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Interim President & CEO
Wade Henderson

January 25, 2022

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

via <http://www.regulations.gov>

Dear Secretary Mayorkas,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States, we offer this comment for your review and consideration concerning Docket Number DHS-2021-0051, titled “Identifying Recommendations To Support the Work of the Interagency Task Force on the Reunification of Families.”

The intense trauma of family separation lingers to this day for those affected, both children and adults. In 2018, The Leadership Conference and its coalition members sent multiple letters to the Trump administration and the 116th Congress expressing our profound and shared concern over the Trump administration’s “Zero Tolerance” family separation policy that separated more than 5,400 immigrant children from their family members while in effect.¹ We understand that the heinous trauma of family separation is both acute and chronic for those who experience it, including all those separated under the Trump administration and those administrations preceding and following it. Families separated under the Zero Tolerance policy continue to grapple with their trauma today.² The American Academy of Pediatrics (AAP) noted in 2018 that “highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child’s brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress – known as toxic stress – can carry lifelong consequences for children.”³ The Leadership Conference echoes the AAP’s sentiments that “... children do not immigrate, they flee. Parents will continue to flee violence to protect their children and themselves and seek safe haven in our country.”⁴ These statements ring truer today than ever before. The federal government must never again inflict this type of trauma on immigrant families and children seeking shelter and safety. Doing so will continue to betray our country’s domestic and international obligations to protect human rights and the right to seek asylum.

Expanded family detention is not a viable alternative to family separation. Furthermore, The Leadership Conference does not consider expanding family detention to be a viable alternative to family separation. As The Leadership Conference noted in 2018, “Instilling fear in immigrant communities and locking up children does not make us safer or stronger. Keeping innocent children jailed in terrible conditions for even longer periods is a direct affront to our nation’s core values and we demand that this



administration end these callous and cruel policies immediately. There are proven, humane, and inexpensive alternatives to detention that the administration could use[.]”⁵ The federal government must move away from expanding detention capacity and towards alternatives to detention that do not threaten the safety and privacy of immigrants and our communities. As recently as August 2021, Secretary Mayorkas promised separated parents that efforts are “underway to ensure that family separations never occur again.”⁶ We are confident the Biden-Harris administration can and must accomplish this momentous task in a way that is just and prioritizes the human rights of all.

The federal government must reunite all remaining separated families, provide long-term mental health care and other medical services to reunited families, and materially repair the harm done to families by ceasing to defend the Zero Tolerance policy in pending lawsuits. The Biden-Harris administration must right the wrongs of its predecessor administrations, including doing the difficult work of reuniting all remaining separated families. The Biden-Harris administration must also depart from the practices of past administrations by affirmatively offering free, long-term mental health and other medical services to reunited families as they navigate our immigration system and become members of our society. Furthermore, this administration must correct course, after exiting settlement negotiations with separated families in December 2021 and now, actively defending the Zero Tolerance policy in federal court.⁷ Such actions contradict President Biden’s statement in November 2021 that separated families “deserve some kind of compensation, no matter what the circumstances.”⁸ Instead of participating in protracted, expensive, and potentially re-traumatizing litigation for the separated families, the administration should publicly decry the Zero Tolerance policy, cease defending said policy in court, compensate families justly, and continue the work of repairing the egregious trauma endured by those harmed.

We encourage the Biden-Harris administration and the Department of Homeland Security to prioritize humane, expert-informed solutions that will permanently end family separation and family detention within our nation’s immigration policies. The United States must live up to its ideals by welcoming all asylum seekers and other immigrants—especially families—with dignity, humanity, care, and compassion. Family separation and detention have no place in such an approach. Should you require further information or have any questions regarding this comment, please contact Breanne Palmer, Immigration Policy Counsel, at palmer@civilrights.org.

Sincerely,

Wade J. Henderson
Interim President and CEO

Jesselyn McCurdy
Executive Vice President for Government Affairs