption disruption.¹⁹ Few states or counties have the comprehensive services necessary to meet parents' needs as they raise children who have been abused and neglected and have resulting physical and emotional special needs. We at NACAC have met far too many families who are deeply committed to their adopted children, but are unable—or barely able—to meet their children's mental health needs.

Brenda and Bob from Maryland adopted two girls several years ago. The sisters have serious mental health problems that the family struggles to meet. The oldest daughter is in residential treatment and may be there indefinitely. The financial and emotion strain is great. Brenda notes, “If you haven't lived with children who have emotional issues, you can't imagine it. They bring you into their storm. You cannot stay out of it. Fortunately my husband and I are very strong people.” Brenda adds, “We are committed to our

¹⁷ Babbs, A., & Laws, R. (1997). *Adopting and advocating for the special needs child: A guide for parents and professionals*. Westport, CT; Bergin & Garvey.

¹⁸ Groze, V., & Gruenewald, A. (1991). Partners: A model program for special-needs adoptive families in stress. *Child Welfare*, 70(5), 581-589.

¹⁹ Center for Advanced Studies in Child Welfare. (1998). *CASCW practice notes # 4: Post-adoption services*. [Online]. Available: http://ssw.che.umn.edu/img/assets/11860/PracticeNotes_4.pdf [Retrieved: May 7, 2006].

children. We're holding on, but sometimes we don't know what we're holding on to."

Corvette of New York adopted nine-year-old Malik from foster care. "He hallucinates and sees spiders even though there are no spiders," says Corvette. When Malik starts to see spiders, he panics and loses control. Not long ago, Malik needed to be admitted to hospital in-patient treatment for more than two weeks. Corvette has a deep, abiding love for Malik, but knows love isn't enough to heal his past hurts and meet his special needs. She relies on Medicaid, monthly adoption assistance, and other services to provide medication, therapy, a medical school setting for Malik, training for her, and more. These services enable her to keep Malik at home, which is considerably less expensive than the residential treatment he might otherwise need.

A Minnesota family has seen first-hand the devastation resulting from a lack of post-adoption services. Several years ago, Alice's adopted daughter Jane (not her real name) began to have serious behavioral problems due to attachment disorder, fetal alcohol spectrum disorder, and an appalling history of abuse and neglect. Alice tried therapy covered by her medical assistance, but Jane needed more intensive residential treatment. Alice couldn't afford the care and the county would not pay for it, so Jane's behavior got more out of control and even violent. Eventually, Alice had to seek emergency shelter care for her daughter. The county filed child abuse charges against Alice because she wouldn't take her daughter home (because she knew she couldn't keep her safe there). Alice was forced to surrender her daughter to foster care where Jane finally received residential treatment. In the meantime, though, at the shelter Jane was sexually exploited, exposed to illegal drugs, and traumatized by instability. Rather than providing help when it was first needed, the system put a vulnerable teenager and her mother through the ringer.

Post-adoption and post-permanency supports cut down on the risk of disruption and dissolution. Most adoptions succeed, but as many as 10 to 25 percent of public agency adoptions of older children disrupt before finalization, and a smaller percentage dissolve after adoption finalization.²⁰

Recommendations: Funding of Title IV-B must be increased, and the new funding should cover post-permanency support. Currently, good post-adoption programs are providing basic information, support, training, and other services to families in many areas. It is not enough. More resources are needed for adoption-competent mental health services and case management programs that will ensure that children with difficult histories and current mental health and behavior problems do not needlessly return to foster care or devastate their new families. If we want adoption and guardianship to be truly permanent, we must find the resources to provide in-depth, sometimes intensive support to these permanent families. It is far more economical—let alone humane—to provide these services now to ensure that children don't return to foster care.

²⁰ National Adoption Information Clearinghouse. (2006). *Postadoption services: A bulletin for professionals*. [Online]. Available: <http://naic.acf.hhs.gov> [Retrieved May 2006].

Increasing Adoptions for Children of Color

The hearing notice highlighted the over-representation of children of color in foster care. Recent AFCARS data show that 32 percent of foster children are African American, as are 36 percent of waiting children. About 18 percent of foster children and 15 percent of waiting children are Latino.²¹ A significant obstacle to ensuring safety and permanence for these children is the trouble that families of color face when seeking to adopt from the foster care system.

