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**Regulatory Comments and Recommendations
Relating to Provisions Addressing
Foster Children and Other Wards of the State in the
Individuals with Disabilities Education Improvement Act, P.L. 108-446**

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The Children's Defense Fund (CDF) appreciates the opportunity to submit comments and recommendations regarding changes to 34 CFR parts 300 and 303 in order to help ensure that children in foster care and other wards of the state fully benefit from the changes made on their behalf in the Individuals with Disabilities Education Improvement Act (P.L. 108-446) (IDEA 2004).

The mission of the Children's Defense Fund (CDF) is to *Leave No Child Behind*® and to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start*, and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective voice for all the children of America who cannot vote, lobby, or speak for themselves. We pay particular attention to the needs of poor and minority children and those with disabilities. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, into trouble, drop out of school, or suffer family breakdown.

The Individuals with Disabilities Education Act (IDEA) offers a lifeline for many children. While CDF obviously has an interest in many other aspects of the revised Individuals with Disabilities Education Act, we are limiting these comments, submitted prior to the proposed regulations, to specific provisions of the law that address the needs of children in foster care and other wards of the state.

CDF has a long history of advocating for children who are abused and neglected, become wards of the state, and end up in foster homes or group care settings. We have pursued changes on their behalf in the child welfare system and related child-serving systems through research, federal policy reforms, litigation, and other strategies.

A quality special education system, operating as IDEA requires, should offer children in foster care the access they need to an appropriate quality education that can help to improve significantly their future outcomes. There are more than 540,000 children living away from their birth families in foster families, group homes, or child care institutions. A large number of these children have special needs of various types. Thirty to 40 percent of them are receiving special education services. Forty-four percent of the children in care have been there longer than two years. Many children in foster care move frequently and often with very little notice. As children move from home to home and school to school, too frequently their records don't follow them and special needs go unnoticed or unaddressed. Even when children have Individual Education Plans (IEPs), they often do not move with them to new schools or new school districts, and the IEP process must start over.

Children who lack the services they need often drop out of school or fall behind in a way that makes dropping out more likely. Studies show that children in foster care have higher rates of grade retention, lower academic skills as measured by standardized tests, higher absentee and tardy rates, and higher dropout rates. Too often children in foster care do not have parents actively involved in their care who can advocate for their education needs. Those working with children in foster care also often have limited knowledge, if any, about the Individuals with Disabilities Education Act (IDEA) and how to secure needed services. In some areas, children in foster care are more likely than other children to be referred for special education, but they may also be underrepresented among those actually receiving special education services because of the lack of continuity in their care.

The *Final Report of the White House Task Force on Disadvantaged Youths*, released in October 2003, expressed great concern about these and other barriers that prevent foster care youth from receiving a quality education, including special education. It specifically recommended that children in foster care with disabilities and special education needs be addressed in the reauthorization of IDEA. In the Final Report, the Task Force discussed several challenges to be addressed in getting children the help they need from the special education system.

We are very pleased about changes made to benefit children in foster care in IDEA 2004. Together they help to:

- Ensure continuity of services when children with disabilities in foster care move from one school or one school district to another.
- Ensure that records for children with disabilities in foster care will follow them in a timely fashion as they move from one school or one school district to another.

- Ensure that a parent’s inability to consent to an evaluation does not delay the IEP process for a child in foster care.
- Prevent delays in the appointment of surrogate parents for children with disabilities in foster care whose parents cannot represent them.
- Ensure that appropriate adults knowledgeable about a child’s needs can advocate for a child in foster care in IEP meetings.
- Strengthen early intervention services for infants and toddlers in foster care, who represent the fastest growing segment of the foster care population.
- Ensure that the interests and special needs of children in foster care are represented appropriately in state policy committees and in the context of planning and research related to IDEA.

To ensure that children in foster care across the country will truly benefit from the improvements in IDEA 2004 that are intended to address challenges they face, we make the following comments and recommendations that we hope you will take into account as you prepare regulations for the amended law.¹

I. SEC. 602 Definition of Parent and Ward of the State

§602 (23) **“PARENT.—The term ‘parent’ means—**

“(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);

“(B) a guardian (but not the State if the child is a ward of the State);

“(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

“(D) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent.”

