Presenters
Nicole Dobbins, Advisor - National Partnerships, Casey Family Programs, ndobbins@casey.org

Jaia Lent, MSW, LGSW, Deputy Executive Director, Generations United, jlent@gu.org, (202) 777-0115

Ana Beltran, JD, Special Advisor, Generations United, abeltran@gu.org, (425) 659-3500

David Simmons, Government Affairs & Advocacy Director, NICWA, desimmons@nicwa.org, 503-222-4044 ext. 119
Family First Prevention Services Act (Public Law 115-123)

- Referred to as “Family First”
- Signed into law on Feb. 9, 2018; passed as part of the Bipartisan Budget Act of 2018
- Landmark bipartisan legislation
- H.R. 1892 - full bill can be found online at https://www.congress.gov/bill/115th-congress/house-bill/1892
Family First: Model Licensing Standards

SEC. 50731. REVIEWING AND IMPROVING LICENSING STANDARDS FOR PLACEMENT IN A RELATIVE FOSTER FAMILY HOME

(a) IDENTIFICATION OF REPUTABLE MODEL LICENSING STANDARDS.— Not later than October 1, 2018, the Secretary of Health and Human Services shall identify reputable model licensing standards with respect to the licensing of foster family homes.
Timeline: Model licensing standards for foster family homes

States/Tribes/stakeholders have the opportunity to comment on model Family Foster Home Licensing Standard by October 1, 2018.


Family First directs the HHS Secretary to identify reputable model licensing standards for foster family homes.

DHHS will publish model licensing standards for foster family homes.
ACF 7/9/18 Program Instruction on model licensing standards

No later than March 31, 2019, Title IV-E agencies and tribes must provide information about:

- Whether the agency foster family home licensing standards are consistent with the model licensing standards identified by HHS and if not, the reason for the deviation; and,

- Whether the agency waives non-safety licensing standards for relative foster family homes, and if so, how caseworkers are trained to use the waiver authority and whether the agency has developed a process or provided tools to assist caseworkers in waiving these non-safety standards to quickly place children with relatives.
Proposed Model
Family Foster Home Licensing Standards and Kinship Care

Ana Beltran, JD, Generations United, abeltran@gu.org
Jaia Lent, MSW, LGSW, Generations United, jlent@gu.org
Children in foster care raised by relatives

Percent of Children in Foster Care Raised by Relatives

- 2008: 24%
- 2016: 32%
- 8% increase

Data sources available at www.gu.org

Data is not publicly available on the percentage of these children who are with licensed relatives
Children Thrive in Grandfamilies

Kinship Care Improves Child Welfare Outcomes For Children

“Being placed in kinship care has been found to decrease the risk of disruption”

- Improved Placement Stability
- Decreased Behavior Problems
- Higher Levels of Permanency

“Children placed into kinship care had fewer behavioral problems three years after placement than children who were placed into foster care.”

34% of the children adopted from foster care are adopted by relatives; 10% of children exit to guardianship (2016)

“Children initially placed in kinship care as compared to family foster care were more likely to reunify or exit to guardianship.”
Family First – Important Progress for Kinship Families

- Landmark legislation to help kinship families

- **Prevention services** – states and tribes (the 12 operating IV-E programs) have the **option** to use federal child welfare dollars for evidence-based services and programs to prevent children from entering foster care by supporting children, kinship caregivers and parents.

- **Kinship navigator programs** – states and tribes have the **option** to offer these programs and receive federal reimbursement up to 50%.

