



# APSAC ALERT

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## LGBTQ Foster Youth Threatened by Texas Lawsuit Challenging Designated Placement Rule

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LGBTQI+ children and youth are more frequently removed from their homes into the foster care system. They are also more vulnerable to maltreatment and repeated failed placements once they have been removed. These factors likely contribute to the higher frequency of juvenile adjudication among LGBTQI+ youth. The combined risks are sufficiently high to be termed a foster care to prison pipeline, leaving many LGBTQI+ youth at markedly higher risk of anxiety, depression, and suicidality. In recognition of the special needs of this population of foster youth, the Administration for Children and Families under President Biden promulgated a rule titled Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQ Children (the “Rule”), which became final on July 1, 2024, with an implementation deadline of October 1, 2026 (Designated Placement requirements, 2024a). A federal lawsuit challenging the Rule was brought by Texas in September 2024, and in March 2025 the court granted Texas’ motion for a stay, effective nationwide. These developments should alert child maltreatment professionals to an increased risk of harm to this vulnerable segment of the child welfare population.

### The Designated Placement Rule

Title IV-E of the Social Security Act establishes requirements for placement of children in foster care. The law mandates that a case plan for each child “assure that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to... address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan” (Cornell Law School Legal Information Institute, n.d.). The Rule further explicates the term “safe and proper” in establishing requirements for “designated placement” of LGBTQI+ youth, including the above-mentioned case plan to support well-being. The Designated Placement Rule requires agencies to ensure that *all* youth, *including* LGBTQI+ youth, do not suffer harassment, mistreatment, or abuse, including mistreatment related to a child’s sexual orientation or gender identity.

Under the Rule, agencies must inform all youth aged 14 and older that a designated placement can be made

available. Additionally, agencies must provide relevant information to youth younger than 14 who have been “removed from their home due, in whole or part, to familial conflict about their sexual orientation, gender identity, gender expression, or sex characteristics; or if they have disclosed their LGBTQ status or identity; or whose LGBTQ status or identity is otherwise known to the agency” (Designated Placement requirement, 2024a). By extension, funded agencies must continually ensure that appropriate placements are available. Designated Placement homes must receive training on caring for LGBTQI+ youth, provide protections that are unique to their needs, and facilitate their access to supportive resources, services, and activities. The Rule prohibits retaliation against LGBTQI+ children, defined as follows:

- Harassment, mistreatment, or abuse;
- Conversion therapy;
- Unwarranted placement changes or restricting a child’s access to LGBTQ peers, siblings, family members, or age- or developmentally appropriate materials and community resources;
- Endangering the privacy or well-being of a child by outing them; or
- Taking negative action against current or potential caregivers because they have supported a child’s LGBTQ identity (Designated Placement requirement, 2024a).

The Rule establishes privacy protections for these youth as well. The Rule does not require any provider

to become a designated placement, and it specifies that no state may penalize any provider who declines to be so identified or fails to meet the requirements.

As background for the Rule, the federal Administration for Children and Families (ACF) outlined the overrepresentation of LGBTQI+ youth in foster care and the poor conditions and outcomes they often face (Designated Placement Requirements Under Titles IV–E and IV–B for LGBTQI+ Children, 2024b). About 30% of foster youth identify as LGBTQI+. <sup>1</sup> They are almost two and a half times more likely than the heterosexual and cisgender youth population to enter the foster care system (Fish et al., 2019). LGBTQI+ youth in the juvenile justice system are more likely to have been in foster care and more likely to have suffered physical abuse at home before removal (Juvenile Law Center, 2018; Kynn et al., 2024). Research suggests that conflict in the home of origin often focuses on their sexual orientation or gender identity. <sup>2</sup> Trauma related to LGBTQI+ identity means that these youth enter care with needs that are both specific and complex. ACF developed the Designated Placement Rule after reviewing this research and hearing from LGBTQI+ adults who were foster youth. <sup>3</sup>

As further background for the Rule, ACF explains that caregivers’ affirming actions and words have strong benefits for LGBTQI+ children (Designated Placement Requirements Under Titles IV–E and IV–B for LGBTQ Children, 2024b). Examples include using preferred names and pronouns, showing respect for friends and romantic partners, and getting educated about LGBTQI+ people and issues. Research indicates that high social support

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1 O’Connor (2025) reported that a 2014 study found that nearly 20% of youth in the Los Angeles foster care system identified as LGBTQ and that a follow-on study on a cohort in Cuyahoga County, Ohio found that 32% of foster care youth identified as LGBTQ. O’Connor quotes Dr. Christopher Bellonci, Harvard Medical School and Baker Center for Children and Families, who explained “we think it’s directly tied to family rejection. These young people were either getting thrown out of their homes or leaving their homes after facing rejection from their families.”

