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## 2018 Annual Report

Children's Advocacy Institute, University of San Diego School of Law

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CHILDREN'S  
ADVOCACY  
INSTITUTE  
2018 ANNUAL REPORT







**This annual report covers the activities of the Children's Advocacy Institute (CAI)  
between January 1, 2018 and December 31, 2018.**

**CAI is part of the nonprofit University of San Diego School of Law.  
Contributions to CAI are tax-deductible to the extent the law allows.**

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# HISTORY AND BACKGROUND

In 1989, Professor Robert C. Fellmeth founded the Children's Advocacy Institute as part of the Center for Public Interest Law (CPIL) at the University of San Diego (USD) School of Law. Staffed by experienced attorneys and advocates, and assisted by USD law students, CAI works to improve the status and well-being of children and youth. CAI engages in the academic and clinical training of law students in child advocacy, conducts research into child related issues, and provides public education about the status of children and of the performance of the state to advance their interests. CAI also engages in direct advocacy before courts, agencies, and legislatures to seek leveraged results for the benefit of children and youth. All of these functions are carried out from its offices in San Diego, Sacramento, and Washington, D.C. **CAI is the only child advocacy group operating at a law school, in a state capital, and in our nation's capital.** That presence has grown in importance as organized interests, with a focus on relatively narrow and short-term self-benefit, increasingly dominate public policy.

CAI is advised by the **Council for Children**, a panel of distinguished community, state, and national leaders who share a vision to improve the quality of life for children. CAI functions under the aegis of the University of San Diego, its Board of Trustees and management, and its School of Law.

CAI's academic program is funded by USD and includes the first faculty chair endowment established at the USD School of Law. In 1990, San Diego philanthropists Sol and Helen Price funded the **Price Chair in Public Interest Law**; the first and current holder of the Price Chair is Professor Robert C. Fellmeth, who serves as CAI's Executive Director. The chair endowment and USD funds committed pursuant to that agreement finance the course and clinic academic programs of both CPIL and CAI.

In 2014, the USD School of Law was pleased to establish the **Fellmeth-Peterson Faculty Chair in Child Rights**, which will assure the continuation of CAI as an educational part of USD and, hopefully, as a state, national—and perhaps someday, international—advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive Director Robert C. Fellmeth), and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 30 years ago. The Chair is now fully funded, and in August 2018 Jessica Heldman was named as the Fellmeth-Peterson Professor in Residence in Child Rights.

Although its academic component has established funding sources, CAI must raise 100% of the funding for its advocacy program each year from external sources such as gifts, grants, attorneys' fees, cy pres awards, etc.

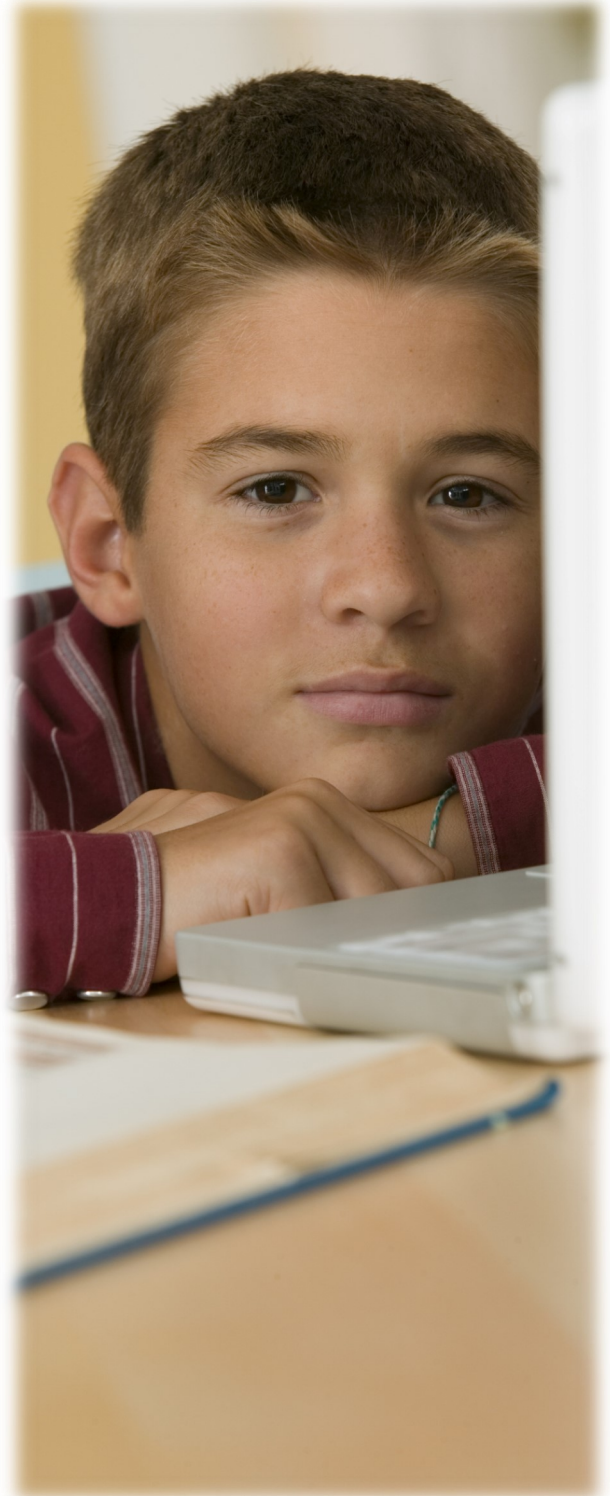


# EXECUTIVE DIRECTOR'S MESSAGE

For the past 30 years, my Executive Director's Message has been dominated by a recitation of how our society fails to honor—or even respect—our children. I shall restrain myself a bit here because at some point loud shouting just becomes noise. But we need to quietly remind each other of one basic concern that we properly ponder: what we leave behind. Think about the extraordinary sacrifices made for us by our founding fathers; making up the upper class of their period, they risked everything to hand down to their children a government where the People governed, not one which more closely resembles a kleptocracy.

Will the legacies we pass on to our children be as selfless and honorable? Right now, we face three serious challenges in that regard. The first, rarely discussed or addressed by either party, is the debt load with which Baby Boomers are burdening future generations. Medicare, Social Security, generous public employee pensions and medical coverage, military and other public spending, and tax cuts have all combined to create the largest ongoing financial obligation any human grouping has ever imposed on its successors. This is not talked about partly because of the political potency of the elderly who benefit. But while many of these programs have merit, those who benefit need to pay. It is the same immoral bias reflected in our property tax system here in California where my children who buy a house next door to mine of the same value will pay ten times my property taxes for the same services.

The second major generational betrayal is getting some attention now: global warming. We all appreciate the role of dissenters to any orthodoxy. Copernicus was right in disputing the then orthodoxy that the cosmos moved around the earth. But we properly consider evidence in an inductive process to ascertain realities and dangers. When we drill into arctic ice that captures the atmosphere going back hundreds of thousands of years, and find our carbon dioxide percentage at extraordinary levels, that matters. And it is unsurprising when a species that rarely exceeded 600 million over the last 500,000 years has exploded more than tenfold to 7.5 billion in a blink of evolutionary time—with the per capita carbon emissions also exploding through our industrial age mechanization. And even if you can rationalize it all away, how do you justify using up all or most of any non-renewable resource from the earth? The core of conservatism is violated by those who disregard the most important conservation obligation we have.







The third issue relevant to children is our increasing political corruption. The entire idea of a democracy is governance by the broad electorate, made up of citizens who care about children—both ours and the children of others—and about their future. But our system is increasingly controlled by monied and organized interests with an unsurprising focus on short-term financial profit. Indeed, when the deeply flawed U.S. Supreme Court’s *Citizen’s United* holding equates the political rights of corporate entities to individuals, we have crossed a demented rubicon. Those corporations may indeed reflect certain interests and rights of individuals acting collectively, but the charter of that combination is reflected in the legally-recognized fiduciary duty of its controllers: to protect and advance the economic interests of its stockholders. That obligation often contradicts the properly ascendant value held by most individuals—our impact on diffuse and future interests. At this time, organized interests control directly most of the critical state agencies in the nation, with those regulated shamefully operating as the actual “public officials” deciding for the state (for us and our children). CAI’s sister organization, the Center for Public Interest Law, has worked on related issues for forty years, and we have some possible improvements (e.g., a seminal U.S. Supreme Court holding in *North Carolina Board of Dental Examiners v. FTC* recognizing that such state boards and commissions controlled by those “regulated” are not even legitimate “sovereign” entities and are subject to federal antitrust prosecution.) But such wins for democracy are rare, and the legislative branch at the state and federal levels, and many local levels, exemplifies the results of election financing and lobbying corruption. Nor is the judiciary an admirable exception, with

*Concepcion* and other reprehensible precedents crippling class action remedies relied upon by victimized children. Class remedies are essential for a functioning civil court remedy, and for the equitable application of the law—particularly in a world where one exploiter can potentially reach millions of children or parents at virtually no cost. We who recall our first-year contracts course—imbued with the underlying need for any enforceable contract to be a “meeting of the minds” of the parties—now find the courts upholding incomprehensible and universally unread “term and condition” add-ons to waive class actions and civil remedies, often by monopoly enterprises (such as Facebook), and against children allegedly lacking capacity to so contract. It is all ignored to allow massive evasion of the basic judicial check.

Beyond these three longstanding challenges, we face some immediate issues. The rising cost of higher education and crippling loan obligations imposed on our children, the sinking percentage of the federal budget expended for children (now below 9%), a high child poverty incidence, and soaring medical and drug costs are scandalous and inexcusable given the wealth of our nation and the relatively superior performance by most of the developed world. However, I offer one word of caution about obeisance to liberal orthodoxy. It denies the debts we are imposing on future generations as relentlessly as the right wing denies climate change. And it avoids any judgment or obligation of the adult generation to plan for a child—or indeed *any* criticism of *any* decision made by individual adults. And it presumes solutions that tend to focus on bureaucracies and top-down management by persons with caseloads.

On the other hand, we now have a regime controlled not by respected conservative or liberal principles, but by racist demagoguery that says it is okay to forcibly kidnap children and remove them from their parents to “deter” refugee applications. The people responsible for those offenses should not merely suffer decision reversal or political penalties. As a former prosecutor, I ask the following question absent rhetorical intent: “Why should those responsible, starting with the Attorney General, not be subject to grand jury proceedings for the commission of serious state felonies?” There is some federal territory entitled to exclusive federal jurisdiction, but does it include the intentional abduction of over 3,000 children in violation of the law extant in every state where the removals occurred?

Perhaps the most alarming facet of our society is its open racism. Granted, we cannot accept into our nation even a small percentage of the world’s 7.5 billion people. But we have enacted a process for seeking refugee status and the executive branch is there to follow relevant Congressional intent. That is its constitutional role. When you cite crimes by certain members of an ethnic grouping as a basis to brand them all as “criminals” or “dangerous”—quite apart from the fact that their crime incidence is on the low end—you properly are removed from office.

The real horror here is that the liberal media is not focusing substantially on those repulsions, or on the appointment of persons to position after position who lack qualification and, indeed, exhibit an overweening intent to violate the relevant Congressional intent that is their charge. Of course, none of us is heartened by hush money or disrespect toward women, but the media’s focus is excessively on insult exchanges and superficial conflict—not on the underlying betrayal that most matters.

Well I think I have now violated my promise not to shout and to show restraint,. But my basic goal in life has here been actualized, as I tell my students after some classes: “If you feel worse after this class, and I feel better, it has been a success.”