“(36) WARD OF THE STATE.—

“(A) IN GENERAL.—The term ‘ward of the State’ means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency.

“(B) EXCEPTION.—The term does not include a foster child who has a foster parent who meets the definition of a parent in paragraph (23).

Section 602(23) of the Individuals with Disabilities Education Improvement Act (IDEA 2004) made explicit what has been included in regulations since 1997. It states that the definition of parent includes a range of individuals, in addition to natural and adoptive parents, who are knowledgeable about a child’s needs, including foster parents (unless a foster parent is prohibited by State law from serving as a parent), relative caregivers, and other individuals who are acting in the place of parents. Current regulation §300.20 includes language that further clarifies that foster parents should be defined as parent only when the natural parents’ education rights have been extinguished, and the foster

¹ In each section we have included the applicable text before the discussion. Language that has been added in the 2004 reauthorization is in bold. In the recommended language section, recommendations are bold and underlined for clarity.

parent has an ongoing, long-term parental relationship with the child, is willing to make educational decisions for the child, and has no conflict with the interests of the child.

Recommendation: The regulations should continue to clarify that foster parents can assume the role of parent, for purposes of IDEA 2004, only when they have an ongoing, long-term relationship with the child, have no interests that would conflict with the child, and the natural parents' educational rights have been extinguished. In addition, CDF recommends that the federal regulations further clarify that states should have a process by which to extinguish the natural parents' educational rights without terminating all the parental rights of a child.

Rationale: IDEA has long recognized that parents play a pivotal role in meeting the special education needs of their children. Their participation is needed throughout the process, from the decision to conduct the initial assessment through the development, implementation, and ongoing monitoring of individual education plans. CDF commends the Department of Education for consistently providing a more inclusive definition of parent, which as they noted in the discussion section of the regulations, "benefits children with disabilities by enhancing the possibility that a person with ongoing day-to-day involvement in the life of the child and personal concerns for the child's interests and well-being will be able to act to advance the child's interests under the Act." We believe that when a natural or adoptive parent is not able to do so, foster parents who have an ongoing, long-term parental relationship with a child, and no conflict of interest can, provided they are willing to do so, most effectively advocate for the child's appropriate educational needs. However, foster parents who offer only short-term care for wards of the state, such as emergency foster care, may not be equipped or prepared to advance the child's interests under the Act. According to available federal data from the U.S. Department of Health and Human Services, 19 percent of all children exiting care in FY2002 had been in care for less than one month, and another 17 percent had been in care for five months or less.² With evidence that nearly 2 out of 5 children in foster care are in care for very short periods of time, it is important that the Department continue to clarify that only those foster parents who have an ongoing, long-term parental relationship with the child be defined as parent under the Act.

It is also important that the Department continue to make clear that a foster parent may play the role of parent only when the natural parents' education rights have been extinguished. This qualification is necessary to ensure that state agencies continue to work with natural parents to actively engage them in meeting the education needs of their children. Many children who are wards of the state eventually return home, and states should be encouraged to continue working with natural parents who are able and willing to participate in meeting the educational needs of their children.³ This will be beneficial to the child in his transition home as well as while he is in care.

² Adoption and Foster Care Analysis and Reporting System (AFCARS), U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Preliminary Estimates for FY 2002 as of August 9, 2004, Page 3. Available online at www.acf.hhs.gov/programs/cb.

