



**Statement for the Record  
Submitted by CLASP**

Hearing on  
the Implementation of the  
Fostering Connections to Success and  
Increasing Adoptions Act  
September 15, 2009

To the Subcommittee on  
Income Security and Family Support  
Committee on Ways and Means  
U.S. House of Representatives

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Thank you for the opportunity to submit a statement for the record regarding the September 15, 2009 Hearing on the Implementation of the *Fostering Connections to Success and Increasing Adoptions Act*. CLASP is a national nonprofit that works to improve the lives of low-income people. CLASP's mission is to develop and advocate for policies at the federal, state and local levels that improve the lives of low income people. We focus on policies that strengthen families and create pathways to education and work. To carry out this mission, CLASP conducts research, provides policy analysis, advocates at the federal and state levels, and offers information and technical assistance on a range of family policy and equal justice issues for our audience of federal, state, and local policymakers; advocates; researchers; and the media. CLASP does not receive any federal funding and is funded primarily by major national foundations.

The bipartisan *Fostering Connections to Success and Increasing Adoptions Act*, signed into law last October, represents the most significant federal reforms for abused and neglected children in foster care in over a decade. CLASP applauds the work of this subcommittee that went into the developing and passing this critical piece of legislation. The *Fostering Connections to Success and Increasing Adoptions Act* would not have been possible without the tireless work of Chairman McDermott, key members of this subcommittee including former Ranking Member Weller, the Senate Finance Committee and Congressional staff. As Chairman McDermott noted in his opening statement at the September 15, 2009 hearing on the implementation of *Fostering Connections to Success and Increasing Adoptions Act*, this law “represents the best of Congress. It shows what can be achieved when both sides come together to work in good faith to address a problem.”

The *Fostering Connections to Success and Increasing Adoptions Act* will help hundreds of thousands of children and youth by promoting permanent families for children in foster care; improving outcomes for children and youth involved with the child welfare system; increasing support for American Indian and Alaska Native children; and improving the quality of staff working with children in the child welfare system. Below, we will look at the provisions of the act in each of these areas, highlighting some examples of implementation efforts that are underway.

## **Promoting Permanent Families for Children in Foster Care**

### *Identify and Provide Notice to Relatives*

The *Fostering Connections to Success and Increasing Adoptions Act* helps ensure that relatives are notified, allowing grandparents and other relatives to get involved early in the child's case. The state child welfare agency must exercise due diligence to identify and provide notice to all adult grandparents and other relatives of each child within 30 days of the child's removal from his or her parent(s)' custody. Sometimes relatives can keep the child out of foster care. A relative who cannot provide a placement for a child may be able to participate in the child's care in other important ways, such as by maintaining a relationship with the child or taking the child to doctor's appointments, extracurricular activities or visits with birth parents.

Prior to the *Fostering Connections to Success and Increasing Adoptions Act*, many states made, in practice, some attempt to locate and notify adult relatives of children being removed from their parent's custody, these attempts were often only cursory. We learned that in addition to depriving the child of the stability and continuity that placement with a relative could provide, bypassing the notification of relatives could prove quite tragic should someone later seek to adopt the child. All too often, a diligent search for relatives occurred only at the time parental rights were terminated and adoption was underway when the child had likely bonded with non-relative foster parents. Additionally, the sad reality was that relatives sometimes did not learn of a child's placement until after an adoption was finalized.

Recognizing these concerns, a number of states had enacted laws prior to the *Fostering Connections to Success and Increasing Adoptions Act* requiring that adult relatives be notified when a child is removed from his or her parent's custody. Since the enactment of the act, additional states have introduced or enacted similar legislation.

### *Family Connection Grants*

Seven months after enactment, a Request for Proposals was issued allowing states, tribes and non-profit organizations to apply for Family Connection Grants.