Turning to something positive, this Report focuses on CAI’s work during 2018, and speaks comprehensively on what we have done. This includes many things that have become a part of our basic operation, such as the publication of an annual report card on the child-friendly votes of each individual California legislator; the annual financial and recognition award to journalists who most effectively cover child issues; the convening of our Children’s Advocates Roundtables in Sacramento, which Melanie Delgado does quarterly to bring together statewide advocates and officials to discuss current issues and goals; meetings with our Council for Children that both guide and inspire us; the work of Ed Howard in Sacramento and Amy Harfeld in Washington, D.C., to represent children with credibility and skill in our state and nation’s capitol; our fundraising work that is essential to our continuation, and that includes substantial gifts from our colleagues on the law school faculty; the teaching by Jessica Heldman and me of Child Rights and Remedies and the oversight of law student participation in our court and policy clinics; and frequent additions to our inspirational “Changemaker Wall,” featuring over fifty CPIL, CAI and EPIC graduates engaged in public interest work—with several more to be added in 2019. Finally, we continue to participate in the governance of major national and regional organizations, including the Partnership for America’s Children (now in 42 states), where we serve on the Board and as counsel, Public Citizen, First Star, the Maternal and Child Health Access Foundation, and the National Association of Counsel for Children, where Amy Harfeld has taken my seat on the Board. All of this is organized, somehow, by Elisa Weichel—who apparently never sleeps.





Looking forward, here are nine major issue areas where our work in 2019 and beyond will build upon our accomplishments during 2018.

★ **Legal Representation of Abused and Neglected Children.** During 2019, we will release the next edition of our national report of state performance in complying with what we argue is the constitutional obligation to provide foster children—whose parents and lives will be largely determined by a state court judge—an attorney to ensure elemental due process. Our national reports are deliberately repeated in future editions. The idea is not to write a report for a shelf in some library, but to expose the continuing failures of those states failing to respect the basic rights of children, and acknowledge the states that recognize children’s right to counsel in these proceedings. This will be the fourth edition of this report. Hopefully we shall not need a fifth edition.

Possibly accomplishing that last goal is the test case we are preparing to file and litigate in 2019 against the state of Indiana, one of the worst offenders of child due process rights in dependency court. One purpose here is to generalize the holding in the iconic *Kenny A.* case from Georgia; the holding there affirmed the constitutional right of foster children to counsel, but was not appealed by that state—resulting in a published district court opinion without force outside of Georgia. A circuit court holding would have a dramatically broad impact, including the twenty some states still lacking that basic due process for children. We have child class representatives in three offending counties and the leadership of Steve Keane of Morrison & Foerster, as well as respected local counsel DeLaney & DeLaney.

★ **Private For-Profit School Exploitation of Youth.** We have been working for some time on countering the exploitation of youth by private for-profit colleges. Not all, but many in this grouping deceive prospective students, receive public financing for 80% or more of their revenue, and expend little on education but millions on marketing and executive compensation. Of greatest concern, the abusers among them have created an underclass

of former students lacking useful education or job opportunity but facing debt from unpaid loans that are not easily quashed—even by personal bankruptcy. In 2019 we hope to see our proposed new rules to the California Department of Veterans Affairs achieve adoption; these pertain to the federal Title 18 “GI Bill” benefits that apply to veterans and are the most generous type of assistance—including tuition at a high level as well as a room and board allowance. The Department’s California State Approving Agency for Veterans Education (CSAAVE) has the authority under federal law to approve schools for that subsidy and will hopefully adopt model rules allowing performance evaluation, useful disclosures and statutory compliance of all schools receiving that assistance.

During 2019 and 2020, we will also sponsor several California bills applicable to all private for-profit postsecondary schools, including those receiving federal Department of Education or California state subsidy. They will cover every aspect of historical abuse, from gainful employment standards to foreclosure of evasion through the current dodge of the SARA (reciprocity) exemption to the loop-holing of what is called the “90–10” rule allowing all financing of such schools from public sources. Coextensive with this California effort will be advocacy in other states—with five already on our list for the next two years.

★ **Preventing Child Maltreatment Fatalities.** Every year in the U.S., over 3,000 children die as a

result of abuse and neglect. That is more children than die annually from all childhood cancers combined. We have worked for over a decade to hold federal and state governments accountable for their disclosure and data around fatalities, and to advance federal and state policies to prevent future fatalities. CAI helped to pass the Protect Our Kids Act which established the federal bipartisan Commission to Eliminate Child Abuse and Neglect Fatalities, which completed its work and submitted its recommendations in 2016. We have continued to engage to advance what we now know is most strategic to save children’s lives, through reform of the Child Abuse Prevention and Treatment Act and beyond.



★ **Sex Trafficking.** Two of our sponsored bills were enacted in 2018, as discussed below. We hope to facilitate some initial test cases to apply the new remedies created. We will also participate on the California Department of Social Services' stakeholder group that will be developing model policies, procedures, and protocols to assist counties achieve certain goals related to the commercial sexual exploitation of youth receiving child welfare services, as specified (in implementation of AB 2207, discussed below). And we will continue to participate on several workgroups and coalitions (including a USD-wide collaboration) aimed at address various aspects of sex trafficking and, specifically, the commercial sexual exploitation of children.

★ **Child Privacy.** We did not prevail in our intervention in the *Fraleigh v. Facebook* settlement before the Ninth Circuit in 2015. But as described below, we did prevail in the enactment of a California Consumer Privacy Law. This new statute applies to Facebook given its headquarters in Menlo Park. It will not take effect until 2020, which gives us 2019 to make it even stronger.

★ **Immigration-Related Abuse of Children.** We are involved in the 2018 amicus contribution to the *Ms. L v. ICE* case before the Honorable Dana Sabraw here in San Diego, and are working on two additional amicus briefs, one from CAI (on behalf of U.S. child advocacy entities), and one penned by my son Professor Aaron Fellmeth, an international law professor at Arizona State (on behalf of Amnesty International and other human rights world entities). These will be submitted if the case is reopened to include the undisclosed abduction of over 1,000 children during 2017, before the larger number removed in 2018 that was the subject of the initial ACLU litigation.

Meanwhile, during 2018 we requested, through the federal Freedom of Information Act (FOIA), relevant documents about all removed child immigrants held by the federal government. The responses as of the end of 2018 were either violative of FOIA's disclosure mandate or indicate virtually no record-keeping pertaining to the thousands of children held in federal custody. Even assuming blithering incompetence, the total absence of documentation is dubious. Accordingly, during 2019 we expect to file a civil enforcement action for FOIA violation in order to receive the relevant documents. We shall be joined in that effort by a former CPIL student who is now a partner at the major firm of Shepard Mullin.

★ **The Transition Life Coach (TLC) Model.** For more than ten years, we have attempted to implement a pilot project to assist foster youth achieve self-sufficiency. For any young adult, the median age for that accomplish-

ment is not 18 or 21, but 26. And parents contribute close to \$50,000 per child to assist. As "children of the state," foster youth do not receive a comparable or effective assist. In prior years we succeeded in getting California law changed to allow the creation of a trust to accomplish continued financial assistance in an effective way, with the judge who served as the legal parent assisted by a trustee (CASAs or relatives, et al.) to spend funds in a flexible but responsible way to achieve productive adults. We hope 2019 will see the beginning of that pilot.

★ **Continued Roll-Out of the New Endowed Faculty Chair in Child Rights.** The next year will also witness the continued roll-out of the new USD School of Law endowed faculty chair in child rights. The endowment feature of this faculty position is important, for it assures its continuation, hopefully without end or pause. We were very fortunate in securing one of America's most respected child advocates as its first and hopefully longstanding holder: Jessica Heldman.

★ **Expected Academic Landmarks.** We expect another promising class in 2019. Child rights is now a recognized concentration at the USD School of Law, with that achievement a part of the graduation diploma. I have served on the Admissions Committee at the school for many years, and in 2018 we saw a major increase in applicants citing public interest, environmental, immigration or child rights as their primary interest in attending USD. The percentage so identifying has remarkably doubled from 30% to over 60% in 2018–19. And related to this trend, Jessica Heldman and I will complete the updated Fourth edition of our text—CHILD RIGHTS & REMEDIES—in time for the Fall 2019 semester.



*Bob Fellmeth*

Price Professor of Public Interest Law  
University of San Diego School of Law  
Executive Director, Children's Advocacy Institute



# CAI CAMPAIGNS

## ELIMINATING CHILD ABUSE AND NEGLECT FATALITIES AND NEAR FATALITIES

*CAI focuses much of its advocacy at eliminating child abuse and neglect fatalities and near fatalities. One of CAI's strategies for this campaign is to improve states' public disclosure of child abuse and neglect death and near death findings and information, such as information about prior reports made about these children or families and the responses taken by child welfare agencies. Such disclosures, which are mandated by the federal Child Abuse Prevention and Treatment Act (CAPTA), give child advocates a rare insight into an otherwise confidential process, which in turn gives them data points and tools to effectively identify and remedy systemic failures in our child protection systems. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**FEDERALLY-MANDATED PUBLIC DISCLOSURE OF ABUSE AND NEGLECT FATALITIES AND NEAR FATALITIES.** CAI continued to follow up on the second edition of its report, *State Secrecy and Child Deaths in the U.S.*, which analyzed and graded the quality and scope of each state's CAPTA-mandated public disclosure policy, by urging the U.S. Department of Health and Human Services' Administration for Children and Families (ACF) to engage in more robust oversight, implementation, and enforcement of CAPTA. CAI continued to call upon ACF to provide states with more specific guidance, in the form of binding regulations, regarding their public disclosure obligations, and to reverse its 2012 changes to the Child Welfare Policy Manual that in effect give states the ability to avoid disclosure entirely.

**STEPS FORWARD.** Also in 2018, CAI partnered with Casey Family Programs and Within Our Reach (of the Alliance for Strong Families and Communities) to identify and chronicle federal, state, and local efforts to implement recommendations set forth by the federal Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF) in its 2016 final report, *Within Our Reach, A National Strategy to Eliminate Child Abuse and Neglect Fatalities*. CECANF's report incorporates key findings from its meetings across the country, as well as best practices, information and insight from experts from every

corner of the field, and a set of bold and far-reaching recommendations spanning from the federal to the local level, all with the aim of preventing child deaths from abuse and neglect.

In January 2018, CAI's research and findings were published in a report entitled ***Steps Forward***, revealing a groundswell of reforms in child welfare practices across the country, including dozens of changes in policy and law directly reflecting the recommendations put forth by the Commission. "The extent of this impressive wave of activity has illustrated the deep commitment of professionals and policymakers around the country to prioritize the safety and survival of our nation's most vulnerable children," said CAI's Amy Harfeld. "It's also confirmation that the Commission's strategic recommendations were deemed credible and prudent by states looking for solutions. There is a wide spectrum of models that can be replicated and built upon by other jurisdictions looking to take action."

With regard to the state and local level, CAI found that every state has engaged in at least one action or activity that reflects or is consistent with one or more of the Commission's 114 recommendations and together with a number of cities, counties, and regions are developing major innovations. In total, CAI's report identifies approximately 180 child maltreatment fatality prevention efforts now occurring at the state and county levels, each reflecting one

or more of the Commission's recommendations. Examples range from a focus on improving child safety, such as adopting predictive analytics models to better identify children at high risk for harm, changes to child protective services screening policies to ensure that all reports involving infants are immediately investigated, and improvements to mandatory reporting, to the development of local and statewide strategic plans that aim to address the root causes of maltreatment and work towards prevention efforts that strengthen families.



At the federal level, CAI found that HHS issued a formal response to the Commission report stating it is working to advance 61% of the recommendations applicable to them, including support for home visiting, addressing disproportionality and leadership in interagency coordination of child maltreatment prevention efforts.

