

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

March 21, 2019

The Honorable Lynn Johnson
Assistant Secretary, Administration for Children and Families
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Mr. Roger Severino
Director, Office for Civil Rights
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Assistant Secretary Johnson and Director Severino,

We write to you as part of our investigation into the waiver granted by the Department of Health and Human Services (“HHS”) on January 23, 2019 regarding South Carolina’s child welfare system. We seek to better understand the process used and decision made by the Office of Civil Rights (“OCR”) that Miracle Hill Ministries (“Miracle Hill”) and other similarly situated organizations in South Carolina are entitled to an exception under the Religious Freedom Restoration Act (“RFRA”) from federal foster care religious non-discrimination rules.

According to press accounts, Miracle Hill has rejected several prospective foster parents solely based on religious status.¹ Miracle Hill does not place children with non-Protestant, non-Christian families. In furtherance of their religious beliefs, Miracle Hill also screens applicants based on their sexual orientation—and refuses to accept LGBTQ individuals or couples as prospective foster care parents. The January waiver allows them to continue such practices using federal foster care funds, a departure from longstanding HHS policy and practice, as well as federal regulations.

We were surprised by this decision and are concerned that it may have been made without sufficient consultation with internal and external experts, including career civil servants who administer federal foster care programs and outside experts on foster care policy. We fear that HHS’s action will exacerbate the current shortage of foster parents and the current increase in youth entering and remaining in care, leaving our most vulnerable children without stable homes. In granting the January waiver, we worry that HHS failed to take into account the needs of LGBTQ foster youth. While qualified LGBTQ adults are one potential group that could provide safe,

¹ See Vox, *Can a Christian foster care group reject non-Christians? The Trump administration may say yes.* (Oct. 22, 2018), <https://www.vox.com/2018/10/22/18010014/miracle-hill-south-carolina-christian-foster-group-discriminate-hhs>.

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loving, and affirming foster homes for LGBTQ youth, LGBTQ adults frequently face discrimination when interacting with foster care agencies.

We therefore request that you provide the following information and records described below:


1. Please describe the process that HHS established to conduct a review of foster care waivers from religious non-discrimination requirements under 45 CFR §75.300(c);
2. Please describe which foster care specialists and experts – both at HHS and externally – HHS consulted to determine the impact of the waiver on South Carolina’s ability to match children with qualified foster parents, and provide any analysis conducted by HHS staff of the impact of the waiver;
3. Please provide all documents and communications relating to the request for and grant of the January waiver between HHS department employees and state officials from South Carolina, or employees and counsel for Miracle Hill;
4. Please provide all documents and communications related to the January waiver among employees and officials of HHS, as well as between HHS and employees at the White House or the Executive Office of the President;
5. Please explain what limitations, if any, exist on religiously-motivated discrimination that a foster care provider could seek to enforce while maintaining federal funding;
6. Please explain how HHS’s grant of waivers from religious non-discrimination requirements under 45 CFR §75.300(c) promotes the best interests of children involved in the child welfare system; and
7. Please specify all states that have requested or inquired about a waiver from religious non-discrimination requirements related to foster care providers and include all documents and communications about such requests or inquiries.

We request that you provide the information and documents responsive to the above no later than April 4, 2019. Thank you, in advance, for your prompt attention to this matter.

Sincerely,



The Honorable John Lewis, *Chairman*
Subcommittee on Oversight



The Honorable Danny K. Davis, *Chairman*
Subcommittee on Worker and Family Support

cc: The Honorable Alex M. Azar II
Secretary, U.S. Department of Health and Human Services