2 Mounts and Capous-Desyllas (2020) report that “most LGBTQ youth in foster care experience rejection by at least one family member or caregiver” (p. 7). See also The Trevor Project (2021b).

3 The Administration for Children and Families extensively reviewed relevant research and consulted with youth, as required under regulations, in formulating the Rule. See, e.g., 89 C.F.R. 34821 (“These experiences place LGBTQI+ children at greater risk of entering foster care and mean that many LGBTQI+ children enter foster care with complex needs and trauma related to the discrimination and stigma they have experienced because of their sexual orientation or gender identity. As a result of reviewing this research, and hearing from LGBTQI+ individuals with lived experience in foster care, we have developed this regulation to improve how title IV-E/IV-B agencies address the needs of this population.”); 89 C.F.R. 34842 (“For example, as part of the Round 4 CSFRs, through a series of focus groups, 18 young people with self-identified lived child welfare experience were asked about the best methods of recruiting, engaging, supporting, and retaining young people in all aspects of the CSFRs.”).

reduces the risk of suicide and promotes self-esteem and health (Designated Placement Requirements Under Titles IV–E and IV–B for LGBTQI+ Children, 2024b). On the other hand, rejecting and ridiculing LGBTQI+ youth can lead to a far greater risk of suicidality, depression, and substance abuse. LGBTQI+ foster youth experience “disproportionately worse outcomes and experiences than other children in foster care due to their specific mental health and well-being needs often being unmet” (Designated Placement requirements, 2024b, p. 34822). Further, many do not receive the safe and proper placements required by federal law.<sup>4</sup> Common experiences reported by these youth include harassment, teasing, and bullying by foster care providers and staff in residential treatment centers or group homes. Youth also reported being isolated in placements because providers feared housing them with other youth of the same sex. LGBTQI+ youth are more likely to experience placement instability and adverse experiences in those placements. Placement instability is exacerbated for youth of color who are LGBTQI+.

The ACF concluded that concerted action to ensure safe and proper placements for LGBTQI+ youth is abundantly warranted and “critical.” (Designated Placement requirements, 2024b, p. 34822). Therefore, the Rule requires caregivers who will foster LGBTQI+ youth to acquire specific training to meet their needs, to avoid retraumatizing them, and to ensure they are safe.

However, current practices vary widely across states and tribes. At the time the Rule was published, 22 states and the District of Columbia required agencies to provide tailored services and supports to LGBTQI+ foster youth. Fifteen states and the District of Columbia required caregivers to have training specific to LGBTQI+ foster youth that included social science research and common risk factors. At the same time, a majority of states did *not* have laws or policies to make services and supports or designated placements available to LGBTQI+ foster youth, demonstrating the need for a uniform federal rule to protect and support these children (Designated Placement Requirements Under Titles IV–E and IV–B for LGBTQI+ Children, 2024b).

## The lawsuit: Texas v. Becerra (Eastern District of Texas)

On September 24, 2024, Texas Attorney General Ken Paxton filed a federal lawsuit challenging the Designated Placement Rule (*Texas v. Becerra*, 2024). One premise of Texas’ suit is that Titles IV-B and IV-E of the Social Security Act, the source statute for the Final Rule, do not prohibit discrimination on the basis of sex, gender, sexual orientation, or gender identity, and therefore Texas alleges that the Final Rule overreaches the Act: “Title IV’s anti-discrimination provisions do not include protections for sex, much less the derivative categories of gender identity and sexual orientation. Accordingly, the Final Rule is unlawful and violates the Constitution[.]” (*Texas v. Becerra*, 2024, Complaint para. 3)

The Complaint alleges significant harm to Texas, as follows:

The Final Rule has an enormous impact on Texas and its foster-care system. Specifically, the Final Rule irreparably harms Texas because it (1) imposes substantial compliance costs; (2) threatens substantial economic injury to Texas; and (3) infringes on Texas’ sovereignty by imposing the Biden Administration’s LGBTQI+ agenda despite conflicting state policies. (para. 63).