³ Over half of all children who exited care in FY2002 were reunified with their parents (Source: see note 1)

When natural parents are not able and willing to participate in their child's education, however, and there is a foster parent who has an on-going, long-term parental relationship with the child and has no conflict of interest, he or she should be able to serve as parent under the Act, provided that he or she is willing to do so. This may not be possible, however, in states that do not currently provide a process to limit only the natural parents' educational rights. Therefore it is important for the Department to make clear in its commentary to the regulations that it envisions a process whereby a parent's rights to make education and special education decisions for his and/or her child may be extinguished temporarily without terminating all of the parent's rights to the child. The Department might require that all states have a process by which to extinguish the educational rights of parents when parents are unable or unwilling to exercise those rights. This process would allow otherwise qualified foster parents to advocate for wards of the state without unnecessary delay. It should be clear that in talking about extinguishing parents right in this area that the Department envisions a process in which the appropriate court could temporarily extinguish the education decision-making rights of a natural parent of a child in foster care without terminating the full panoply of a natural parent's rights. While the need for expediency justifies this provision, it is important for the Department also to clarify that the judge may later reinstate the natural parent's educational decision-making rights if the parent is again able to perform this function and the parents' overall rights to the child have not been terminated.

The Department's clarification of the circumstances under which a foster parent is a parent would also help to clarify which foster children are "wards of the state" as defined in Sec. 602(36), and therefore, which children will require the appointment of a surrogate parent under 615(b)(2) and 639(a)(5). A foster child would be considered a ward of the state for purposes of IDEA 2004 except when he or she has a foster parent who is appropriately assuming the role of parent in making special educational decisions for the child. All other foster children should be considered wards of the state.

Recommended Regulatory Language:

For the purposes of the definition of parent, a foster parent is a parent when:

- (a) the natural parents' education rights have been extinguished;
- (b) and the foster parent--
 - (i) Has an ongoing, long-term, parental relationship with the child;
 - (ii) Is willing to make the educational decisions required of parents under the Act; and
 - (iii) Has no interest that would conflict with the interests of the child.

Commentary: In fulfilling the requirement that the natural parents' education rights have been extinguished, Congress anticipated that it was within a judge's right to do so temporarily without terminating all the parents' right to the child. State should take steps to ensure such a procedure is in place and available to the courts to be used when appropriate.

II. SEC. 615 Procedural Safeguards--Surrogate Parent

§ 615(b)(2)(A): [States must establish and maintain] “(2)(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. **In the case of—“(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child’s care provided that the surrogate meets the requirements of this paragraph;**

§ 615(b)(2)(B): “The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.”

Regulation Subpart E—Procedural Safeguards §300.515 (c) Criteria for selection of surrogates “(2) Except as provided in paragraph (c)(3) of this section, public agencies shall ensure that a person selected as a surrogate—(i) is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child; (ii) has no interest that conflicts with the interest of the child he or she represents; and (iii) has knowledge and skills that ensure adequate representation of the child.”

IDEA 2004 includes several important provisions that will help ensure the timely appointment of surrogate parents for children who are wards of the state and do not have a parent who can advocate on their behalf. It provides that a surrogate may be appointed by the judge overseeing the child’s care (instead of just the agency as was previously the case) and that, regardless of who appoints the surrogate the appointment must be done in a timely fashion.

Recommendation 1: The regulations should clarify that state plans developed under Section 612 of IDEA 2004 must include a system for ensuring the timely assignment of surrogate parents. This system should be developed in collaboration with the state child welfare agency representative on the state advisory panel.

Rationale: The requirement that “reasonable efforts” be made to appoint a surrogate parent in a timely manner is ambiguous, leaving uncertainty surrounding the types of assurances that a state must make regarding the assignment of surrogate parents either by a court or a local educational agency. Under Section 612, state eligibility for IDEA 2004 funds is conditioned on the development of a plan that provides assurances to the Secretary of the Department of Education that the state has enacted policies and procedures to comply with Part B. Section 612(a)(21)(B)(x) requires states to establish and maintain an advisory panel, which includes “a representative from the State child welfare agency responsible for foster care,” to develop policy guidance for IDEA 2004 implementation. The regulations should clarify that the state’s plan for procedural safeguards must be developed in collaboration with the representative of the child welfare system and must specify the “reasonable efforts” that the state must undertake to ensure that local educational agencies or the courts assign surrogate parents within 30 days of the LEAs’ identification of the need for a surrogate.