Since the release of *Within Our Reach*, Congress has enacted two pieces of legislation that relate to CECANF's recommendations. The Comprehensive Addiction and Recovery Act (CARA) is the most comprehensive effort yet to address the current opioid epidemic that is taking such a toll on the well-being and safety of children. Adopted within CARA, the Infant Plan of Safe Care Act amends CAPTA to require states to better comply with federal law and enact certain guidelines for the welfare of children exposed to opioids. And Talia's Law requires mandated reporters within the Department of Defense (DOD) to report known or suspected child maltreatment to state child

protective service agencies in addition to the regular federal DOD chain of command, breaking down information silos that were not serving the safety of children. In addition, Congress passed the Family First Services and Prevention Act, which includes two provisions to ensure states begin the critical process of evaluating past years' fatality data and using that information to draft and implement comprehensive multidisciplinary fatality prevention plans.

*Steps Forward* also reported on efforts underway in numerous national organizations to support implementation of the recommendations to their constituencies and through inter-agency and partnership activities. "The Commission had a once-in-a generation opportunity to identify the steps needed to keep children safe and save their lives," said CAI's Robert Fellmeth. "Let us commit to building on these early steps forward and creating a future where no more children in this country die from child abuse and neglect."

## CHAMPIONING A CHILD'S RIGHT TO COUNSEL

*Each abused and neglected child should be represented by a trained, competent client-directed attorney throughout legal proceedings that will impact every aspect of their lives—such as where the child will live and with whom, whom the child may see and how often (including siblings), what school the child will attend, et al. Regrettably, however, the federal statute requiring representation for abused and neglected children allows the appointment of a non-attorney as the child's guardian ad litem (GAL). Many states do not appoint counsel for these children, and many states that do appoint attorneys (such as California) force them to carry such high caseloads (300–500 children per counsel) that their role becomes largely symbolic. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**CAI ADVOCACY RESULTS IN FEDERAL POLICY SHIFT OPENING UP UNCAPPED IV-E ENTITLEMENT FUNDING TO REIMBURSE STATES FOR PROVIDING CHILDREN WITH LEGAL REPRESENTATION IN CHILD ABUSE AND NEGLECT CASES.** In a much-anticipated move, the Children's Bureau (CB) of the U.S. Department of Health and Human Services announced in December 2018 a change to the Child Welfare Policy Manual (CWPM), that will for the first time permit Title IV-E funds to be used to reimburse states for the administrative costs of legal representation for children (and parents) in child welfare cases. This decision reflects an evolving understanding of the due process rights at stake for children in abuse and neglect cases faced with being involuntarily placed in state custody, aka foster care, and an emerging national consensus around the need for high quality representation for all parties in these cases. Initial coverage regarding this policy change highlighted the central role played by the Children's Advocacy Institute (CAI) in this reform.

Before this change, the nearly 40 states that provide legal representation to children in child welfare court cases were forced to bear the financial burden on their own without any federal support. The goal of securing a right to counsel for all children in abuse and neglect cases has been a cornerstone of CAI's work for over a decade. CAI founder and Price Professor of Public Interest Law Robert Fellmeth said, "This is a game changer for children's civil rights. If accused criminals have a constitutionally recognized right to counsel paid for with federal dollars when necessary, there is no reason why children victimized by maltreatment ought not to be granted at least the same when faced with state custody. This gets us one step closer to that goal."







CAI pursues its work through co-publication of the National Report Card on a Child's Right to Counsel, as well as through Congressional briefings, federal and state legislative and administrative advocacy, and impact litigation. CAI works proudly alongside exceptional allies such as First Star, Inc., the National Association of Counsel for Children, and the ABA Center on Children and the Law.

Said CAI National Policy Director Amy Harfeld, "This is a critical milestone in the movement toward attaining children's right to counsel. CAI will continue this work until every child across the country has a well-trained attorney by their side to protect their legal interests and ensure their voices are heard. This victory paves the way toward the ultimate recognition of a constitutional right to counsel for all children in child welfare cases and federal legislation ensuring such representation."

In explaining this change, the Children's Bureau stated, "Previous policy prohibited the agency from claiming title IV-E administrative costs for legal services provided by an attorney representing a child or parent. This policy is revised to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home." Dr. Jerry Milner, Associate Commissioner of the Children's Bureau, and Special Assistant David Kelly were key players behind this landmark policy change.

**CAI FINALIZES LAWSUIT ON CONSTITUTIONAL RIGHT TO COUNSEL FOR ABUSED AND NEGLECTED CHILDREN.** During 2018, CAI continued to prepare a federal lawsuit to challenge how one state appoints guardi-

ans ad litem (GALs) to represent children in every case of abuse or neglect that results in a judicial proceeding, as is required by federal law. CAI identified Indiana as having a convoluted system of child representation in its juvenile dependency courts, resulting in its failure to provide federally-mandated GALs (lay or attorney) for many of its eligible children, despite the fact that Indiana law recognizes children as parties to their proceedings. In addition to challenging the state's failure to comply with federal law, CAI will argue that only attorneys are capable of adequately representing a party's interest in such legal proceedings.

Every year, thousands of children in Indiana are removed from their homes and families due to abuse or neglect. They come to court through Child in Need of Services (CHINS) proceedings, where their fate is determined. The court decides where they will live, with whom they will live, where they will go to school, and whether they will be permanently separated from siblings, among other life-altering decisions.

In these proceedings, which are entirely about the child, the government has an attorney and the parents have an attorney paid for by the county if they are unable to afford one. But the child has no attorney, except in very rare cases. Without an attorney, a child in a CHINS proceeding is at the complete mercy of the system, as other parties present evidence, offer witnesses, and make decisions about the child's future that the child is not permitted to discredit, challenge, or even address. Nearly 40 states require the appointment of counsel for children in such proceedings. Indiana lags behind the rest of the nation. In Indiana, a child facing a month in juvenile detention is appointed an attorney, but an abused child facing 18 years of government-directed foster placements, living among countless strangers in dozens of homes, is not.

CAI's lawsuit will seek certification of a class of more than 5,000 children and seeks declaratory and injunctive relief that would require the appointment of licensed attorneys to represent children in CHINS proceedings. Along with its co-counsel Morrison & Foerster and DeLaney & DeLaney LLC, CAI will file its complaint in early 2019.

**CAI CO-SPONSORS CELEBRATION OF THE ABA'S CHILDREN'S RIGHTS LITIGATION COMMITTEE.** In May 2018, CAI co-sponsored the symposium "Children's Rights Are Human Rights: 20 Years of Fearless Lawyering for Children," which also celebrated the twentieth anniversary of the American Bar Association Section of Litigation Children's Rights Litigation Committee. The symposium, held on the USD campus, convened a dynamic and interactive conversation among all attendees, and included the voices of formerly system involved youth who were able to travel to the symposium thanks to CAI's sponsorship.

## IMPROVING OUTCOMES FOR TRANSITION AGE FOSTER YOUTH

*One of CAI's primary goals is to improve outcomes for transition age foster youth by, among other things, eliminating federal and state policies that impede youth from attaining self-sufficiency after exiting the foster care system, and increasing funding for programs and services that meet the unique needs of this vulnerable population. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**PROTECTING THE RESOURCES OF TRANSITION AGE FOSTER YOUTH.** CAI's national report, *The Fleeing of Foster Children*, documents practices and policies that inhibit foster youth from achieving financial security after leaving care. The original *Fleeing* report, released in 2011, continued to generate substantial coverage during 2018, and served as the basis for extensive CAI advocacy at both the state and federal levels. For example, CAI's Amy Harfeld testified in support of Maryland's HB 524, which requires the Department of Human Services to identify a representative payee or fiduciary for a child in the Department's custody, and requires the Department, when serving as the representative payee or in any other fiduciary capacity for a child, to provide certain notice to the child, through the child's attorney, of certain actions taken with respect to certain benefits for the child.

Importantly, the measure also provides that when the Department serves as representative payee for a child in foster care, it shall "use or conserve the benefits in the child's best interest, including using the benefits for services for special needs not otherwise provided by the Department or conserving the benefits for the child's reasonably foreseeable future needs" and "ensure that when the child attains the age of 14 years and until the Department no longer serves as the representative payee or fiduciary, a minimum percentage of the child's benefits are not used to reimburse the state for the costs of care for the child and are used or conserved" as follows: from age 14 through age 15, at least 40%; from age 16 through age 17, at least 80%; and from age 18 through age 20, 100%.

The measure further requires the Department to provide the child and the child's attorney information on how the child's resources have been used or conserved, and to provide the child with financial literacy training when the child has attained 14 years of age.

This measure, which CAI believes to be a model for other states to emulate, was enacted in May 2018. Moving forward, CAI will work with Maryland Advocates for Children to help publicize this landmark enactment, and to urge other states to follow suit.

**MONITORING CALIFORNIA'S EXTENDED FOSTER CARE PROGRAM.** At the state level, CAI's Melanie Delgado continued to monitor and analyze the impact of California's Fostering Connections program, the state's extended foster care program which allows youth to stay in care until age 21 if they meet certain eligibility requirements. The program, which took effect on January 1, 2012, was created to help better prepare foster youth to live successful, self-sufficient, independent lives after leaving care and to avoid the negative outcomes now commonly associated with aging out of foster care, such as homelessness, incarceration, unemployment and insufficient educational attainment. While Fostering Connections is a promising new opportunity, CAI's 2013 report entitled *California's Fostering Connections: Ensuring that the AB 12 Bridge Leads to Success for Transition Age Foster Youth*, identified shortcomings in the law and its implementation, including obstacles that could ultimately threaten its success. CAI has and will continue to urge policymakers to refine Fostering Connections to ensure that it achieves its goal of improving the transition to self-sufficiency for foster youth aging out of care.





Delgado also continued to urge policymakers to provide other innovative options to assist transition age foster youth bridge the gap to self-sufficiency. Among other things, CAI followed up on recommendations in its 2013 report, *Are They Being Served—Yet?*, which proposes that such programs be financed through Proposition 63, the Mental Health Services Act (MHSA), proceeds of which are supposed to expand and transform the state’s mental health system to improve the quality of life for Californians living with or at risk of serious mental illness—and which specifically identifies transition age foster youth as one such at risk group. CAI’s research has revealed that MHSA funding has not appreciably benefitted this highly deserving and at-risk population. CAI found that some counties had designed no MHSA-funded programs exclusively for TAFY, few track TAFY participation in their programs, and none had any longitudinal outcome data related to TAFY who had participated in any of their MHSA-funded programs. Further, the report noted that the state’s extension of foster care up to age 21, as discussed above, highlights the need for appropriate services for TAFY ages 21–25. These youth

face a significant gap when they age out of care; at that point, they no longer have access to resources that were available to them while in care, but many still struggle with various issues, including mental health issues, and are not yet self-sufficient.

**ADVOCACY FOR IMPLEMENTATION OF TRANSITION LIFE COACH MODEL.** During 2018, CAI continued to call for the implementation of the Transition Life Coach (TLC) option we have promoted over the past decade—an option that mirrors the support and guidance typically offered by parents to their young adult children. The TLC model involves youth buy-in to his/her plan for transitioning to self-sufficiency and independence, is flexible and personal, involves a mentor or coach to help guide the youth and assist him/her in accessing funds that further the youth’s transition, and is overseen by the court (who has served as the legal parent of the child). The TLC model, which could be made available to TAFY ages 21–25, could be implemented statewide using less than 10% of MHSA annual proceeds.