The Complaint’s explanations for these three forms of irreparable harm explore the assumptions upon which these allegations rest. First, Texas’ argument regarding compliance costs centers on its claims related to recruitment of “additional foster-care providers that are willing to meet the Final Rule’s requirements” (para. 64). Texas alleges that this harm is irreparable because “complying with a regulation later held invalid almost always produces the irreparable harm of nonrecoverable compliance costs.” While it’s clear that compliance costs are involved, the irreparable harm component rests on Texas’ allegation that the Final Rule is unconstitutional.

Second, regarding additional economic injury, “when Texas contradicts the Final Rule by choosing the best interests of the child and working with foster-

<sup>4</sup> Federal law requires that each child in foster care receives “safe and proper care,” including appropriate services for the child, their parents, and their foster parents. 42 U.S.C. Sec. 675(1)(B).



care providers that do not affirm LGBTQI+ status or identity in children, it stands to lose federal funding[.]” (para. 66). The assumptions are that 1) the best interests of the child will sometimes contradict the Final Rule’s non-discrimination provisions, and 2) any instance of “working with” non-affirming providers will result in loss of federal funding.

Third, in alleging an injury to Texas’ sovereign interest, Texas claims superior authority in the “field of domestic relations, including child custody,” along with the inherent authority to enforce its own laws (para. 68). In support, Texas complains that the Final Rule prevents it “from even attempting to disagree with a child’s vaunted LGBTQ status or identity[.]” As a result, it claims, the Final Rule conflicts with state requirements that opposite-sex children be housed separately. Texas further alleges that the Final Rule may cover up abuse and hinder Texas from investigating it:

Additionally, Texas law prohibits the provision to minors of certain medical procedures that are intended to “reassign” or “transition” a person’s sex at birth...Provision of these procedures can constitute child abuse, and DFPS has the authority and mandate to investigate and correct abuse when it takes the form of these procedures. (para. 70).

Texas claims that the Final Rule’s anti-retaliation provisions would prevent it from “taking action against foster providers in response to their ‘support’ for a child’s ‘LGBTQ status or identity,’ which ‘hurts children who are already facing difficult circumstances.’” The grounding assumptions here are 1) gender-affirming health care is child abuse, and 2) LGBTQI+ identity is a fiction that Texas has the sovereign right to “disagree” with or oppose.

In its prayer for relief, Texas argues that the Final Rule exceeds statutory authority and is arbitrary and capricious, in part because it allegedly failed to assess its impact on costs and foster youth well-being. Related to the Final Rule’s requirements

that kinship foster placements also comply with its anti-retaliation provisions, Texas complains that “the Rule’s broad retaliation prohibition forces LGBTQI+ affirmation down the throats of parents and relative caregivers.” Texas repeats its allegation that the Rule forces the state placement agencies to “disregard the best interests of the child.” And finally, Texas alleges violation of the Spending Clause of the Constitution.<sup>5</sup> (*Texas v. Becerra*, No. 6:24-cv-00211, complaint para. 94, citing U.S. Const., art. 1, §. 8, cl. 1.)



<sup>5</sup> The Spending Clause of the Constitution (U.S. Const. art.1, §8) enables Congress to place conditions on funds given to the States, but those conditions must be clearly stated. In this lawsuit, Texas claims that the requirements related to LGBTQI+ youth are not stated in the original statute upon which the Designated Placement Final Rule depends.

## Implications for child maltreatment

Texas's Complaint focuses narrowly on the alleged harms to Texas, measured in expenditures and sovereignty. Though Texas is obligated to provide safety for *all* foster youth, the Complaint does not account for the overrepresentation of LGBTQI+ children in Texas foster care (an overrepresentation that is present coast to coast), nor for the poorer outcomes these youth typically experience. Texas doesn't acknowledge any of these issues; it argues only that, because LGBTQI+ youth are not explicitly protected from discrimination in the words of the Social Security Act, Texas is not obligated to ensure their safe placement.

The reason is apparent in the first paragraph of the Complaint, which states that the Biden Administration “is trying to shoehorn gender identity into the statutes governing our Nation's foster care system by requiring States like Texas to provide special treatment and special placements for so-called ‘LGBTQI+’ youth.” The use of scare quotes casts doubt on the legitimacy of these concepts, a move reinforced by footnote 1 in the complaint, dropped from the Complaint's first mention of LGBTQI+ youth:

To avoid confusion, Texas uses the language of the Final Rule, which uses “LGBTQ” and similar euphemisms to refer to individuals who identify themselves based on the contested metaphysical concepts of sexual orientation or gender identity.