- **Group care** – states and tribes **will not** be federally reimbursed for inappropriate group placements – the law encourages placement of children in family-like settings.
Family First – Improving Licensing Standards for Placement in a Relative Foster Family Home

- By **October 1, 2018**, HHS must identify reputable model licensing standards

- By **April 1, 2019**, States and the 12 tribes that operate IV-E agencies must report to HHS:
  - Are the state or tribal standards in accord with the model and if not, why not?
  - Does the state or tribe waive non-safety licensing standards for relatives, as allowed by federal law?
    - which standards are most commonly waived?
    - if the state does not waive, why not?
    - how are caseworkers trained to use the waiver authority?
  - Is there a process or tools to assist caseworkers in waiving non-safety standards so they can place quickly with relatives?
  - what steps are being taken to improve caseworker training or the process?
Federal Licensing Requirements

- Federal law says little about the actual licensing of foster homes:
  - States and the 12 tribes have broad flexibility in developing and implementing standards so long as those standards “are reasonably in accord with recommended standards of national organizations…” 42 U.S.C. § 671 (a)(10)(A)
  - Family First builds on this longstanding requirement

- The federal Adam Walsh Act also requires criminal background and child abuse registry checks (42 U.S.C. § 671(a)(20)(A))

- Federal law prohibits a two-tiered system of licensing, one for relatives and another for non-relatives. Final rule to the Adoption and Safe Families Act (ASFA).
NARA Model & Proposed HHS National Model

- HHS released proposed National Model Family Foster Home Licensing Standards in the Federal Register on August 1, 2018
- Comments are due by October 1, 2018
- HHS National Model "relied heavily" on the National Association for Regulatory Administration (NARA) Model as the “main source”
- HHS says the NARA Standards are “the best available research to base a federal standard on…”
- Acknowledges the multiyear effort by Generations United, the ABA Center on Children and the Law, and NARA
Multi-Year Effort to Develop the NARA Model

- Multiyear effort that began with researching licensing standards in all 50 states and DC
- Reviewed national associations with standards, including CWLA, COA, JCAHO and CARF
- Once the research was completed, developed the standards with NARA leadership, members and experienced licensors in Florida, Ohio & Kansas
- Received input from other NARA members representing many states
- NICWA’s staff provided a helpful review on a late draft and we incorporated their changes
- The NARA Model points to the NICWA standards – “For the development and implementation of tribal foster care standards, please refer to the NICWA materials …” (page 4, NARA Model)
CWLA has pointed to our Model as the one to consider
In a report issued to Massachusetts in May 2014, CWLA recommended that it consider adopting the NARA Model. See page 18, number 9 at: http://extras.mnginteractive.com/live/media/site106/2014/0529/20140529_100645_CWLA%20report.pdf

The Congressional Coalition on Adoption Institute recommended that Congress require states and the 12 tribes to adopt the Criminal History Records Check Standards of the NARA Model
See page 5 at https://s3.amazonaws.com/ccai-website/CCAI_Foster_Youth_Internship_Program%C2%AE_Congressional_Report.pdf

Congressional colloquy pointed to the NARA Standards as the one to use
See Congressional Record, pages H4955-58
NARA Model Standards
Package of Materials

NARA, Generations United, and ABA created the standards for relatives and non-relatives

Available free of charge at www.naralicensing.org and www.grandfamilies.org

Includes:

- a purpose statement
- ten guiding principles
- the model standards
- an interpretive guide
- a crosswalk tool
Comparison of Both Models
(NARA & HHS National Model)

- The HHS National Model includes the most important NARA Standards that address barriers relatives face in becoming licensed –
- Both Models:
  - Strictly adhere to the barrier crimes listed in the Adam Walsh federal law concerning criminal background checks
  - Do not require bedrooms, but instead call for “sleeping spaces” and that each child in the home be treated equally
  - Require the applicant to be “functionally literate”
  - Have the identical income and resources standard - “Applicants must have income or resources to make timely payments for shelter, food, utility costs, clothing, and other household expenses prior to addition of a child or children in foster care.”
  - Do not require vehicle ownership and specifically allow public transportation
Comparison of Both Models (continued)

- Both reflect community standards
- Both are flexible so children in out of home care are placed in the best homes for them
- While not all the NARA Standards are in the National Model - nothing in the National Model contradicts the NARA Standards
- The NARA Standards and its tools can be used to help compare and align their standards and report back to HHS
Comparison of Both Models (continued)

- Unlike the NARA model, the proposed HHS National Model does not have emergency/provisional placement standards
  - Nothing that prevents adoption of these NARA standards
  - The proposed National Model did not reject them - HHS simply considered them outside of the scope of Family First