Family Connection Grants are competitive grants that will allow applicants to create or enhance programs that will connect children in or at risk of entering foster care to their families. State, local, and tribal child welfare agencies and non-profit agencies that have experience serving children in foster or kinship care can apply for the grants to establish or expand Kinship Navigators, Family Group Decision Making, Intensive Family Finding, or Residential Family-Based Substance Abuse Treatment programs. A portion of the funds are reserved each year for funding Kinship Navigator programs.

A number of states and other entities have applied for grants for different activities, some to take action in more than one category. It is expected that the awards will be announced by the Department for Health and Human Services (HHS) by the end of the week.

### *Kinship Guardianship Assistance*

Consistent with a considerable body of research that indicates when children can't be raised by their parents they often do best with relatives, 37 states and the District of Columbia offer support to help children leave foster care to live permanently with relative guardians. The *Fostering Connections to Success and Increasing Adoptions Act* provides federal support to build on existing programs and to encourage additional states to implement similar programs.

Under the new Kinship Guardianship Assistance Program, states have the option to use federal Title IV-E funds for kinship guardianship payments for children who have a strong attachment to and are cared for by prospective relative guardians who are committed to caring for these children permanently when they leave foster care. To be eligible for the kinship guardianship assistance payment, children must be eligible for federal foster care maintenance payments while living in the home of a relative for at least six consecutive months in foster care. There must also

have been a determination by the state agency that return home and adoption are not appropriate permanency options for the child. Children 14 and older must be consulted about the kinship guardianship arrangement. Siblings may be placed in the same home and receive support even if they do not meet other eligibility requirements. Children eligible for these payments are also automatically eligible for Medicaid, as are children in foster care and those who receive adoption assistance payments.

CLASP is happy to see that a number of states have introduced or enacted legislation that would allow them to operate a Kinship Guardianship Assistance Program. While fewer states have submitted the requisite state plan amendments that will allow them to draw down Title IV-E funds to operate such programs (and, as we understand it, only Rhode Island's plan amendment has been approved as of the date of the hearing), we view the state legislative activity as a positive indicator of states' interest in the option.

CLASP and the Children's Defense Fund in collaboration with 18 other national organizations developed a Question and Answer guide intended to assist with implementation of the provisions impacting children being raised by grandparents and other relatives. *New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing Adoptions Act of 2008* is available on the CLASP website at: [http://www.clasp.org/issues/pages?type=child\\_welfare&id=0001](http://www.clasp.org/issues/pages?type=child_welfare&id=0001)

### *Licensing Standards for Relatives*

The *Fostering Connections to Success and Increasing Adoptions Act* codifies existing U.S. Department of Health and Human Services (HHS) guidance stating that agencies may, on a case-by-case basis, waive non-safety related licensing standards when licensing a relative's home. For example, this may include waiving the requirement that each child have a separate bedroom if the relative is taking in siblings or waiving the requirement that a home have a certain amount of square footage per person. The new law also requires HHS to report to Congress within two years on how states are using the ability to waive non-safety standards and make recommendations as to how additional barriers to licensing relatives' homes can be eliminated. Guidance issued on June 3, 2009 (ACYF-CB-PI-09-06) requires that states provide to HHS by December 15, 2009 information related to licensing, to the extent practicable, that will inform the report to Congress.

Information from this report may suggest additional opportunities for allowing more children in foster care to be safely placed in foster family homes with relatives and be eligible for federal support.

### *Adoption "De-link"*

As of October 1, 2009, states with federal adoption assistance programs will be able to claim federal funds for more children with special needs by "de-linking" a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements. Next month, states must begin phasing in an expansion of the program to reach more eligible children with special needs, beginning with older children and children who already have been in care for five years

and their siblings, who often are the most difficult to place for adoption. Other children will be phased in by age over the next nine years so that all eligible children with special needs will be covered by October 1, 2017. Guidance issued on August 26, 2009 (ACYF-CB-PI-09-10) provides states and tribes with information pertaining to the changes in the Title IV-E adoption assistance eligibility requirements resulting from the *Fostering Connections to Success and Increasing Adoptions Act*.