Use of the word *euphemism*, meaning a milder term used to obscure an offensive one, is telling here. And Texas uses the word *vaunted* to describe LGBTQI+ identity in paragraph 69 of the Complaint, tagging such identity as the object of obsessive boasting and attention-seeking rather than as something real. The condemnation of anti-retaliation as “forcing” acceptance of LGBTQI+ identity “down the throats” of family members is chillingly dismissive of the humanity of these youth and their rights under law.

The Attorney General's press release about this lawsuit continues the theme (Texas Attorney General's Office, Sept. 24, 2024). The release announces a lawsuit “to stop a rule that unlawfully conditions federal funding for foster care programs on the acceptance of ‘sexual orientation’ and ‘gender identity’ ideologies,” noting that under the Rule, agencies would have to “ensure that foster-care placement ‘affirms’ a child's self-professed ‘LGBTQ’ identity.” Given the generous use of scare quotes here, along with the Complaint's characterization of LGBTQI+ identities as “contested metaphysical concepts,” the press release clearly states its position: LGBTQI+ identity is fictive—a mere “ideology”—and confers no rights that the States and their designated providers need respect. Attorney General Paxton underlined this view in a statement after a district court judge granted Texas' motion to enjoin the Rule, stating that “the Biden Administration had no authority to force radical gender ideology onto vulnerable children” (Moore & Klibanoff, 2025). Denying the reality and legitimacy of LGBTQI+ identity isn't just factually inaccurate; it's also dangerous in this context because of the lopsided overrepresentation of LGBTQI+ youth in the foster care population and their very clear need for protection and safety.

In this light, Texas' argument that the Designated Placement Rule is not authorized by the Social Security Act is both dangerous and disingenuous. Recall that the Act requires safe and proper placement for each child in the system. Texas insists that “the statute's generic language stating that foster care plans must provide for the ‘safe and proper’ care of foster charges does not authorize HHS to regulate the way state foster care systems handle gender identity or sexual orientation.” (*Texas v. Becerra*, 2024, Para 81). But if the language in the Act is sufficient to guarantee safety, why are LGBTQI+ foster youth in Texas—who are almost certainly overrepresented in the state's total foster population<sup>6</sup>—suffering such disproportionately poor experiences in foster care? Despite significant gaps in data collection, research from the University of Texas at Austin (2019) indicates that LGBTQ youth

6 State agencies do not currently collect demographic data on LGBTQ youth in the child welfare system. Estimates come from state and national surveys. Referencing research indicating that just over 30% of foster youth identify as LGBTQ, McGurdy and colleagues (2023) report “Child welfare systems currently do not collect data about sexual orientation or gender identity, so estimates of how many youth in foster care are LGBTQ typically come from statewide or national surveys...extant research indicates that LGBTQ youth are overrepresented in foster care placements.” (p. 2). See also footnotes 1 through 6 in Youth Equity Science Project at Yale Law School (n.d.),

in foster care are more likely than their heterosexual and cisgender peers to “suffer negative outcomes, such as substance abuse or mental health issues, while living in the child welfare system” and finds that “[d]isparities for LGBTQ youth are exacerbated when they live in foster care or unstable housing. This points to a need for protections for LGBTQ youth in care and care that is affirming of their sexual orientation and gender identity.”<sup>7</sup> Given the consistent tendency of research to demonstrate poor outcomes for LGBTQ youth in foster care, child welfare professionals and agencies should be committed to ensuring quality improvement in services such that placements are equivalently safe for all youth.

Texas neither references nor specifically rejects any of this research in its Complaint and accompanying statements. Rather, it rejects LGBTQ “ideology,” indicating—as exemplified by Paxton’s statement—that LGBTQI+ youth are the victims of adults intent

on ramming a toxic ideology down their throats, essentially forcing them to identify as LGBTQI+. Texas thus characterizes these actions as abusive, in line with consistently describing gender-affirming care as child abuse despite a string of legal losses on that subject.<sup>8</sup> It follows that Texas’ denial of LGBTQI+ identity among youth would equate to protecting them from child abuse, and “safe and proper” placement would require suppression and denial of LGBTQI+ identity among foster youth. This line of reasoning explains why Texas is defending its right to place LGBTQI+ children in rejecting homes, including homes where trans youth may be forced to answer to names and pronouns they no longer use and dress in clothes that do not comport with their gender identity. Because these actions are abusive and potentially life-threatening, Texas exacerbates the danger these youth already face in entering care.<sup>9</sup>