Recommendation 2: The regulations should clarify that the judge who is overseeing the child’s care may appoint as a “surrogate” any individual who meets the requirements in §615(b)(2)(A), has no interests that conflict with the interests of the child he or she will represent, and has knowledge and skills that ensure adequate representation of the child. The individual appointed by the judge should not be subject to any additional LEA requirements.

Rationale: Until now, only local education agencies have had the authority to appoint surrogate parents. Under the previous law, LEAs were authorized to appoint as a surrogate an individual who is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child. Regulations §300.515 further required that public agencies ensure that a person appointed a surrogate had no conflicting interest, and possessed the knowledge and skills that ensure adequate representation of the child. IDEA 2004 now gives judges overseeing the child’s care the power to appoint surrogate parents for children who are wards of the state. Existing regulations should be expanded to apply to appointments made by judges as well as by agencies. In addition, the regulations should clarify that judge-appointed surrogates must only meet the Act’s requirements for surrogate parents, not additional requirements that an individual LEA may use for its surrogate parents appointments. Logistical reasons, among others, dictate this outcome. The jurisdiction of a juvenile or family court can include multiple school districts, each with its distinct requirements. Clarifying that judges must only comply with the federal surrogate parent standards protects children and provides the judge sufficient flexibility to choose among those with knowledge of the child’s needs.

Recommended Regulatory Language:

Regulation Subpart E—Procedural Safeguards §300.515

(c) Criteria for selection of surrogates

- (2) Except as provided in paragraph (c) (3) of this section, public agencies **and judges** shall ensure that a person selected as a surrogate—
- (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
 - (ii) Has no interest that conflicts with the interest of the child he or she represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.

III. SEC. 635 An Early Intervention Public Awareness Program

§635 (a)(6) “A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, **especially to inform parents with premature infants, or infants with other physical**

risk factors associated with learning or developmental complications, on the availability of early intervention services **under this part and of services under section 619, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.**”

Early recognition by parents and other caregivers of the availability of early intervention services for children with disabilities or at risk of disabilities can help to prevent these conditions from worsening over time. Given the fact that infants and young children ages 5 and under comprised approximately 30 percent of the abused and neglected children in foster care in 2002, it is especially important for the public awareness program to reach children in foster care.⁴

Recommendation: The current regulation for the public awareness program for the early intervention program should expand the list of places the awareness program should focus on delivering information to about early intervention services to include homeless family shelters and officials and staff in the public child welfare system.

Rationale: IDEA 2004 specifically states that the public awareness program is designed “especially to inform parents with infants with other physical risk factors associated with learning or developmental complications on the availability of services.” Given the law’s increased attention to the needs of children who are homeless, in foster care, or living with a guardian or other caregiver, outreach to the caregivers of these children should be part of the public awareness program. Research indicates that an estimated 30 percent of the children in foster care are under the age of 5.⁵ Thirty to forty percent of children in care are receiving special education services. In order to reach this particular population of vulnerable children, homeless family shelters and officials and staff in the child welfare system should be included as primary sources and have access to the information prepared by the lead agency on the risk factors associated with learning and developmental complications. Because children who are wards of the state are highly mobile, special attention needs to be paid to procedures to inform foster parents, guardians, and grandparents or other relatives about the risk factors and early intervention services available to children with disabilities. The Conference Report language accompanying IDEA 2004 states that the “the Conferees intend that the public awareness program include a broad range of referral sources such as homeless family shelters, clinics and other health service related offices, public schools and officials and staff in the child welfare system.”

Recommended Regulatory Language:

“A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources (especially hospitals and physicians, **homeless shelters, and child welfare agencies**) of information to be given to parents, **foster parents, relative caregivers, guardians, or other individuals who are legally responsible for the child’s welfare**, especially to inform parents **and caregivers** with premature infants, or infants with other physical risk factors

⁴ According to Preliminary FY2002 AFCARS data, 5 % of children in care are under age 1, and 24% are between the ages of 1 and 5.

⁵ Ibid.

associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.”