## CALLING FOR FEDERAL CHILD WELFARE FINANCE REFORM

*The federal child welfare financing system has serious flaws. Take, for example, the “look back” provision, the irrational vestige of previous years that bars all federal reimbursements for services provided to abused or neglected children removed from parents earning more than the federal poverty line as it existed in 1996. This archaic law allows the federal government to avoid all financial responsibility for now over half of all children in foster care, based on a bizarre link to a poverty level that is both outmoded by inflation and unrelated to any need or justification for the proper care of an abused or neglected child. Do only extremely poor children need to be protected from abuse and neglect? This baffling provision has not been corrected in almost 20 years, and the result is that increasing numbers of children are denied federal financial support while in foster care, heaping the entire financial burden on states—and even more concerning, providing a financial disincentive to remove children at imminent risk of harm.. CAI’s 2018 highlights, efforts, and accomplishments in this area include the following:*

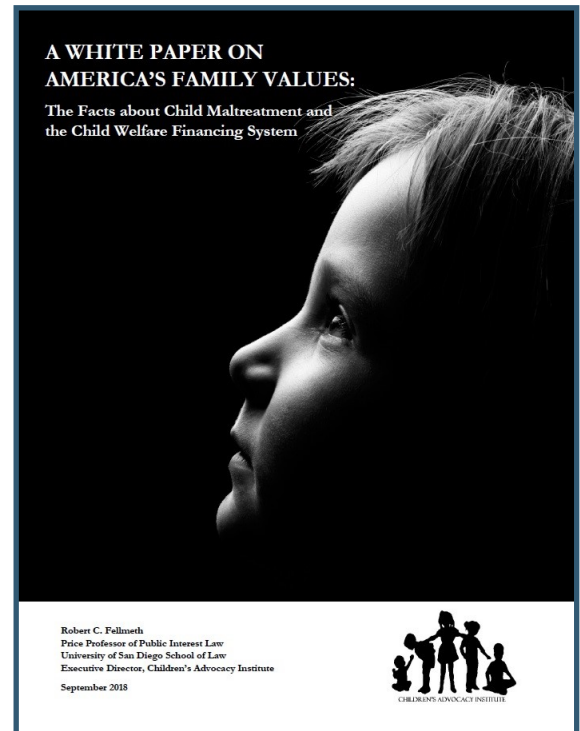
**WHITE PAPER ON CHILD WELFARE FINANCE REFORM.** The focal point of CAI’s federal activity in this area during 2018 was the release of Prof. Bob Fellmeth’s comprehensive white paper on child welfare finance reform. Entitled, *A White Paper on America’s Family Values: The Facts about Child Maltreatment and the Child Welfare Financing System*, the report highlights how Congress is engaged in “bipartisan neglect” when it comes to enforcing and fully funding existing laws that are designed to protect the nation’s most vulnerable children. “Protecting the nation’s children from abuse and neglect should be a no-brainer, regardless of political party,” said Robert Fellmeth, Executive Director of CAI and the Price Professor of Public Interest Law at University of San Diego School of Law. “Democrats embrace state assistance for those with diminished opportunity and Republicans espouse basic family values as a core principle. So where’s the disconnect? These children are not someone else’s children, they are children of the state—they are ‘ours’ as a nation, beyond metaphor.”

The report finds multiple failures across the child welfare system that reflect a lack of understanding of some of the underlying causes of abuse and neglect. The system remains woefully underfunded, worsened by counterproductive flaws in the funding formula and an inability or unwillingness to hold states that violate federal laws accountable. These slights too often keep children endangered while letting abusers off the hook. According to the report, Congress has also found a way to reduce the number of children eligible for Title IV-E foster care funding annually. To make matters worse, the White House budget currently under consideration and being supported by some in Congress and others in the Administration dangles the dangerous prospect of compromising the structural integrity of the foster care entitlement program altogether in favor of a block grant.

“As long as Congress continues to accept these deficiencies and fails to act to correct them, the longer our neglected and abused children and foster children go without adequate, responsible care,” Fellmeth added. “Our nation’s performance to date in protecting them from abuse and neglect and appropriately supporting those in care will determine their legacies—and ours.”

The report contained a comprehensive list of critical failures in federal law, enforcement, and budgetary commitment, followed by CAI’s proposed remedies for improvement. For example, the report included the following information:

◆ Little attention is paid to actual prevention and causation of child maltreatment. There is little to no parenting education in American schools, nor is there significant attention paid to the scandalous levels of child poverty, the practical and financial benefits of planned pregnancies, or the failure to quash the single most dangerous affliction behind child abuse—parental alcohol and drug addiction. In response, the report called for policymakers to acknowledge the need for and subsidize basic parenting education in high schools so future parents will understand what children need, how to keep them safe and healthy, and the financial commitment required to provide for them; address child poverty and enact the conservative and prudent recommendations to that end by the Children’s Defense Fund; address the underlying causes of child abuse and neglect, including preventing unplanned pregnancies and addressing inadequate financial support by some fathers; and expend meaningful resources on preventing and treating alcohol and substance abuse, which is closely and increasingly related to serious child abuse.







◆ An intellectually dishonest fiction called “revenue neutrality” purports to keep federal child welfare appropriations for some programs level year-to-year. In truth, maintaining level funding without adjustment for inflation and triggers for relevant population changes assures the gradual but inexorable strangulation of accounts to support these children. Increases in child population, child poverty and mandated reports require an increase in federal expenditures merely to maintain response levels. In response to this finding, the report calls on policymakers to eliminate loyalty to “revenue-neutral” policies that obstruct the amount of funding needed to appropriately serve the population of children in our care.

◆ The capricious “look back” provision, which restricts federal reimbursement for foster care costs to children from families with incomes below the poverty line as it existed in 1996 (\$12,980 per year for a mother and two children), has resulted in federal financial abandonment of close to 50% of foster children as more families each year become ineligible for foster care benefits. All of this as state budgets continue to contract, making the burden of fully funding rising foster care costs increasingly unrealistic and unjust. In response, CAP’s report calls on policymakers to end the “look back” provision and adjust the income floor to more realistic levels, adjusted to inflation.

◆ States engage in a nearly universal and automatic diversion of foster children’s Social Security survivor and disability benefits to reimburse themselves for the cost of providing foster care services. The Social Security Administration routinely designates state foster care agencies as the representative payee for foster child beneficiaries. These foster care agencies commonly and automatically confiscate the child beneficiaries’ funds to repay themselves

for expenses that are not the children’s obligation to pay. These benefits rightfully belong to the children and could be used to better support children with special needs while in care or be preserved for their own benefit and use later in life. CAI calls on federal policymakers to prohibit states and counties from using foster children’s Social Security benefits to reimburse themselves for the children’s cost of foster care.

◆ Federal agencies have failed to enforce the minimum federal requirements of the Child Welfare Act, the Child Abuse Prevention and Treatment Act (CAPTA), and other laws mandating statutory compliance as a condition for continued flow of federal funds.

In response, CAI calls on federal policymakers to ensure adequate funding for federal agency oversight and enforcement of child welfare law; mandate Congress to play a more active role in ensuring improved enforcement and oversight of current law; and ensure new laws have strong provisions addressing oversight and enforcement.

◆ There is a continuing failure to provide for all foster children the basic due process right to an attorney in a court proceeding that will determine their parents, where they live, their school, and most facets of their lives while foster children. In response, CAI calls for federal policymakers to explicitly recognize a child’s constitutional right to counsel in such proceedings, and require the appointment of attorneys for every foster child, consistent with the caseload standard set forth in *Kenny A. v. Purdue*, in addition to the appointment of court appointed special advocates and requiring reasonable juvenile court caseloads, given the court’s role as the legal parent of these children.

◆ Many federal laws fail to expressly provide a private right of action for children and families wishing to access courts as a means to enforce their rights under federal child welfare laws. Thus, CAI calls on Congress to explicitly provide a clear private right of action in current and future federal child welfare law to allow the enforcement of all child welfare statutory mandates by the child and family beneficiaries, including the recently passed Family First Prevention Services Act.

In addition to the White Paper, CAI continued to press Congress to increase funding for all federal child welfare laws, expanding use of the IV-E entitlement beyond foster care, encouraging joint jurisdiction and responsibility for IV-E and CAPTA, and advocating for greater budget line items to ensure HHS can conduct more robust oversight and enforcement of our child welfare laws.

## ENHANCING ACADEMIC OUTCOMES FOR POSTSECONDARY STUDENT

*Because of their profit maximization charter, some private for-profit postsecondary schools spend a small fraction of revenue on educational services, academic instruction, and student support services, and focus instead on marketing, lobbying, and profits for shareholders / CEOs. Programs at these schools average four times the cost of degree programs at comparable community colleges. In addition to the higher expense, for-profit schools often lack appropriate support services that are critical to student success, and many students drop out prior to graduating. Those who do graduate rarely find the lucrative careers commonly touted in the schools' ubiquitous advertising. Regardless of whether they drop out or are able to graduate, too many of these young people are saddled with debt that they are unable to climb out from under.*

Since 2012, CAI has led the Private For-Private Postsecondary Campaign, a consortium of advocates working to improve the oversight and regulation of the private for-profit postsecondary industry. With key partners such as Public Advocates in California and David Halperin in Washington, D.C., CAI is calling upon policymakers to ensure that these schools are properly regulated and meet minimum requirements regarding matters such as graduation rates, mandated disclosures, academic and other support, job placement, default rates, and complaint handling. CAI's work in this area includes legislative and regulatory advocacy, research, outreach, and public education. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:

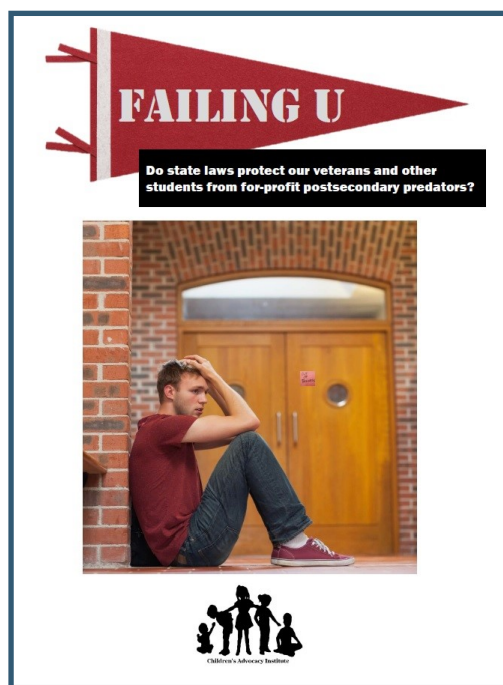
**FAILING U.** Realizing the need to implement prevention at the state level given the lack of federal interest, CAI worked throughout 2018 to arrange for a back-up regime of state floors to protect students nationally. Accordingly, in January 2018 CAI released Melanie Delgado's comprehensive 800-page report analyzing the statutes and rules currently in place in each of the 50 states, measuring the extent to which they engage in comprehensive and robust oversight and enforcement over private for-profit schools. The report, entitled ***Failing U***, provides guidance on which states warrant attention to improve student protection. "After seeing the demise of several large for-profit schools, and witnessing the catastrophic impact that bad schools have on their students, we wanted to know whether state laws provide appropriate legal protections and ensure adequate oversight to deter and respond to predatory practices," said Delgado. "However, we found that most states do not engage in appropriate regulation or oversight to protect against the harm that these schools can inflict."

"The title of this report is *Failing U* for good reason," CAI's Robert Fellmeth said. "Too many for-profit schools fail their students by making misleading representations about their academic programs, targeting vulnerable populations (especially veterans and others with access to federal educational funds), promising lucrative employment upon graduation, engaging in predatory marketing tactics, failing to appropriately invest in academic supports, etc., and most states are failing their students by not doing more to weed out the bad actors in the for-profit college industry."

The report grades states in seven areas, analyzing to what extent a state's laws (1) provide for a multi-member, publicly accountable oversight body that can, among other things, engage in rulemaking, initiate investigations, and impose penalties for violations of law; (2) require reviews and/or inspections of for-profit postsecondary schools operating within its jurisdiction; (3) provide exemptions from oversight and/or regulation; (4) require institutions to disclose performance measures to prospective or current students; (5) prohibit specific acts regarding advertising and recruiting; (6) provide an appropriate complaint process and other relief for victimized students; and (7) authorize appropriate enforcement mechanisms.