- The NARA Model has a definition section not formally incorporated in the National Model
  - It defines many of the terms used in the National Model
  - Can be consulted for further clarification

- If adopt all NARA Standards, no waivers or variances needed
Action Steps: Provide HHS with Comments on Proposed HHS National Model

■ Submit comments to HHS by October 1, 2018 to CBComments@acf.hhs.gov

■ Generations United and ABA will soon share a document with points to consider when drafting comments
Action Steps – Issues to Consider for Comments to HHS

I. HHS National Model Strengths -
   - Include important NARA Standards that address many of the licensing barriers faced by relatives

II. Suggestions for Additional Inclusions From The NARA Model -
   - Additional database checks for criminal and abuse background:
     - State and local criminal databases
     - Adult protective registry & sexual offender registry
   - Criteria to assess non-Adam Walsh crimes
   - Emergency/provisional licensing standards
   - A time minimum on “pre-licensing” training

III. Changes to Both Models, based on Lessons Learned -
   - Communication requirements with child and agency that may exclude applicants unintentionally
   - Other cultural considerations that may have been overlooked
   - Anything else?
Action Steps: Compare State and Tribal Standards with Models

- Establish workgroup or taskforce:
  - Consider what are the barriers to licensing for relatives in your state or tribe?
- Common barriers include:
  - Criminal history of relative
  - Income/vehicle
  - Housing requirements like square footage
- Compare state or tribal licensing standards to both NARA and HHS National Model Standards
- For tribes, also compare tribal standards to NICWA materials
Action Steps: Look at Licensing Practices

- **Tools:** [wikiHow for Kinship Foster Care](https://www.wikihow.com/)

- Licensing waivers or variances approved at the local level instead of the state level

- Designated kinship liaisons to help relatives through the difficult licensing process
Timeline for Key Family First Grandfamilies Provisions

Now
- HHS has released proposed Model Licensing Standards

October 1, 2018
- Comments due to HHS on Proposed Model Standards
- HHS due to provide guidance on prevention and list of pre-approved programs
- Federal reimbursement for certain kinship navigator programs

April 1, 2019
- States and tribes must report to HHS about licensing and waivers

October 1, 2019
- States and tribes can use federal funds for prevention services
  (If delay group placement provisions by 2 years, can’t access prevention funds for 2 years – does not impact kinship navigator reimbursement)
Specific Resources on www.grandfamilies.org

- On www.grandfamilies.org/Resources/Federal-Laws:
  - Family First Prevention Services Act: Brief summary, implication for grandfamilies
  - Generations United Webinar: The Family First Prevention Services Act: Implications for Grandfamilies
  - Detailed timeline and description of all Family First Prevention Services Act provisions

- On www.grandfamilies.org/State-Fact-Sheets:
  - State specific fact sheets for each state and DC
Foster Care Standards for Tribes

David Simmons
Government Affairs and Advocacy Director

desimmons@nicwa.org
503-222-4044 ext. 119
NICWA standards are intended to provide an example of a development framework and examples of standards and supporting policy

- Not intended to meet all tribes’ specific needs
- Requires local process to examine information and assess fit
Development process

- Culturally-specific
- Community engagement
- Team process

Foster Care Standards

- Sample regulations
- Sample standards – comprehensive
- Sample standards - basic
Key Principles of NICWA Standards

- Tribes are sovereign governments and have authority to develop their own laws and regulations
- Community engagement and consensus work best to develop and implement standards that will have long term sustainability
  - Standards must be relative-friendly
  - While culturally adapted models can be helpful, culturally-based models work best (decolonization)
Similarities Between Standards

- Primary focus on safety of child in care and level of care needed
- Intended to address both relative and non-relative care providers
- Designed to be an example of core standards that exist within a large set currently being used (compilation)