With the passage of the Multiethnic Placement Act and the Interethnic Provisions (MEPA/IEP) in the mid-1990s, the federal government made an attempt to help more children of color leave foster care to permanent families. More than a decade later, however, African American children are over-represented in foster care, stay in care longer, and take longer to be adopted.²²

From our perspective as a national advocacy organization, we have seen that the children most affected by MEPA policies and transracial adoption are younger children of color (five and under)²³ who are adopted by their white foster parents. MEPA enforcement focuses exclusively on penalizing states for delaying or denying placements based on race, while MEPA's provision that requires states to recruit families from communities that reflect the children in care have been, at best, under implemented²⁴ and never enforced.

The National Adoption Attitudes Survey found that African American and Latino people are more likely to seriously consider adopting children with special needs than white Americans.²⁵ Unfortunately, minority prospective adopters run into barriers that keep them from providing children with an adoptive family. The barriers include agencies' culturally insensitive practices, prospective adopters' fear of agencies that have been seen as unnecessarily removing children from their communities, and workers' MEPA-related confusion about which placement practices are now legal. Some workers even believe that MEPA prohibits agencies from placing black children with black families.

Research has shown that partnering with minority-specialty agencies is an effective way to recruit and retain families for waiting children of color. In one study, 70 percent of families who successfully adopted children through private African American agencies had first unsuccessfully tried to adopt through mostly public agencies. As the authors noted, "The overwhelming majority of these families have adjusted quite well to their status as adoptive families.... That they had been 'screened out' during the adoption process in primarily public adoption agencies or had dropped out of the process...is

²¹ Administration for Children and Families, *AFCARS Report*. (September 2006). [Online]. Available: http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report13.htm [Retrieved May 11, 2007].

²² McRoy, R., Mica, M., Freundlich, M. & Kroll, J. (2007). Making MEPA-IEP work: Tools for professionals, *Child Welfare*, 86(2).

²³ North American Council on Adoptable Children. (2007). *Adoptalk*.

²⁴ Race Matters Consortium. *MEPA/IEP Overview*.

²⁵ Dave Thomas Foundation for Adoption. (2002). *National Adoption Attitudes Survey*.

discouraging, given the resource they offer for the numerous African American children...awaiting adoption.”²⁶

African American and Latino families can and do adopt foster children with special needs. States need added incentives, resources, and encouragement to reach out to these prospective families and ensure that more children, especially older children and youth, find the permanent families they need.

Recommendation: We strongly believe that MEPA/IEP should be replaced with legislation that includes the following provisions:

- A child’s best interests should always be paramount in placement decisions.
- In any foster care or pre-adoptive placement, preference shall be given to placement with a child’s relative or fictive kin when those families can safely meet the child’s needs.
- States, counties, and other agencies with responsibility for children in foster care must recruit, retain, and seriously consider prospective foster and adoptive families from communities that reflect the racial, ethnic, cultural, and linguistic background of children in their foster care system.
- Placing agencies must assess a prospective foster or adoptive family’s ability to meet a child’s needs—including racial, ethnic, cultural, and linguistic needs—when making a foster or adoptive placement and, in placement decisions, must consider the child’s cultural, racial, ethnic, and linguistic needs as well as prospective parents’ capacity to address other needs the child may have.
- When making transracial or transcultural foster or adoption placements, state, county, and other agencies with responsibility for children in foster care must provide training and other supportive services to ensure that foster and adoptive parents can meet their children’s racial, ethnic, cultural, and linguistic needs.
- A foster or adoptive placement should not be delayed or denied due solely to the race, color, national origin/ethnic background, or primary language of either the child or prospective parent.
- Financial incentives or penalties should encourage state, county, and other agencies with responsibility for children in foster care to comply with *all* of the provisions listed above.

This legislative change would protect children by continuing to ensure that placements are not denied or delayed based on their or the prospective family’s race, but also would enhance the attention paid to recruitment, retention, and assessment of families from communities that reflect foster children’s racial and ethnic background. If we successfully increase the pool of prospective adopters, more children will leave foster care to adoption.

²⁶ Smith-McKeever, T. & McRoy, R. (2005). The role of private adoption agencies in facilitating African American adoptions, *Families in Society: The Journal of Contemporary Social Services*, 86(4).