#### *Increased Incentives for Adoption*

The *Fostering Connections to Success and Increasing Adoptions Act* reauthorizes the Adoption Incentive Program for five years and enhances the incentives available to promote the adoption of children from foster care. The act updates to FY 2007 the adoption baseline above which incentive payments are made, doubles the incentive payments for adoptions of children with special needs and older children adoptions, and gives states 24 months to use the adoption incentive payments. The act also permits states to receive an additional payment if the state's adoption rate exceeds its highest recorded foster child adoption rate since 2002. On September 14, 2009 HHS announced that it had awarded \$35 million in adoption incentive payments to 38 states and Puerto Rico for the first year that the enhanced adoption incentives under the *Fostering Connections to Success and Increasing Adoptions Act*.

#### *Sibling Connections*

Vital to the advocacy efforts that helped move the *Fostering Connections to Success and Increasing Adoptions Act* through Congress were the voices of youth who were in or had been a part of the child welfare system. They shared their stories and poignantly made the case for reforms. The request for support in maintaining connections with their siblings was voiced by many of the youth. The act takes important steps in response.

State agencies must make reasonable efforts to place siblings together, whether in foster, kinship guardianship, or adoptive placements, unless placing them together would be contrary to their safety or well-being. If the siblings are not placed together, the agency must make reasonable efforts to ensure that the siblings maintain their connections to each other through frequent visitation or other ongoing interaction. An exception to maintaining connections is permissible only if such contact would be contrary to the safety or well-being of one or more of the children. Sibling connections are significant to a child in foster care's emotional and social development since siblings often provide the connection and stability that is no longer available from the child's parents.

We know that, prior to the *Fostering Connections to Success and Increasing Adoptions Act*, many states had policies in place to help facilitate sibling connections. In response to the act states may have to update some of these policies to ensure that reasonable efforts are made and to incorporate the documentation requirements. Since the enactment of the *Fostering Connections to Success and Increasing Adoptions Act*, a number of states have also introduced or enacted legislation pertaining to sibling connections.

## Improving Outcomes for Children and Youth Involved with the Child Welfare System

### *Extension of Care Beyond Age 18*

Few 18 year olds in the general population are prepared to support themselves. Approximately half of all young people between the ages of 18-24 still live with their parents. This is not an option for youth who are in foster care. A youth struggling with a history of maltreatment and who has no family to turn to for support is expected to make it on his own. Acknowledging this reality, the *Fostering Connections to Success and Increasing Adoptions Act* gives states the option to claim federal funds for Title IV-E eligible young adults in foster care, guardianship and adoptive homes beyond their 18<sup>th</sup> birthday to the age of 19, 20, or 21 beginning on October 1, 2010. With limited exceptions, states can currently only claim federal assistance for children and youth up to their 18<sup>th</sup> birthday. States will only be federally reimbursed for those young adults who are eligible for Title IV-E assistance payments and who are completing secondary education or in a program leading to an equivalent credential; enrolled in an institution that provides post-secondary or vocational education; participating in a program or activity designed to promote, or remove barriers to, employment; employed for at least 80 hours per month; or, if a child's medical condition makes him or her incapable of engaging in these activities, updated information on their condition must be maintained in the child's case plan.

The National Foster Care Coalition along with a number of other organizations, including CLASP, developed a Frequently Asked Questions guide intended to aide states in implementing the extension of care beyond age 18 and other provisions that will most directly impact youth in foster care. The guide, *Fostering Connections to Success and Increasing Adoptions Act: Frequently Asked Questions on the Provisions Designed to Impact Youth and Young Adults*, can be accessed on the CLASP website at:

[http://www.clasp.org/issues/pages?type=child\\_welfare&id=0001](http://www.clasp.org/issues/pages?type=child_welfare&id=0001)

A number of the groups that helped develop the FAQ continue to work together to develop additional resources to assist with implementation efforts. The regulations required by the *Fostering Connections to Success and Increasing Adoptions Act* to define “supervised setting in which the individual is living independently” have not yet been issued but will be important for moving implementation efforts forward.