Texas once had better safeguards for LGBTQI+ foster youth, but starting around 2017, the state started to

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7 The U.T. Austin research studied a cohort of youth living in California, finding poorer outcomes for them than for comparable heterosexual youth. Baams and colleagues (2019) state that “LGBTQ youth in foster care reported more fights in school...and mental health problems...compared with LGBTQ youth in stable housing and heterosexual youth in foster care” (p. 22). Other studies indicating similar results featured cohorts of youth in New York City and Ohio. In a study commissioned by the New York City Administration for Children’s Services, Sandfort (n.d.) report that “LGBTQAI+ youth had been absent without permission from their foster care placements for significantly more days than non-LGBTQAI+ youth; they also were more likely to have been homeless and to have had negative confrontations with the police. In addition, LGBTQAI+ youth were more likely to have been criticized for behaving and for dressing too much like the other sex. These risk factors were associated with differences in well-being: LGBTQAI+ youth reported to experience more depressive symptoms and fewer feelings of optimism compared to non-LGBTQAI+ youth” (p. 5). Matarese and colleagues (2021) report that “This study finds that LGBTQ+ youth in a Midwest county are overrepresented in foster care, and experience disparities in their treatment, increased mental health hospitalizations, greater reported use of substances as well as discrimination and adverse experiences” (p. 3).

8 APSAC (n.d.) led a coalition of child welfare organizations and advocates in filing an amicus brief in Texas state litigation challenging executive action instructing the Department of Family and Child Services to investigate all instances of gender-affirming care as child abuse.

9 A broad range of professional organizations and individuals recognize the need to support and affirm LGBTQ youth to best promote their health and well-being. See, e.g., American Academy of Pediatrics (2025). Seager van Dyk, et al. (2023); American Academy of Child and Adolescent Psychiatry (2025); National Association of Social Workers (2025).

LGBTQ youth who are rejected by their families of origin or foster families face increased risk. The Trevor Project (2021a) found that LGBTQ youth who reported having been in foster care had three times greater odds of reporting a past-year suicide attempt compared to those who had not.” It also found that trans and nonbinary youth were at greater risk: “[O]verall, 40% of transgender and nonbinary youth in foster care reported being kicked out, abandoned, or running away due to treatment based on their LGBTQ identity compared to 17% of cisgender LGBQ youth in foster care.” The national Court-Appointed Special Advocates for Children (CASA) program (2020) reported that, “Even in New York City, where the beginning of the LGBTQ+ movement was born, Foster Club conducted a survey that found 78 percent of LGBTQ+ foster youth moved or ran away from their foster placements because of hostility toward their sexual orientation or gender identity.” Rates of suicide and suicidal ideation are generally higher for LGBTQ+ youth; this is particularly the case for LGBTQ+ youth who have experienced foster care. The Trevor Project (2021a), reported that “LGBTQ+ young people are more than four times as likely to attempt suicide than their peers” and “41% of LGBTQ+ young people seriously considered attempting suicide in the past year, including roughly half of transgender and nonbinary youth.” The NIHCM Foundation (2021) reported that “LGBTQ youth who reported having been in foster care had 3 times greater odds of reporting a past-year suicide attempt compared to those who had not been in foster care.” It follows that placement of a LGBTQ youth in a foster home without ensuring acceptance and affirmation will tend to endanger that child.



roll them back by removing previously established protections. In February 2017, the state “rewrote its Foster Care Bill of Rights,” removing language that ensured children of “fair treatment whatever [their] gender, gender identity, race, ethnicity, religion, national origin, disability, medical problems or sexual orientation.” Instead of this specific language, the law now promises foster youth that they will “be treated fairly” (Tiano, 2021). Texas permits faith-based foster care providers to discriminate against LGBTQ foster parents, making placement with an affirming family that much more difficult (Lambda Legal, n.d.). Denial of LGBTQ identity is characterized in Texas law as an expression of caregivers’ religious freedom. And according to the *Texas Tribune*, in recent years “LGBTQ+ foster kids have lost the little protections and affirmations once afforded to them as Texas’ top leaders waged statewide battles that riled public panic about queer people” (Melhado, 2024). According to one recent leader in the field, erasure is the goal: “Right now the governor and the Legislature would like nothing better than to just be able to wash their hands of everything LGBTQ-related,” said Sharon Fonvielle-Baughman, who abruptly retired as the Department of Family and Protective Services’ special investigations director last year” (Melhado, 2024). Texas Senate Bill 12, signed into law by Governor Abbott on June 20, 2025, demonstrates this principle being carried out in K-12 education. The law prohibits school personnel from providing any support to transgender youth, including use of preferred names and pronouns and provision of relevant information. The law makes no allowance for affirming parents’ right to support their child, despite its preliminary insistence on “parental rights.” Among other provisions, the bill also prohibits instruction on sexual orientation and gender identity from kindergarten through twelfth grade, again making no allowance for affirming parents

