



COMMONWEALTH OF KENTUCKY
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May 17, 2021

Mr. Eric Friedlander
Secretary
Cabinet for Health & Family Services
275 E. Main Street 5W-A
Frankfort, KY 40621

RE: Sunrise Children's Services

Secretary Friedlander:

Every Kentucky child deserves a happy, healthy childhood. The recent decision by the Cabinet for Health and Family Services to terminate its longstanding relationship with Sunrise Children's Services is contrary to this interest and contrary to state and federal law.

Sunrise was founded in 1869 by the Ladies Aid Society of the Walnut Street Baptist Church in Louisville. It holds the "Gold Seal of Approval" from its accreditation agency and is the largest private residential childcare provider in Kentucky. It provides daily care to over 1,000 children and families and has facilitated over 500 adoptions of Kentucky children.

Sunrise is a model organization, one the Cabinet should celebrate and with whom it should partner. For decades, the Cabinet recognized this fact by contracting with Sunrise for foster care and adoption-related services. This relationship has spanned some 80 years and 14 gubernatorial administrations, both Republican and Democrat. Despite this long history, the Cabinet has terminated its relationship with Sunrise, precluding it from contracting with the Commonwealth unless it agrees to violate its religious beliefs.

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The stakes here cannot be overstated. As of April 4, 2021, there are 9,156 Kentucky children in some type of out-of-home care.¹ On average, more than 2,000 of these children are awaiting adoption.² Less than half are adopted annually.³ It is typical for these children to wait more than three years in foster care to be adopted.⁴ Put simply, Kentucky's children cannot afford to lose a provider like Sunrise, which is willing and able to serve them.

The First Amendment “protect[s] religious observers against unequal treatment.”⁵ That means the government cannot discriminate against religious conduct.⁶ This is a defining feature of American liberty, and it is one that the United States Supreme Court has repeatedly affirmed. For instance, when the state of Missouri excluded a religious organization from a program that provided grants for children's playgrounds, the Court—in a 7-2 decision—concluded that excluding religious organizations violated the U.S. Constitution.⁷ Likewise, when the state of Montana excluded students of Christian schools from a publicly funded scholarship program, the Court determined that a state need not offer such programs, but once it does, it cannot disqualify some entities just because they are religious. The Court went on to say, “the Establishment Clause is not offended when religious . . . organizations benefit from neutral government programs.”⁸

Kentucky has similarly made clear its commitment to religious liberty. Our Constitution prohibits the government from diminishing “the civil rights, privileges, or capacities” of any person on account of “his belief or disbelief of any religious tenet, dogma or teaching.”⁹ And the General Assembly has enacted strong protections that require the Commonwealth to provide religious accommodations before excluding organizations like Sunrise from government programs.¹⁰

For these reasons, we respectfully request that you reinstate the Cabinet's longstanding relationship with Sunrise. It is what Kentucky's children need and what the law requires.

¹ *Statewide Foster Care Facts*, <https://chfs.ky.gov/agencies/dcbs/dpp/Documents/Statewide.pdf>.

² *Child Welfare: Kentucky*, DEPARTMENT OF HEALTH AND HUMAN SERVICES, <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/kentucky.html>.

³ *Id.*

⁴ *Kentucky Adoption Facts*, STATE POLICY ADVOCACY AND REFORM CENTER, <http://childwelfaresparc.org/wp-content/uploads/2013/10/Kentucky-Adoption-Facts-2011.pdf>.

⁵ *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2019 (2017).

⁶ See *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993).

⁷ *Trinity Lutheran*, 137 S.Ct. at 2024.

⁸ *Espinoza v. Montana Dep't of Revenue*, 140 S.Ct. 2246, 2254 (2020).

⁹ Ky. Const. § 5.

¹⁰ See KRS 446.350.

Sincerely,



Daniel Cameron
Kentucky Attorney General



Michael G. Adams
Kentucky Secretary of State



Allison Ball
Kentucky State Treasurer



Mike Harmon
Kentucky Auditor of Public Accounts



Ryan Quarles
Kentucky Commissioner of Agriculture

cc: Governor Andy Beshear