- Designed to be broad & flexible enough for different tribes to utilize them
<table>
<thead>
<tr>
<th>NICWA Model</th>
<th>HHS National Model</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General</strong></td>
<td></td>
</tr>
<tr>
<td>Tribal specific</td>
<td>State and tribal</td>
</tr>
<tr>
<td>Process for development and examples of regulations and core standards</td>
<td>Core standards only</td>
</tr>
<tr>
<td>Provides basic and comprehensive standards</td>
<td>Provides only one set of standards</td>
</tr>
<tr>
<td>Covers procedures, emergency placement, re-licensing, pre-service training, care of children after placement, and post-licensing requirements</td>
<td>Does not cover</td>
</tr>
<tr>
<td>Provides definitions of several key terms</td>
<td>Does not provide definitions of key terms. Uses examples in some cases.</td>
</tr>
</tbody>
</table>
## Differences Between Standards (2)

<table>
<thead>
<tr>
<th>NICWA</th>
<th>HHS National Model</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Specific</strong></td>
<td></td>
</tr>
<tr>
<td>Responsibilities of agencies to applicants</td>
<td>Does not cover</td>
</tr>
<tr>
<td>Evaluation of applicants re: acceptance of cultural difference</td>
<td>Does not cover</td>
</tr>
<tr>
<td>Goes beyond ASFA and Adam Walsh background check requirements</td>
<td>ASFA and Adam Walsh background check requirements</td>
</tr>
<tr>
<td>Applicant physical exam or statement from physician they are receiving necessary care. Discretion to require physical exam or mental health evaluation for any person living in home.</td>
<td>Applicant physical exam required. Health history from others living in home.</td>
</tr>
<tr>
<td>NICWA</td>
<td>HHS National Model</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>---------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Specific</strong></td>
<td></td>
</tr>
<tr>
<td>Chemically dependent person must have 12 months of sobriety</td>
<td>Assurance applicant will not use illegal substances or abuse alcohol or prescription medicines</td>
</tr>
<tr>
<td>Assist tribe in enrolling child</td>
<td>Does not cover</td>
</tr>
<tr>
<td>Does not specifically cover except home must be free from environmental hazards</td>
<td>Prohibits tobacco use in vehicle with child, in FFH of child, or in their presence generally</td>
</tr>
<tr>
<td>Home visit and questionnaire completed with applicants</td>
<td>Home visit and scheduled interviews with each household member required</td>
</tr>
<tr>
<td>References required for applicant</td>
<td>References required, relative and non-relative, for applicant</td>
</tr>
<tr>
<td>NICWA</td>
<td>HHS National Model</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Specific</strong></td>
<td></td>
</tr>
<tr>
<td>Safe water supply</td>
<td>Safe, continuous water supply</td>
</tr>
<tr>
<td>Reliable and reasonable means of communication</td>
<td>Working phone or access to a working phone</td>
</tr>
<tr>
<td>Not covered</td>
<td>Swimming pool and spa standards</td>
</tr>
<tr>
<td>House and premises must be free of rubbish</td>
<td>Proper trash and recycling disposal</td>
</tr>
<tr>
<td>Number of foster children based upon experience and other circumstances in family</td>
<td>Six total foster children in home (exceptions)</td>
</tr>
</tbody>
</table>
## Differences Between Standards (5)

<table>
<thead>
<tr>
<th>NICWA</th>
<th>HHS National Model</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Specific</strong></td>
<td></td>
</tr>
<tr>
<td>Sleeping space requirements based upon number of children in space (sq. feet)</td>
<td>Safe and equitable sleeping arrangements for each individual child as appropriate</td>
</tr>
<tr>
<td>Must have reliable means of transportation. Written transportation plan on file with agency.</td>
<td>Reliable, legal, and safe transportation. Only adults in home can transport child.</td>
</tr>
</tbody>
</table>
Questions? Comments?

Barbara Pryor
Senior Director, Public Policy
Casey Family Programs
bpryor@casey.org

Sara Munson
Senior Director, Knowledge Management
Casey Family Programs
smunson@casey.org

Nicole Dobbins
Advisor, National Partnerships
Casey Family Programs
ndobbins@casey.org

Ana Beltran, JD
Special Advisor, Generations United
abeltran@gu.org
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Deputy Executive Director
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jlent@gu.org
(202) 777-0115

David Simmons
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desimmons@nicwa.org
503-222-4044 ext. 119