or parents who prefer their children to receive such instruction.<sup>10</sup> The third example of erasure contained within the bill is its prohibition on student clubs: “A school district or open-enrollment charter school may not authorize or sponsor a student club based on sexual orientation or gender identity.”<sup>11</sup> If Governor Abbott signs Senate Bill 12 into law, LGBTQ youth in Texas cannot be affirmed in school, cannot form associations with others, and cannot receive instruction about their identity, culture, or history.

And now, in a state where it was already legal for religiously-affiliated placement agencies to discriminate against LGBTQI+ couples interested in fostering, and where LGBTQI+ youth already had references to their identities deleted from the Foster Care Bill of Rights,<sup>12</sup> the state’s top law enforcer is fighting against a requirement that these vulnerable youth be placed safely—even when the Rule doesn’t require any specific provider to agree to training—and leaves in place a system allowing discrimination by religious agencies.

Meanwhile, Texas’ legal challenge to the Designated Placement Rule continues in federal court. In December, Texas moved to stay the agency action (the Designated Placement Rule) pending litigation. On March 13, 2025, the Eastern District of Texas (Judge Kernodle presiding) granted Texas’ motion, staying the Rule nationwide ahead of its 2026 implementation deadline. The memorandum opinion echoes the rhetoric of Texas’ Complaint, declaring that the Designated Placement Rule “requir[ed] experimental and controversial treatment on our nation’s most vulnerable: children in foster care” (Texas v. Becerra, p. 1) and that the “Final Rule creates a new category of foster children—‘LGBTQI+ children’[.]” (Texas v. Becerra, p. 1” As Texas did, the court casts LGBTQ children as an imaginary and novel category who are now victims of misplaced

10 The context of the bill clearly demonstrates that this prohibition applies only to minority SOGI identities, and not to instruction on heterosexual and cisgender identities.

11 The bill doesn’t make exceptions for cisgender identity. It appears to prohibit sex-segregated clubs wholesale, although a provision elsewhere in the bill allows “an organization whose membership is restricted to one sex and whose mission does not advance a political or social agenda” to meet on campus. The bill doesn’t define “political or social agenda” and doesn’t clarify whether these organizations include school clubs, which, as noted, another section of the bill appears to prohibit.

12 The Foster Children’s Bill of Rights in Texas is codified at Section 263.008 of the Texas Family Code. It lists 16 rights possessed by foster youth in Texas.

adult zeal. Despite decades of research and practice in caring for LGBTQ children and youth, the opinion accuses the Rule of requiring “new and untested methods” in fostering these youth, with the effect of “jeopardiz[ing] the welfare of vulnerable children in foster care. (Texas v. Becerra, p. 2)” In contravention of the scientific literature validating the existence of LGBTQ children and youth, the opinion casts their existence and well-being as a “political” question rather than a set of well-understood facts. Missing from the opinion is any sense that LGBTQ children have agency, a right to their own identity, or authentic needs that differ from those of heterosexual and cisgender foster youth. In the face of the voluminous evidence of risk and harm associated with foster care for LGBTQ+ youth, this is nothing short of tragic.

APSAC (n.d.) previously spoke out about actions taken by Texas in 2022 when the state declared that gender-affirming care is child abuse and ordered its agency to remove children from affirming homes. It may be time for APSAC to speak again on behalf of already vulnerable children now at increasing risk of foster care placements that threaten their safety and well-being. Regardless of the executive orders, existing law still requires agencies to ensure safety in placing youth. Safety counts for all youth, including LGBTQ youth, whether or not their existence and identity is recognized or affirmed by the current federal and state administrations. Child welfare and child protection professionals have an opportunity to use their expertise and voice to remind the public, and the politicians, of this crucial fact.

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