### *Helping Older Youth Successfully Transition from Care to Independence*

Like all young adults, those youth who have spent time in foster care, often need some assistance in preparing for adulthood. They may need help deciding between various educational and employment opportunities or setting up utilities in their first apartment. The *Fostering Connections to Success and Increasing Adoptions Act* helps ensure that youth in foster care have the assistance they need in planning for their futures. As part of the case review system, the act requires that, in the 90-day period immediately prior to when a youth turns 18 (or 19, 20 or 21 as the state may elect), a caseworker and any other appropriate representatives work with the child to develop a personalized transition plan that is as detailed as the child chooses. The plan must include specifics on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services. This transition

plan is required for *all* youth for whom foster care maintenance payments are being made. Youth who have returned home or for whom kinship guardianship assistance or adoption assistance payments are being made must also have a transition plan if they are also receiving Chafee Program benefits or services.

The act also clarifies that children who leave foster care at age 16 or older for kinship guardianship are eligible under the John H. Chafee Foster Care Independence Program independent living services for educational and training vouchers (ETVs).

### *Educational Stability and Attendance*

The *Fostering Connections to Success and Increasing Adoptions Act* recognizes the importance of educational stability and continuity and takes important steps toward improving educational outcomes for children involved with the child welfare system. The law requires states to coordinate with local education agencies to ensure that children remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interests. If such placement is not in the child's best interests then the state must ensure that the child is immediately enrolled in a new school and that all of the child's educational records are transferred promptly.

The act also requires that states provide assurances in their Title IV-E state plans that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is attending elementary or secondary school or has completed secondary school. The *Fostering Connections to Success and Increasing Adoptions Act* also gives states the option to include school-related transportation costs as a cost related to the maintenance of a child in foster care, rather than as an administrative cost.

Joint guidance may be needed from the Department of Education and HHS addressing how schools and child welfare agencies can best work together to serve the children and youth involved with the child welfare system.

### *Health Oversight and Coordination*

The *Fostering Connections to Success and Increasing Adoptions Act* requires each state work through its state child welfare agency and the state agency that administers Medicaid and in consultation with pediatricians, other health care experts, and experts in and recipients of child welfare services to create a plan to ensure oversight and coordination of health care for children in foster care. The plan must include a strategy to identify and respond to the health care needs of children in foster care, including mental and dental health needs. States were required to submit their state plans with the health oversight and coordination plan – unless they were permitted a delay for required state legislation – by June 30, 2009.

## **Increasing Support for American Indian and Alaska Native Children**

### *Direct Access to Title IV-E for Indian Tribes*

As of October 1, 2009, Indian tribes and tribal consortia will be able, for the first time, to directly access Title IV-E funds to administer their own foster care, kinship guardianship and adoption assistance programs. Prior to the *Fostering Connections to Success and Increasing Adoptions Act*, Indian tribes could only access Title IV-E funds through an agreement with a state government but fewer than half of the federally recognized tribes had such an agreement. Direct access will help extend important Title IV-E services and protections – many of those provided by *Fostering Connections to Success and Increasing Adoptions Act* – to more American Indian children.

73 tribal entities have indicated that they intend to directly operate their own programs. 15 have already applied for development grants in preparation for operating Title IV-E programs.

## **Improving the Quality of Staff Working with Children in the Child Welfare System**

### *Extending Federal Support for Training*

The child welfare workforce faces a number of challenges including excessive caseloads and high turnover. The *Fostering Connections to Success and Increasing Adoptions Act* took important steps toward enhancing the workforce by allowing states to claim, on a phased in basis, federal funding for short-term training of several groups who could not previously be trained with Title IV-E funds: relative guardians, staff of private agencies and courts, and attorneys for parents and children and guardians ad litem and court appointed special advocates working with children in the child welfare system. Providing federal support for the short-term training of these additional groups is more consistent with the realities of child welfare practice yet there is more that must be done to improve the child welfare workforce to ensure that staff working with all children in child welfare will have access to federally supported training.