Key findings in the report include the following:

- ◆ No state earned an A; California earned a B; no state earned a C; Alaska, Illinois, Ohio, Tennessee, Massachusetts, Texas, and Wisconsin each earned a D, and the remaining 42 states earned the grade of F. Of those 42 failing states, 13 scored lower than 40% in the report's analysis.
- ◆ The two areas where states scored the lowest are disclosure requirements and enforcement.





◆ Huge gaps exist in state regulatory oversight, leaving loopholes that unscrupulous for-profits easily exploit. Despite intensified attention to for-profit abuses generated by the 2010 Senate HELP Committee report, other investigations, lawsuits, and school closings, states still fail en masse to put in place laws to prevent the kinds of abuses that led to failure of Corinthian and others. These protections would include access to enforcement mechanisms; recourse for students who are targeted and fall victim to the abuses of unscrupulous for-profit institutions; and sufficient resources and recourse for students who attend for-profits that shut down, leaving them with high student loan debt, no degree, and bleak employment opportunities.

◆ The regulatory gaps leave veterans particularly vulnerable, since institutions view GI Bill education benefits as a significant source of revenue. Foster youth are also vulnerable to predatory colleges, given their access to federal Chafee Educational and Training Vouchers, funding streams which are similarly excluded from current funding formulas applicable to this industry.

◆ Many states mistakenly assume that accreditation is sufficient oversight. As a result, they apply more lenient oversight or more exemptions to institutions that are accredited. However, accreditors have potential conflicts of interest that may impact their ability to effectively protect students and taxpayers from abuses. Accreditation is not a sufficient substitute for rigorous state oversight.

*Failing U* seeks to start discussions about the protections necessary to ensure that students at private, for-profit colleges receive a quality education; protect taxpayers — who ultimately pay the price when students who attend unscrupulous institutions cannot repay their federal student loans; and help states learn from one another, by highlighting notable provisions that states have enacted. These, along with the model elements the report provides, serve as a guide for states to use as they set out to improve oversight of for-profit postsecondary schools and, in turn, to better protect the interests of students and taxpayers.

#### **COUNTERING THE TRUMP ADMINISTRATION'S ATTEMPTS TO REMOVE STUDENT PROTECTIONS.**

With the invaluable assistance of consultant David Halperin in Washington, D.C., CAI addressed the Trump administration's reversal of several key protections against predatory college misconduct. Among other work, CAI is closely monitoring the Department of Education's negotiated rulemaking process, which is aimed at producing new rules to replace the Obama gainful employment and borrower defense rules. Although our coalition is unlikely to be able to stop DOE from issuing rules that significantly weaken protections, we will strive to build an administrative record that will increase the likelihood that federal courts will strike down the new rules, and use the process

to communicate to federal and state policymakers, the media, and the public about the blatant handover of policy by the Trump administration to predatory schools and the need for others to step up to protect students.

**CSAAVE GRANTS MAJORITY OF CAI'S PETITION FOR RULEMAKING.** During 2018, the California State Approving Agency for Veterans Education (CSAAVE), which approves schools for Title 38 qualification, approved in part a petition for rulemaking submitted by CAI and others. Federal law devolves to these state veterans affairs agencies the power to so approve schools and the proposed rules represent a major and comprehensive set of conditions that will preserve schools that perform at a minimum level of success while ending the regrettably prevalent record of abuses. Most of the offending schools now receive most of their revenue from public sources and most of that revenue from Title 38 sources. Among other things, CAI's proposed rules would require a minimum graduation rate, job qualification rate, and place a ceiling on what is called a "cohort default rate"—reflecting graduates whose lack of qualification means they cannot pay the debts directly accrued from their schooling. In November, CSAAVE published its notice of proposed rulemaking, and CAI submitted comments to the agency in December. At this writing, CSAAVE is reviewing the comments and testimony received; CAI will continue to monitor the agency's consideration of the proposed regulations.

**CAI ADVOCACY HELPS CREATE CALIFORNIA'S ONLINE COMMUNITY COLLEGE.** During 2018, CAI was a vocal supporter of Governor Brown's initiative to create a single online community college. The creation of a new online college is essential to the future prosperity of several populations, including students and families of color, veterans, foster youth, immigrants and their families, and generally, the economically disadvantaged. CAI supported the initiative because the for-profit education business sector is one of the most stubbornly scandal-plagued business sectors in our nation's history; the sector is aggressively moving into the online education space; data show that the for-profit sector purposefully targets the specific populations noted above; regulation and oversight alone are not enough to protect those who have been and will be the targets of predatory online for-profits; and what is needed to best protect students is somewhere else of quality for them to go online for their postsecondary education; an undistracted college devoted solely to and solely accountable for online community college education is best positioned successfully to compete with the online for-profits.

In June 2018, policymakers announced that the 2018–19 budget included \$100 million to create the online community college, which will offer certificate and credentialing programs, and will get another \$20 million annually.



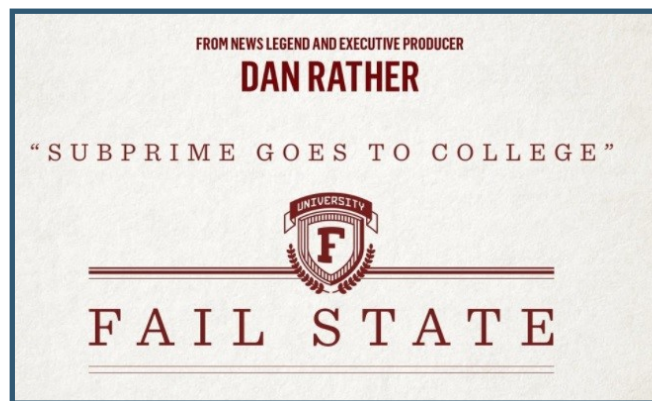
**CAI WEIGHS IN ON FEDERAL BORROWER DEFENSE RULE.** In August 2018, CAI submitted comments to Secretary of Education Betsy DeVos, expressing several concerns about the Department of Education’s (DOE) proposed changes to the borrower defense rule. Paramount among them is the factual error on which much of DOE’s proposal is premised. DOE asserted that it changed its policy regarding borrower defense in 2015 and that this policy change led to a flood of frivolous borrower defense claims. CAI noted that this was factually inaccurate, and there was no policy change in 2015. DOE asserted that prior to 2015, it would not consider borrower defense assertions from borrowers whose loans had not defaulted and who were not currently experiencing specified forms of collection. In fact, the Department accepted “affirmative” borrower defense claims well before 2015. CAI also pointed out that the majority of the “flood” of borrower defense claims DOE received around 2015 were related to Corinthian Colleges, Inc., a very large corporation with colleges throughout the country, which sold or shut down all of its campuses and declared bankruptcy in 2015 after a string of federal and state investigations and lawsuits related to its predatory practices.

CAI urged DOE to ensure institutional predatory behavior is discouraged and students and taxpayers are protected by not requiring borrowers to go into default prior applying for borrower defense; ensuring harmed students have access to a fair process to obtain relief; maintaining a preponderance of the evidence standard of evidence; continuing to accept

group applications; ensuring that students have access to the courts to seek relief; and retaining students’ ability to make their own decision about how to proceed with their education when institutions they are attending close.

**FAIL STATE SCREENING.** Also during 2018, CAI hosted a special screening and panel discussion of *Fail State*, an expansive documentary exposé that investigates the dark side of American higher education, chronicling decades of policy decisions in Washington DC that have given rise to a powerful and highly-predatory for-profit college industry. With echoes of the subprime mortgage crisis, the film lays bare how for-profit colleges exploited millions of low-income and minority students, leaving them with worthless degrees and drowning in student loan debt. The documentary, which was executive produced by news legend Dan Rather, traces the rise, fall, and resurgence of the for-profit college industry, uncovering their Wall Street backing and incestuous relationship with regulators and lawmakers charged with overseeing them.

CAI’s screening, held on March 28, 2018 at the University of San Diego, was followed by a panel discussion with Alexander Shebanow, *Fail State*’s director, producer and writer; the Hon. Marty Block, former California State Senator and Assembly Member, who authored and championed several pieces of landmark legislation to protect students and taxpayers from predatory private for-profit postsecondary educational institutions; Robert Muth, supervising attorney for the USD School of Law’s Veterans Legal Clinic, which represents student veterans in disputes with for-profit institutions over the use of GI Bill funds and predatory lending; and Melanie Delgado, CAI Senior Staff Attorney, Director of CAI’s Transition Age Youth Projects, and author of *Failing U*, CAI’s recent report on state regulation of private for-profit postsecondary institutions (discussed above).





# PROTECTING THE PRIVACY INTERESTS OF CHILDREN AND YOUTH

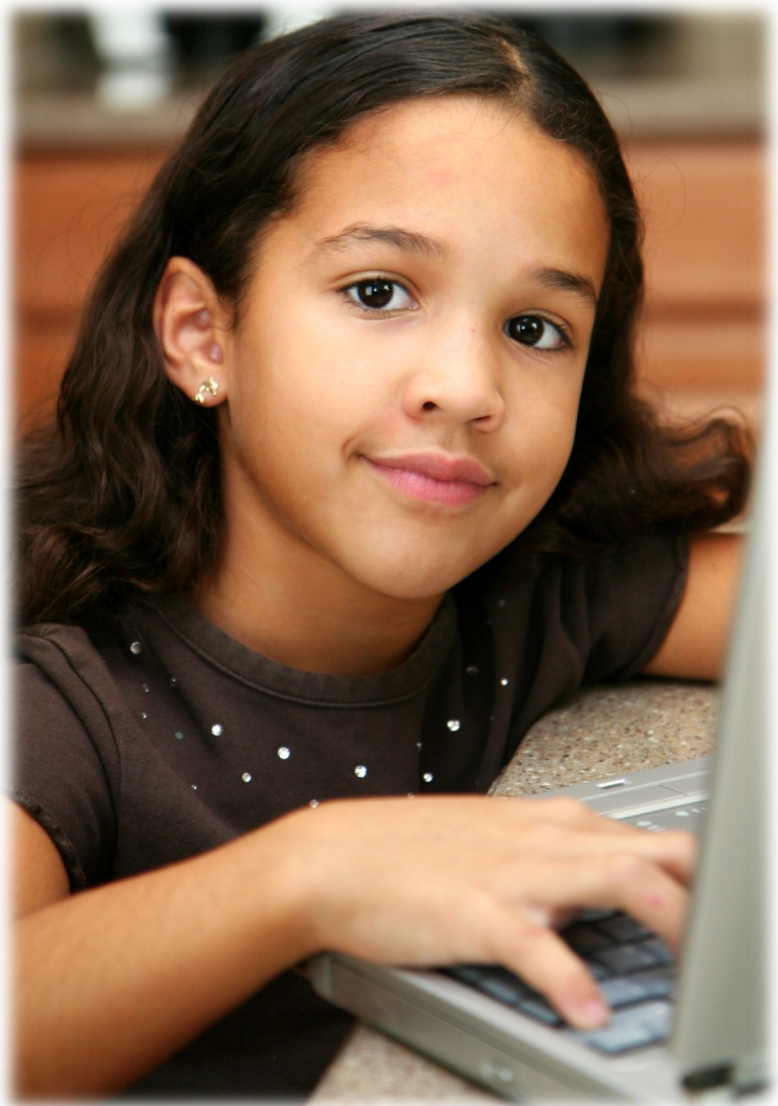
*Privacy laws have not kept pace with technological advances and societal trends and innovations. CAI's work in this area seeks to protect the rights of children and youth, and the right of parents to make decisions as to the use and dissemination of their children's images, information, postings, et al. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**LEGISLATION TO PROTECT CHILDREN'S ONLINE PRIVACY RIGHTS.** In 2018, CAI sponsored AB 2511 (Chau), which as originally introduced would have enacted the Parent's Social Media Accountability and Child Protection Act, prohibiting a person or business in California that operates an internet website or application (such as Facebook) that seeks to use a minor's name, picture, or any information about the minor, or to sell specified products or services to a minor, from engaging in specified acts, including soliciting or knowingly permitting the minor to agree to terms or conditions on behalf of an adult, or seeking to obtain consent from the minor for any policy, practice, term, or condition through the business' generally applicable terms and conditions of use.

