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Ms. Kathleen McHugh, Director  
Policy Division, Children's Bureau  
Administration for Children and Families  
U.S. Department of Health and Human Services  
330 C Street, SW  
Washington, DC 20201

Re: Comments Regarding Safe and Appropriate Foster Care Placement Requirements for Titles IV-E and IV-B (RIN 0970-AC89) Published September 28, 2023, in the *Federal Register*

Please accept the comments from [include name of tribe or organization here] regarding the notice of proposed rulemaking published on September 28, 2023, in the *Federal Register* (RIN 0970-AD03).

[Provide a brief overview of the work your tribe or organization is doing to support American Indian and Alaska Native (AI/AN) children, their parents, and their relative caregivers and why this is important to the well-being of AI/AN children and families in your community.]

### **Proposed Regulation Changes**

We support the best practices outlined in this NPRM for supporting LGBTQI+ youth, including calling for education and training for potential placements and the recognition of the need to connect LGBTQI+ youth with support systems outside of their home. We suggest that language including Two-Spirit youth be added to the Final Rule, as well as descriptions of what being Two-Spirit means, and the importance of Two-Spirit-identifying individuals in AI/AN communities. As well, we suggest the following changes be made in the Final Rule:

- AI/AN youth who identify as Two-Spirit or LGBTQI+ deserve access to care that is both culturally relevant and addresses their Two-Spirit or LGBTQI+ identify. We recommend the Final Rule emphasize that services and placements for Native youth that identify as Two-Spirit or LGBTQI+ also address their cultural needs. Cultural identity cannot be seen as separate from LGBTQI+ and Two-Spirit identity.
- We support the NPRM's recognition of the importance of services and support networks that can be resources to Two-Spirit and LGBTQI+-identifying youth that may be present outside of their homes or placements. We believe it is important to recognized that tribal communities, especially rural tribal communities, might have different kinds of out-of-home resources availability related to funding support and technology infrastructure than are available in mainstream, more urban populations. For this reason, we recommend language that recognizes the differences in supportive services and resources for different communities and add language in the Final Rule that recognizes these differences and the role that other community supports and services that are less formal play. We also have concerns that the NPRM does not do enough to recognized the importance of addressing cultural needs, as well as LGBTQI+ identity in securing and evaluating appropriate services and placements. We also have concerns that the NPRM does not do enough to recognize the importance of addressing cultural needs, as well as LGBTQI+ identity in securing and evaluating appropriate services and placements. Historically, we have witnessed how some jurisdictions view different children's needs as competing with others, especially when it comes to supporting tribal identity, connection, and extended family relationships for AI/AN children and youth. The results can be devastating for Native youth's sense of belonging and increase the risk of non-compliance with the Indian Child Welfare Act's (ICWA) requirements. We recommend that the Final Rule clarify that nothing in the Final Rule should be construed to affect ICWA's application. We recommend that language be included in the Final Rule that outlines the role that AI/AN tribes and communities can play in helping an AI/AN youth develop their case plan and identify appropriate placements. Individuals with Two-Spirit and LGBTQI+ identities have assumed important roles in Native communities throughout history, so we encourage that as an AI/AN youth and their case worker work together to develop a plan to identify appropriate services and supports and safer placements for the youth, that the youth's tribe is included in this case planning and decision making. We note that ICWA allows tribal nations to intervene in state

child custody proceedings and requires services and placements to reflect culturally appropriate care and engage with the youth's tribe in this process.

We appreciate the opportunity to provide comments on these proposed changes and look forward to ongoing collaborative efforts to support tribal sovereignty, ICWA implementation, and the safety and healing of AI/AN children and families.

Sincerely,

**[sign here]**