### **Implementation Challenges Exist but There is Much to Build On**

There is evidence that important strides have been made and are being taken in implementing the provisions of the *Fostering Connections to Success and Increasing Adoptions Act* to ensure that children truly benefit from the new law. While some of the improvements made by the act will take effect and become options over time, it is important to note that the majority of the requirements and options created by the act took effect immediately upon enactment. As highlighted above, states have demonstrated that they are working to implement these provisions. Advocates have also acted to help facilitate prompt, effective implementation. Since the *Fostering Connections to Success and Increasing Adoptions Act* became law a number of resources including guides, fact sheets and power points have been developed. Several of these resources can be accessed on the CLASP website at:

[http://www.clasp.org/issues/pages?type=child\\_welfare&id=0001](http://www.clasp.org/issues/pages?type=child_welfare&id=0001)

States have reported experiencing some challenges in implementing various aspects of the *Fostering Connections to Success and Increasing Adoptions Act*. A number of these challenges are attributable to the economic crisis and others result from the need for guidance. In spite of these challenges, legislation to implement numerous provisions of the act has been introduced or enacted in many states. It is important to note that legislation may not be required in all states for

all provisions. Instead some states may have already had in place, prior to enactment, laws that are in compliance with one or more of the requirements in or that would allow them to take the options available through the *Fostering Connections to Success and Increasing Adoptions Act*. Some states may have been able to modify existing policies that to ensure their full compliance with the act. It is hoped that HHS will actively consult with states, tribes, advocates and other stakeholders in order to continue moving implementation forward to help improve outcomes for children and families.

There are important opportunities for Congress to help ensure that the promises of the *Fostering Connections to Success and Increasing Adoptions Act* are realized by children and families. First, Congressional members can provide leadership in their states and encourage that implementation move swiftly and that options – particularly the kinship guardianship assistance and extension of care beyond age 18 options – are taken advantage of as Congress intended.

Equally important, this subcommittee should take the opportunity to build on and complement the *Fostering Connections to Success and Increasing Adoptions Act* by addressing additional changes needed at the federal level to improve outcomes for children and families. As so many of those who provided leadership for this legislation said as it was being developed, the *Fostering Connections to Success and Increasing Adoptions Act* makes critical strides on behalf of children in foster care, but there is more to be done to ensure the safety, permanence and well-being of children.

The provisions in the *Fostering Connections to Success and Increasing Adoptions Act* will help achieve better outcomes for children who have spent time in foster care by helping to mitigate the trauma of foster care and by helping children move safely into permanent families. However, the federal government must do more to prevent child abuse and neglect and to avoid placement in foster care in the first place. Currently federal fiscal structures are not well-aligned with prevention – most federal funding is focused on intervening only after a child has been removed from his or her home not on providing sufficient resources to develop the front-end of the continuum of services and supports children and families need. We must build on the *Fostering Connections to Success and Increasing Adoptions Act* and create a child welfare system that offers a continuum of services that prevents abuse and neglect from occurring in the first place, as well as provide treatment and support for those, who despite our best efforts, experience maltreatment.

Federal investment and leadership in child welfare must do the following:

- Increase prevention and early intervention services that help keep children and families out of crisis;
- Increase specialized treatment services for those children and families that do experience crisis;

- Increase services to support families after a crisis has stabilized (including birth families, as well as kinship and adoptive families created when parents cannot care for their children);
- Enhance the quality of the workforce providing services to children and families; and
- Improve accountability both for dollars spent and outcomes achieved.

The *Fostering Connections to Success and Increasing Adoptions Act* makes a down payment on our children's future. CLASP thanks you for your leadership and looks forward to continuing to work with you. Together we can create a child welfare system that offers a continuum of services that prevent abuse and neglect from occurring in the first place, as well as provide treatment and support for those, who despite our best efforts, experience maltreatment.