During 2018, CAI won the approval of AB 2511 (Chau) by the Assembly Privacy and Consumer Protection Committee by an 8–1 vote. After the bill moved out of that Committee, Assemblymember Chau, CAI, and Facebook struck a deal that in exchange for Chau removing the Facebook-related parts from AB 2511, Facebook would implement the reforms voluntarily by January 2019. That was to include a procedure for obtaining affirmative parental consent for their children's participation in Facebook's sponsored stories advertising program.

Accordingly, subsequent amendments revised AB 2511 to instead require, commencing on January 1, 2020 and notwithstanding any general term or condition, that a person or business that operates a business in California and that seeks to sell certain products or services that are illegal to sell to a minor under state law, take reasonable steps, as specified, to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. This bill, which was enacted into law, provides that a business or person that violates these provisions is subject to a civil penalty of up to \$7,500 per violation in an action brought by a public prosecutor.

Regrettably, Facebook violated its promise to revamp its process for obtaining parental consent for children's inclusion in sponsored stories advertising, and is continuing to include parental consent as part of its boilerplate terms and conditions. Accordingly, in 2019 CAI will re-sponsor the removed portions of AB 2511 to statutorily prohibit Facebook and any other internet websites or applications that seek to use a minor's name, picture, or any information about the minor on a social media internet website or application, as specified, from doing so without obtaining prior parental consent.



**OTHER CAI ADVOCACY TO PROTECT CHILDREN'S PRIVACY RIGHTS.** In April 2018, the Sacramento Bee published an op-ed by CAI's Ed Howard, which, among other things, called on California to require meaningful parental consent before social media companies can profit by selling children's faces and names to third parties for their commercial use.

In May 2018, the Hill published a commentary by CAI's Bob Fellmeth describing how Facebook's "Terms of Service" constitutes a "carte blanche seizure of information." Fellmeth also urged Face-



book to consider—or Congress and/or the California legislature to impose—three reforms. (1) All communications on Facebook should be transmitted only to the persons to whom they are directed. An exception could be made when Facebook transmits to any subscriber a simple copy-and-paste of what is to be transmitted and a brief description of who will receive it (numbers and description of recipient population), with a consent button. If the subscriber clicks on the button, off it goes. The cost would be minimal. (2) All personal information on a Facebook account should be accessible only to the subscriber and approved friends. Facebook should not transmit information to any third party without specific consent. (3) Mass communication through Facebook must identify the sender by accurate personal, corporate, or other name.

## STOPPING THE SEXUAL EXPLOITATION OF MINORS

*CAI is working on several fronts to eliminate the commercial sexual exploitation of children (CSEC) and improve outcomes for CSEC victims. As a preliminary matter, CAI is working to inform the public, child advocates, and policymakers about the scope and extent of this issue, working to dispel the myth that this is only happening in other parts of the world. A recent study found that in San Diego County alone, the underground sex trafficking economy generates over \$800 million a year. Many victims start out as minors; the average age of a victim entering the industry is 16, with recruitment commonly taking place on high school and middle school campuses and in group homes serving foster children. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**LEGISLATIVE EFFORTS.** During 2018, CAI sponsored two measures to improve outcomes for CSEC victims and help reduce the incidence of such victimization.

- ◆ CAI sponsored AB 2207 (Eggman) (Chapter 757, Statutes of 2018), which makes legislative findings and declarations related to CSEC in California, the intersection between CSEC and the child welfare system, and the provision of services to these youth by the state, and places a deadline of January 1, 2020, on the requirement in current law that the Department of Social Services (DSS), in consultation with stakeholders, develop model policies, procedures, and protocols to assist counties to achieve certain goals related to the commercial sexual exploitation of youth receiving child welfare services, as specified.
- ◆ CAI sponsored AB 2105 (Maienschein) (Chapter 166, Statutes of 2018), which enhanced civil penalties, tripling any existing statutory civil penalty and providing an alternative \$10,000 to \$50,000 fine if no civil penalty is provided by statute, for acts that constitute "commercial sexual exploitation" of a minor or nonminor dependent.

Also during 2018, CAI supported AB 1735 (Cunningham) (Chapter 805, Statutes of 2018), which requires courts to consider issuing a protective order in all cases in which a criminal defendant has been convicted of human trafficking with the intent to obtain forced labor or services, and pimping or pandering without regard to whether the victim is a minor. CAI also helped defeat AB 2714 (Allen), which would have repealed the decriminalization of prostitution offenses committed by minors, and would have established a deferred entry of judgment pilot program for CSEC victims. CAI argued effectively that, even if well-intentioned, the bill would have permitted children who are rape victims to be arrested, booked, and imprisoned as if they were criminals.



**ADDITIONAL EFFORTS.** In addition to following up on the implementation of the two measures discussed above, CAI is engaged in a variety of other forms of advocacy on behalf of CSEC. For example, CAI is

- ◆ engaging in executive branch advocacy to assure effective enforcement of current CSEC statutes;
- ◆ highlighting CSEC as a Children’s Advocates Roundtable topic for statewide planning in prevention and enforcement;
- ◆ promoting attorney education on CSEC issues;
- ◆ urging appropriate funding for CSEC prevention and enforcement;
- ◆ monitoring federal legislation regarding internet CSEC practices, with appropriate enforcement advocacy to the FTC and U.S. Attorneys;
- ◆ researching and analyzing emerging areas of focus in CSEC advocacy;
- ◆ participating in local and state working groups, coalitions, and collaborations working to eliminate the commercial sexual exploitation of children, and to increase the resources and services available to CSEC victims;
- ◆ creating a Fall 2019 clinical opportunity for students to work on trafficking issues in a collaborative program involving other law schools, as well as with other academic and community partners;
- ◆ participating in the San Diego Human Trafficking Research and Data Advisory Roundtable;
- ◆ presenting at annual JUST (Juvenile Sex Trafficking) national conferences;
- ◆ participating in a USD campus-wide effort to host an anti-trafficking Impact Strategy Summit; and
- ◆ exploring a collaborative effort to engage in research, education, and training to better inform those involved in the child welfare system of the unique needs and issues impacting trafficked mothers whose children are in the child welfare system, as well as the unique needs and issues impacting the involved children, to ensure that these mothers and children have the appropriate services, resources, and assistance that will put them on track toward successful reunifications



## PROTECTING CHILDREN OF ASYLUM-SEEKING PARENTS

*In implementing the Trump Administration’s so-called “zero tolerance” policy mandating the criminal prosecution of all adults who illegally enter the U.S., federal authorities have been separating children from their parents or guardians and placing them in government shelters. In June 2018, an executive order signed by Trump and an injunction issued by U.S. District Court Judge Dana Sabraw both directed authorities to stop separating children from their families, but separations have reportedly continued to take place into 2019. Judge Sabraw’s ruling also ordered federal authorities to reunite all separated children with their families within thirty days. Effectuation of that order has been problematic given that the Trump Administration had not formulated a procedure for reuniting the families it had separated.*

*CAI’s 2018 highlights, efforts, and accomplishments in this area include the following:*

### **AMICUS PARTICIPATION IN FEDERAL CLASS ACTION CHALLENGING THE SEPARATION OF FAMILIES.**

In March 2018, CAI joined an *amicus curiae* brief in support of the plaintiffs in *Ms. L. v. ICE*, an ACLU class action filed in the U.S. District Court, Southern District of California, challenging the Trump Administration’s practice of separating asylum-seeking parents from their children. The *amicus* brief argued that family separation within immigration detention is unconscionable, needlessly traumatizes children and families, and must be avoided; government action involuntarily separating children from parents who pose no risk of harm to them is unconscionable and contradicts accepted nationwide child welfare practices and international law; and government action involuntarily separating children from the parents who pose no risk of harm to them is unconscionable and unconstitutional.

In June 2018 Judge Dana Sabraw ordered the federal government to stop separating children and families, and to reunify, within thirty days, all children and families who had been separated by the Trump Administration. The government failed to comply with both directives. In September, the federal government reported to the court that it had reunified or otherwise released 2,167 of the 2,551 children over five years of age, and 84 of the 103 children under five years of age, who had been separated by a parent and were “deemed eligible” for reunification by the government. In November, the court approved a settlement agreement that, among other things, allows most of the migrant children, and many of their parents, to have another chance to apply for asylum.

In anticipation of further litigation to effectuate the settlement or address other related issues—including the discovery of undisclosed removals prior to 2018—CAI drafted a new *amicus curiae* brief on behalf of child advocacy organizations addressing the illegality of the removals under American statutory and constitutional law. The brief was written in conjunction with a separate *amicus* brief detailing the violations by the Trump Administration of international law that properly applies; that *amicus* brief was drafted by Professor Aaron X. Fellmeth (Robert’s son and an international law professor at Arizona State) on behalf of Amnesty International and other international human rights organizations. These two briefs await the appeal of *Ms. L. v. ICE* to the Ninth Circuit, which is currently delayed by a stipulated extension.

**FOIA REQUESTS AND LITIGATION.** In June 2018, CAI submitted separate but substantively identical Freedom of Information Act (FOIA) requests to the Office of Refugee Resettlement, the Administration for Children and Families, the United States Immigration and Customs Enforcement, the U.S. Department of Homeland Security, and the U.S. Customs and Border Protection, seeking records related to individuals detained or arrested for suspected immigration violation upon their entry into the U.S. from January 1, 2018–June 20, 2018.

The FOIA requests sought documents sufficient to demonstrate the number of children under age 18 detained upon detected entry into the U.S. for immigration-related causes (minor detainees), by month since Jan. 1, 2018, as available, and the following information for each minor detainee: whether the minor detainee was accompanied by an adult at the time of detention; if the minor detainee was accompanied by an adult at the time of his/her detention, whether the adult was identified or believed to be the parent of the minor detainee; all locations in which the minor detainee has been held in custody; languages spoken by the minor detainee; country of origin of the minor detainee; age at the time of the minor detainee’s initial detention; medical condition(s) of the minor detainee requiring treatment at the time of detention or while during detention; for minor detainees with medical condition(s) requiring treatment at the time of detention or while during detention, whether such treatment has been rendered; and whether the minor detainee has been appointed or retained legal counsel.

Further, for each minor detainee, CAI's requests asked for documents or databases sufficient to demonstrate whether he/she was left in the custody of his/her accompanying adult(s); whether he/she was tendered to a relative (other than the accompanying adult); whether he/she was tendered to a non-relative adult sponsor; whether he/she was physically barred from entry and is assumed to have left the U.S.; whether he/she was put in the custody of any federal agency, and if so, which such agency has custody; whether he/she was physically separated from his/her accompanying adult(s) for any period following his/her detention, and if so, the length of time such separation has taken place, the number of times he/she has had any physical contact with his/her accompanying adult(s) while in detention, and the total length of time of such contacts.

CAI also requested documents sufficient to demonstrate policies and procedures for determining the facilities or individuals who will have custody over minor detainees who are separated from their parents or accompanying adults; setting forth how minor detainees who have been separated from their parents or accompanying adults are to be treated, and assistance and services they are to receive,

while in federal custody (addressing concerns such as, but not limited to, ensuring safe and appropriate housing and bedding, clothing, meals, medical services, mental health treatment or counseling, supervision, education, and assistance with routine needs such as feeding, bathing and diapering); for tracking the custody locations for minor detainees who were separated from their parents or accompanying adults; documenting requests by detainees to be reunited with their minor detainee children being detained separately, and the outcome of each such request; and for permitting detainees to communicate with their minor detainee children, if they are being detained separately.