IV. Sec. 614 Parental Consent for the Initial Evaluation for Wards of the State

§ 614(a)(1)(D)(iii)(II)(cc): [indicates that an LEA] “**shall not be required to obtain informed consent from the parent of a child [who is a ward of the State and is not residing with the child’s parent] for an initial evaluation to determine whether the child is a child with a disability” if “the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.”**

§ 615(b)(2)(A): States are required to establish “Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents... **In the case of – (i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child’s care provided that the surrogate meets the requirements of this paragraph . . .”**

To help ensure that children in foster care get their needs appropriately assessed through the special education process, in a timely fashion, Congress made clear that a judge could decide when it was appropriate to subrogate the rights of the parent to make educational decisions for the child so that an initial evaluation of the child’s needs could go forward. At the same time Congress also gave judges the authority to appoint surrogates for children whose care they are overseeing who are wards of the state. To comply with Congress’s desire that wards of the state receive prompt attention in the special education process, additional clarification is needed in the regulations.

Recommendation: The regulations should clarify that the “individual” appointed by a judge to consent to an initial evaluation for a “ward of the state” should be a “surrogate parent.” This is the most logical way to ensure continuity and stability for the child throughout the special education process. The regulations should also clarify that even though a parent’s rights to make education decisions have been subrogated, nothing in IDEA 2004 is intended to prevent a judge from reinstating a natural parent’s educational decision-making rights if the natural parents are later able again to perform this function.

Rationale: This section of IDEA 2004 indicates that federal law allows a state court judge to subrogate only the educational decision-making rights of the parents of a ward of the state for the purpose of expediting a child’s initial special education evaluation. Congress’ purpose – ensuring that the initial evaluations of wards of the state are not unnecessarily delayed – is effectuated by allowing judges to suspend the education decision-making rights of a natural parent without waiting for the more formal and time-consuming procedures involved when the full panoply of a natural parent’s rights are terminated.

Once the educational rights of the parents of a ward of the state are subrogated, a surrogate parent should be appointed to consent to the initial evaluation and to act as a surrogate for the parent in making subsequent decisions. Without clarification in the regulations, Sections 614(a)(1)(D)(iii)(II)(cc) and 615 (b)(2)(A) are open to misinterpretation. Judges might believe that they should appoint one “individual” to consent to an initial evaluation and another to act as a “surrogate” parent for the child. This situation would leave school districts justifiably confused regarding who has the authority to make what educational decisions on behalf of the child. Therefore, the regulations should connect the two provisions of the law: the individual appointed by the judge to consent to the initial evaluation should be established as the child’s surrogate parent.

V. Sec. 614 Evaluation Procedures for Wards of the State

§614 (a)(1)(C) PROCEDURES.—(i) IN GENERAL.—Such initial evaluation shall consist of procedures— “(I) to determine whether a child is a child with a disability (as defined in section 602) within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe... (ii) EXCEPTION.—The relevant timeframe in clause (i)(I) shall not apply to a local educational agency if— “(I) a child enrolls in a school served by the local educational agency after the relevant timeframe in clause (i)(I) has begun and prior to a determination by the child’s previous local educational agency as to whether the child is a child with a disability (as defined in section 602), but only if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent local educational agency agree to a specific time when the evaluation will be completed.”

§614(b)(3)(D) “assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year are coordinated with such children’s prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.”

To ensure that assessments for children are completed in a timely manner, Congress now requires that initial evaluations be completed within 60 days of parental consent, but provides an exception if a child moves from one school district to another school district during the evaluation. This exception only applies, however, if the new LEA is making sufficient progress to ensure prompt completion of the evaluation and the parent and the new school district agree to a specific time when the evaluation will be completed. IDEA 2004 also requires schools to expeditiously coordinate assessments of children with disabilities who transfer from one district to another school district before the initial evaluations are complete. In order to comply with Congress’s intent to ensure timely completion of assessments, additional clarification is needed in regulations.