The agencies failed to comply with FOIA's statutory deadlines, produced limited and/or nonresponsive documents in response to CAI's requests, and/or failed to respond or produce any documents at all. Accordingly, CAI and pro bono co-counsel Sheppard, Mullin, Richter & Hampton LLP drafted a complaint, which will be filed in early 2019, seeking a court order declaring that the agencies failed to comply with FOIA, and requiring them to promptly release the requested records.

## CHILD HEALTH & SAFETY

*Since its inception, CAI has successfully advocated for several sweeping reforms to help ensure children's health and safety, including the Swimming Pool Safety Act, requiring residential swimming pools constructed after Jan. 1, 1998 to have one of five specific safeguards; the Bicycle Helmet Law, requiring helmets for kids under 18; the Children's Firearm Accident Prevention Act, making a gun owner criminally liable if he/she leaves a loaded firearm in a place accessible by a child, and the child accidentally injures himself/herself or others with the gun; and the Unattended Child in Motor Vehicle Safety Act, making it an infraction for the parent, legal guardian, or other person responsible for a child who is six years of age or younger to leave that child inside a motor vehicle, without being subject to the supervision of a person who is twelve years of age or older, and where there are conditions that present a significant risk to the child's health or safety, or when the vehicle's engine is running or the vehicle's keys are in the ignition, or both. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**PARENT'S ACCOUNTABILITY AND CHILD PROTECTION ACT.** In 2018, CAI sponsored AB 2511 (Chau) (Chapter 827, Statutes of 2018) which enacted The Parent's Accountability and Child Protection Act. Among other things, this measure requires, commencing on January 1, 2020 and notwithstanding any general term or condition, that a person or business that operates a business in California and that seeks to sell certain products or services that are illegal to sell to a minor under state law, take reasonable steps, as specified, to ensure that the purchaser is

of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. This bill provides that a business or person that violates these provisions is subject to a civil penalty of up to \$7,500 per violation in an action brought by a public prosecutor.

**CAI HELPS THWART EFFORT BY LEAD PAINT COMPANIES TO MAKE TAXPAYERS PAY FOR LEAD PAINT CLEANUP.** In a May 2018 editorial published by the San Francisco Chronicle, CAI's Ed Howard described how three powerful corporations were behind an initiative deceptively called the "Healthy Homes and Schools Act" which would have overturned a state appellate court ruling that found that for decades the companies "knowingly promoted lead paint for interior residential use," even though they knew lead exposure was dangerous, especially to children, and ordered them to create a fund for homeowner abatement efforts estimated to cost \$700 million. Also, the initiative would have made it impossible for homeowners or others to sue them again on the same grounds, declared that lead paint is not a public nuisance, and impaired the Legislature's power to pass laws to aid homeowners and victims. And in addition to wiping out the companies' court-ordered liability, the initiative also would have forced taxpayers to pay to pay for lead paint cleanup—draining an estimated \$4 billion from future state budget priorities, including schools and health care for kids.



In addition to revealing the true nature of the paint companies-sponsored initiative, Howard's op-ed discussed the efforts of several lawmakers who introduced 2018 legislation to aid victims, impose fees on paint companies to create a fund to help homeowners, permit more inspectors, and more. Due in part to CAI's public education efforts, the paint companies announced in June 2018 that they were withdrawing the initiative from the November ballot.

**POTENTIAL IMPACTS OF SYNTHETIC FOOD DYES ON CHILDREN.** In 2017, CAI co-sponsored AB 504 (Wieckowski), which would have directed the Office of Environmental Health Hazard Assessment (OEHHA) to review scientific literature on the risks to children who consume synthetic food dyes, if any, and issue a report that answers specified questions no later than July 1, 2019. Although that measure was not enacted, CAI—along with the Center for Science in the Public Interest and other advocates—continued to urge policymakers to have OEHHA

review research suggesting that synthetic food dyes in child-oriented foods triggers hyperactivity and other behavioral problems in some children. In June 2018, Senator Wieckowski announced that almost \$500,000 was included in the state's 2018–19 budget to have OEHHA conduct the literature review and risk assessment on the potential impacts of synthetic food dyes on children.

**CAI SUPPORTS BIKE HELMET LEGISLATION.** CAI, which helped win enactment of California's bicycle helmet safety law in 1993, supported 2018's AB 3077 (Caballero) (Chapter 502, Statutes of 2018), to allow a person under the age of 18 who is cited for not wearing a bicycle helmet to correct the violation within 120 days by proving he/she has a properly fitting helmet and by attending a bicycle safety course if one is available. CAI believes that AB 3077 will renew a collaborative effort among local law enforcement, schools, children's health and safety groups, and others to encourage the use of and access to helmets.



## IMPROVING CHILD-SERVING SYSTEMS

*Public systems that serve children, such as the child protection, child welfare, foster care, dependency, and juvenile justice systems, are capable of forever impacting a child's life—for better or worse. Too often, children involved with these systems are traumatized by the experience itself, in addition to whatever underlying ordeals brought them into contact with these systems. CAI's work in this regard seeks to ensure these systems have appropriate resources, policies, and protocols to bring about positive experiences and outcomes for the children they are serving. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**AMICUS ACTIVITY.** In July 2018, CAI joined an *amicus* brief in *B.K. v. McKay*, a federal district court case filed in Arizona, arguing in support of the use of Rule 23(b)(2) of the Federal Rules of Civil Procedure to litigate institutional reform cases, such as those involving foster children, incarcerated youth, immigrants in detention, and others when they challenge an unlawful policy or practice that threatens their well-being as a group.

Defendants were asking the court to decertify a class of children in the care and custody of Arizona's child welfare system because some putative class members may escape harm from the systemwide policies and practices to which they are all exposed. In response, *amici* argued that were courts to adopt this mistaken standard, virtually no Rule 23(b)(2) class could be certified, as an unlawful policy or practice will almost always cause differing degrees of actual injury to individual class members, and some may be lucky enough to avoid harm altogether. If such variations were sufficient to defeat class certification, systemwide relief from unconstitutional policies and practices would almost always be out of reach, and populations in the custody of the government would lose a vital tool for vindicating their rights. The court's opinion in this proceeding is expected to be issued in Spring 2019.

In October 2018, CAI joined an *amicus* brief in support of defendants-appellees in *Fulton v. City of Philadelphia*, a case pending in the Third Circuit Court of Appeals. The litigation involves Philadelphia's proposed continuation of Catholic Social Services' (CSS) contract to provide in-home foster care services—so long as CSS complies with the city's anti-discrimination requirements. CSS refused to

do so, instead apparently preferring to cease providing in-home foster care services. *Amici* argued that CSS's insistence on the right to discriminate on the basis of sexual orientation violates not only the city's contractual and regulatory requirements, but also the constitutional and statutory rights of children in the foster care system. Further, CSS's insistence on the right to discriminate conflicts with federal and state law protecting child welfare. *Amici* urged the Court to affirm the District Court's order denying CSS' demand for immediate injunctive relief compelling the city to place foster children with it. The Third Circuit's opinion in this proceeding is expected to be issued in 2019.



**LEGISLATIVE ADVOCACY.** CAI supported SB 1391 (Lara) (Chapter 1012, Statutes of 2018), which repeals the authority of a prosecutor to make a motion to transfer a minor from juvenile court to adult criminal court if the minor was alleged to have committed certain serious offenses when he or she was 14 or 15 years old. In its support, CAI noted that court-involved youth are less likely to commit new offenses if they are given age-appropriate services, resources, and educational support available in the juvenile system. By prohibiting the transfer to adult court of youth ages 14 and 15, SB 1391 will help ensure that youth receive the treatment, counseling, and education they need to develop into healthy, successful adults.

**HOMELESS COURT SUMMIT.** In November 2018, CAI co-sponsored—along with the ABA Commission on Homelessness and Poverty, the Judicial Council of California, and the San Diego Office of the Public Defender—the Homeless Court Summit, a convening of professionals from across the country who work with Homeless Courts (programs that enable homeless defendants to resolve misdemeanor offenses and warrants). In addition to featuring interactive breakout groups and panel discussions focused on charting a course for the future of collaborative justice/problem solving courts, the event served as a celebration of the 30<sup>th</sup> anniversary of the Homeless Court, which began in San Diego. CAI, which for years operated the Homeless Youth Outreach Project, was instrumental in having the San Diego Homeless Court expand its program to include minor defendants.





## IMPROVING THE FEDERAL GOVERNMENT'S OVERSIGHT AND ENFORCEMENT OF CHILD WELFARE LAWS

*For years, all three branches of federal government have been hugely underperforming with regard to their respective roles in enacting, implementing, interpreting, and enforcing child welfare laws. By failing to comply with their responsibilities vis-à-vis abused and neglected children, all three branches are allowing states to fall below minimum standards with regard to detecting and protecting children from child abuse and neglect and complying with minimum federal child welfare requirements, notwithstanding the fact that states receive nearly \$9 billion in annual federal funding to help them meet those floors. CAI's 2018 highlights, efforts, and accomplishments in this area include the following:*

**NATIONAL ADVOCACY TO ENHANCE OVERSIGHT AND ENFORCEMENT.** During 2018, CAI followed up on discussions that started with the 2015 release of its national report entitled, *Shame on U.S.*, which documented some of the ways in which all three branches of government had failed to adequately protect children from abuse and neglect.

CAI staff met multiple times with officials at the Department of Health and Human Services to discuss the existing framework to review and respond to state compliance with existing child welfare laws—the Child and Family Service Reviews. These reviews have never found a state to be in full compliance with the performance standards tested. And states that are out of compliance are required to fulfill a less stringent measure in order to pass. Current Administration officials have flagged this process to be improved on in the coming years, and CAI will continue to press for greater accountability by states and DHHS until all children and families are protected and all federal dollars have been spent in accordance with federal legislative standards and intent.

A stronger and better funded Child Abuse Prevention and Treatment Act was also a target of CAI's regulatory advocacy this year. The law is up for reauthorization and CAI has flagged lax oversight and anemic funding as targets for advocacy to ensure that the new version of the law is stronger, more robustly funded, and has the teeth it needs to adequately protect children.



# LEADERSHIP & COLLABORATION

CAI participates in state and federal collegial education and advocacy, and is part of several national coalitions such as the National Foster Care Coalition, the National Child Abuse Coalition, the Coalition on Human Needs, the Children's Budget Coalition, and the Child Welfare and Mental Health Coalition. We are also actively involved in the governance of the following organizations:

- ★ The National Association of Counsel for Children (NACC), the nation's major association of attorneys who represent children in court, juvenile, family and other venues. Professor Fellmeth served on the NACC Board for over 20 years, including a tenure as President, and Amy Harfeld now serves as a member of its Board.
- ★ The Maternal and Child Health Access Foundation was started at CAI and is now based in Los Angeles. It is now a major provider of services and expert advice on pregnant women and infants.
- ★ First Star Foundation now focuses on starting foster youth "academies" located on college campuses. Its early success indicates that giving foster children direct experience with college campuses facilitates major increases in college entry for these vulnerable children. CAI is also continuing to work with First Star Institute on joint national reports.
- ★ The Partnership for America's Children (PAC) is the successor organization for Voices for America's Children, which itself was formerly known as National Association of Child Advocates. CAI has been part of the governing board of all three of these entities. PAC includes child advocates operating in 42 state capitals currently. CAI's Elisa Weichel helped with the formation of PAC, and Professor Fellmeth serves as counsel to the Board and as its Treasurer.