Recommendation: The regulations should specify procedures to ensure that homeless children and children who are wards of the state, with pending assessments, are identified as soon as possible upon transfer to a new school, taking into consideration the date on which such children and youth were first referred for assessment in any local educational agency. The regulations should clarify that the language in §614 (b)(3)(D) that requires

that assessments of transferred students to be coordinated as “necessary and as expeditiously as possible, to ensure prompt completion” was intended as instructions for staff to work within the 60 day time limit unless the exception provided in §614(a)(1)(C) applies. In addition, the regulations should require a written agreement between the LEA and parent on a revised timeline for expedited completion of the evaluation.

Rationale: The Conference Report accompanying the IDEA 2004, states clearly the rationale for this change: “The high mobility rates of some children, including homeless children and youth and children and youth in the custody of a state child welfare agency, may cause delays in the assessment process and in the provision of a free appropriate public education. In order to minimize such delays, the Conferees intend that local education agencies ensure that assessments for these children and youth be completed expeditiously, taking into consideration the date on which such children and youth were first referred for assessment in any local educational agency. Such assessments shall be made in collaboration with parents (including foster parents) and, where applicable, surrogate parents, homeless liaisons designated under Section 723 (g)(1)(j)(ii) of the McKinney-Vento Homeless Assistance Act, court appointed special advocates, a guardian ad litem, or a judge.”

VI. Sec. 612 State Advisory Panel

§612 (a)(21)(B) “(x) a representative from the State child welfare agency responsible for foster care.”

In IDEA 2004, Congress specified that a representative from the state child welfare agency responsible for foster care be a member of the state advisory panel. This addition helps to ensure that the needs of children who are wards of the state will be addressed, but additional representation would be very helpful in order to highlight further the special needs of this group of children.

Recommendation: CDF recommends that language be added to the regulations that requires that membership of the state advisory panel include at least one foster parent, at least one grandparent or other relative caregiver and representatives of wards of the state who are in foster care, such as an attorney for children in care, guardian ad litem, a Court Appointed Special Advocate or judge.

Rationale: The advisory panel is responsible for a range of activities, including, identifying the unmet education needs of children with disabilities and shaping rules and policies to provide and improve the education of children with disabilities. Children who are wards of the state often have unique educational needs. In order to ensure that the special education needs of this highly vulnerable population are met, it is important that the advisory panel include several representatives who provide and care for these children on a regular basis. Expanding the membership of the state advisory panel to include representatives from the state child welfare agency responsible for foster care was an important first step in ensuring that the particular needs of children in foster care are identified and addressed through appropriate state policy. State child welfare agency

workers, however, often get to spend a relatively limited amount of time with children in care. Due in part to large workloads, some case workers meet with children only on a monthly basis. In order to more fully understand and meet the special education needs of children in care, it would help to also include representatives of foster children who have more regular, direct contact with the child, such as the child's attorney, court appointed special advocates, and juvenile court judge, or those directly caring for children such as foster parents, guardians, and grandparents and other relative caregivers.

The state advisory board also involves, "advising the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities." This broader representation from the foster child's caregivers, attorneys, Court Appointed Special Advocates, and judges, would also be helpful in coordinating services for wards of the state with disabilities.

Recommended Language:

“(B) Membership.--Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under state law to make such appointments, be representative of the state population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including--

“(i) parents of children with disabilities (ages birth through 26);

“(ii) individuals with disabilities;

“(iii) teachers;

“(iv) representatives of institutions of higher education that prepare special education and related services personnel;

“(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.);

“(vi) administrators of programs for children with disabilities;

“(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

“(viii) representatives of private schools and public charter schools;

“(ix) not less than 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;

“(x) a representative from the State child welfare agency responsible for foster care; and

“(xi) representatives from the State juvenile and adult corrections agencies.

(xii) caregivers of children who are wards of the state, including at least one foster parent, one grandparent or other relative caring for children with special education needs, and one legal guardian.

(xiii) representatives of children who are wards of the state, including an attorney for children in care, a guardian ad litem, a court appointed special advocate, and/or a juvenile or family court judge.