CAI continued to organize, convene and chair the **Children's Advocates Roundtable** in Sacramento, as we have for 28 years. We are now joined in that effort by Children Now, and are working to expand the Roundtable's influence and the number of organizations participating. Chaired by CAI's Melanie Delgado, the Roundtable meetings feature presentations by state and national experts, policymakers, legislative and executive branch staff, and others on major issues impacting children and youth. During 2018, presentations focused on issues such as federal tax reform legislation and the federal and state budget acts' impact on children; child poverty; creating local dedicated funding streams for children; child care

policy; health care; the fostering stability campaign; education policy; the impact of recent policy and rule changes on the health and well-being of immigrant children; child welfare issues; reimagining children's behavioral health in California; the Mental Health Services Act and its impact on children and youth; First 5's Help Me Grow system; and more.

CAI also led the effort of the **Private For-Profit Post-secondary Campaign** and participated in other coalitions and consortiums, such as the CSEC-focused collaborations discussed above.



# SPECIAL PROJECTS

**ANNUAL JOURNALISM AWARDS.** During 2018, CAI continued to staff the Price Child Health and Welfare Journalism Awards, presented annually since 1992 to recognize excellence in journalism, and specifically to recognize significant stories, series, or bodies of work that advance the understanding of, and enhance public discourse on, child health and well-being issues (e.g., health, nutrition, safety, poverty, child care, education, child abuse, foster care, former foster youth, juvenile justice, children with special needs). The 2018 Journalism Awards were presented to the Chronicle of Social Change and the Center for Investigative Reporting, both for the outstanding and compelling contributions they make daily to the public's understanding of issues impacting children and youth, as well as other vulnerable populations.

**PANEL DISCUSSION ON JOURNALISM'S ROLE IN PROMOTING CIVIL DISCOURSE ON PUBLIC POLICY.** In conjunction with the 2018 Journalism Award presentation, CAI hosted an October 2018 panel discussion, *Ethical Journalism's Role in Promoting Civil Discourse about Public Policy*. Panelists included Scott Lewis, CEO/Editor in Chief, Voice of San Diego; Jeremy Loudonback, Senior West Coast Editor, The Chronicle of Social Change; Carl Luna, Ph.D., Director, Institute for Civil Civic Engagement, University of San Diego; Lissette Martinez, Director of Media Relations, University of San Diego; Lyle Moran, Freelance Journalist; and Bridget Naso, Military Reporter and Weekend Anchor, NBC 7 San Diego/KNSD. The discussion was moderated by Ed Howard, CAI's Senior Policy Advocate.





**EDUCATIONAL OPPORTUNITIES FOR JUVENILE COURT-INVOLVED YOUTH.** In conjunction with local partners throughout San Diego County, CAI continues its efforts to recruit, train, and oversee volunteers willing to temporarily hold educational rights for students in the foster care system. Also during 2018, CAI and a local foundation laid the groundwork to launch a pilot project aimed at providing volunteer advocates to work in partnership with families, caregivers, and/or other supportive adults to assist delinquency court-involved children meet their educational goals.

**LAWYERS FOR KIDS.** CAI's Lawyers for Kids program offers attorneys and law students the opportunity to serve as pro bono advocates to help promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on test litigation in various capacities. Among other things, Lawyers for Kids members have the opportunity to assist CAI's advocacy programs by responding to legislative alerts issued by CAI staff and by providing pro bono legal representation, either independently or with CAI serving as co-counsel.

**CHANGEMAKER BRUNCH.** In October 2018, CAI, the Center for Public Interest Law (CPIL), and the Energy Policy Initiatives Center (EPIC) hosted a Changemaker Brunch (see photos below), to celebrate the achievements of all three public interest programs, as well as our many alumni who have gone on to harness the power of the law to create positive social change in California and beyond. The event served as an opportunity to re-connect with CPIL/CAI/EPIC staff members, alumni, supporters, and colleagues; check out our renovated offices; meet new staff members; and engage with current students.







#### ***Changemaker Brunch Photos***

1. Meghan Land, Julia Schooler, Lynn Baker, Kristy Gill, Collette Cavalier
2. Ashlee Walcott, Elizabeth Rodriguez
3. Jeffrey Gill, Silvia Romero
4. Julie D'Angelo Fellmeth, Nancy D'Angelo
5. Jessica Heldman, Karen Prosek, Melanie Delgado
6. Ashley Fasano
7. Robert Dunham, Hala Alskaf, Lauren Crosby
8. Mary and Marissa Martinez
9. Mishaela and Glen Kirkpatrick
10. Aliz Nagyvaradi, Bob Fellmeth, Christina Riehl



# ACADEMIC PROGRAM

In addition to educating those interested in child welfare through conferences and presentations, one of CAI's primary responsibilities is to educate the child advocates of the future. That includes a core course in Child Rights and Remedies, as well as three clinics in which law students represent children in court and engage in policy research and advocacy at the state and federal levels. The USD School of Law offers a Concentration in Child Rights, and an increasing number of law students are graduating with this distinction, demonstrating their commitment to this educational focus.

The USD School of Law is honored to have been endowed with the Fellmeth-Peterson Faculty Chair in Child Rights, which will assure the continuation of CAI as an educational part of USD and as an effective advocate for children. The chair is named in honor of Robert B. Fellmeth (father of CAI Executive Director Robert C. Fellmeth) and Paul Peterson, a longstanding supporter and inspiration for CAI from its beginning 30 years ago. In August 2018, CAI was delighted to welcome USD School of Law and CAI alumna Jessica Heldman back to USD as the holder of the Fellmeth-Peterson Professor in Residence in Child Rights. Prior to taking this position, Heldman served as Associate Executive Director at the Robert F. Kennedy National Resource Center for Juvenile Justice at Robert F. Kennedy Children's Action Corps, where she provided technical assistance and training to state and local jurisdictions, guiding the development of law and policy within child welfare and juvenile justice systems throughout the nation.

The centerpiece of CAI's academic program is Child Rights and Remedies, a one-semester course taught in a modified Socratic method with students assigned various roles (child attorneys, parent attorneys, feminist advocates, fathers' rights advocates, fundamental religious, civil liberties advocates, Attorney General, et al.). The course is a prerequisite to participation in CAI's Child Advocacy Clinic, which offers three unique opportunities to advocate on behalf of children and youth—the Dependency Clinic, the

Delinquency/At-Risk Youth Clinic, and the Policy Clinic. During Fall 2018, Bob Fellmeth and Jessica Heldman team-taught Child Rights and Remedies, and started drafting the fourth edition of the casebook used in that course. Heldman also supervised several students participating in CAI's three clinics.

In May 2018, CAI honored seven graduating law students for their exceptional work on behalf of children and youth. CAI presented the **2018 James A. D'Angelo Outstanding Child Advocate Award to Ashley Choy, Curtis Davis, Crystal Gamache, Amanda Gilleland, Maureen Gregory, Nareene Karakashian, and Hanna Tavill.** These students participated in CAI's Child Advocacy Clinic and/or engaged in other child advocacy opportunities in which they protected and promoted the rights and interests of countless children and youth.

Also in May 2018, CAI presented the **2018 Joel and Denise Golden Merit Award in Child Advocacy to Ashlee Walcott.** This award is presented annually to a second year law student who has already started to use his/her developing legal skills to benefit foster children. Even prior to starting her third year of law school, Ashlee made considerable contributions to the field of child advocacy in general, and on behalf of children in foster care specifically.

In addition to participating in CAI's academic offerings, USD

School of Law students have also created a child advocacy-focused student organization, Advocates for Children and Education (ACE), for which Bob Fellmeth and Jessica Heldman serve as Co-Faculty Advisors. Founded in 2012 by CAI student Lisa Charukul, ACE seeks to promote the welfare of children by providing USD law students with opportunities to work with children in the local community. ACE provides volunteer opportunities in the areas of juvenile delinquency, special education, and general mentoring and advocacy. Additionally, ACE provides resources and information about careers in child advocacy and education law.





# DONORS & FUNDERS

We thank all those who make our work possible, and in particular, the late Sol and Helen Price; Robert and Allison Price and the entire Price Family; the Paul A. Peterson family; and Louise Horvitz. Their vision of what we should be remains our charted course. We are also grateful to our Council for Children and our Dean and colleagues on the faculty, many of whom contribute to CAI.

We are also thankful for the generous grants, gifts, and other funding contributed or directed to CAI by the following individuals and organizations between January 1, 2018, and December 31, 2018, or in response to CAI's 2018 holiday solicitation. CAI is fortunate to have the personal backing of many highly respected individuals. Together, these funds support CAI's advocacy, outreach, and public education efforts at the local, state, and federal levels; without them—without you—CAI would not be able to do what we do.

John Abbott *In memory of Vickie Bibro*

Kenneth E. Ables

John & Jacqueline Adler

Travis Anderson

Anonymous *In memory of Raul Cadena*

Anonymous *In memory of Penny Brooks*

Anonymous

Anonymous Foundation

Anzalone & Associates

Francesca Aguirre

Maureen Arrigo

Association of the Open Mind and Spirit

Shay Barnes

Bob & Margaret Bavasi

Mary Behnam

William Benjamin

Bill & Lyn Bentley

Vickie Bibro<sup>†</sup>

Norm & Diane Blumenthal

Roger & Pamela Boss *In memory of Dave Durkin*

Alan & Susan Brubaker *In memory of James A. D'Angelo*

Dana Bunnett

Michael Butler

California Community Foundation

Carlos Carriedo *In memory of Margaret Carriedo*

Candace Carroll & Len Simon

Shannon Castellani

Gregory Catangay

Melissa Cates

Laurence P. Claus

Tim Cohelan

<sup>†</sup>Deceased



Philip Meyer Cohen  
Jim Conran  
Costco Wholesale  
Margaret Dalton  
Nancy D'Angelo *In memory of James A. D'Angelo*  
Steven Davis  
Stephen B. Davis  
Craig D. Dingwall  
Clifford P. Dobrin *In memory of Joann Dobrin and in honor of Michala Morris*  
Durkin Family *In memory of David X. Durkin*  
Patrick & Janet Durkin *In memory of David X. Durkin*  
Gary Edwards  
Rich Edwards *In memory of Ellen Hunter*  
Gene Erbin & Donna Freeman  
Joan & Sean Flaherty  
Dave & Julie Forstadt *In memory of James A. D'Angelo*  
Lisa Foster & Alan Bersin  
Ron Frazier  
Jeffrey T. Gill  
Beth Givens  
Jamie Glover  
Dr. John Goldenring  
Goodshop  
James Goodwin *In memory of James A. D'Angelo*  
Carolyn Griesemer  
Amy Harfeld  
Patricia Hart *In memory of Tatum Everhart Cox*  
Noah & Jessica Heldman  
Virginia Henkels  
Brigitta Herst  
Adrienne Hirt & Jeffrey Rodman  
Dr. Louise S. Horvitz  
Kirk & Julie Hulett  
Blaise Jackson *In memory of James A. D'Angelo*  
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Jewish Community Foundation of Los Angeles  
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 Gary Redenbacher & Renae Fish  
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 Catherine Stephenson  
 John Thelan  
 James Topper  
 Prof. Edmund Ursin  
 Nancy L. Vaughan  
 Elisa & Timmy Weichel *In memory of James A. and Peter T. D'Angelo*  
 Carrie Wilson  
 Marjorie & Ya-Ping Zhou



*While every effort has been made to ensure accuracy, we apologize for any mistakes or omissions.*

*A final note about Sol and Helen Price, that we have repeated each year, and which we shall continue to repeat. Their passing will never diminish *our* duty to represent their ideals for child representation — we strive to be an important part of their legacy. All of us at CAI feel their presence, and what they would want us to do is our guiding lodestar.*



# COUNCIL FOR CHILDREN

CAI is guided by the Council for Children, an advisory body that meets periodically to review policy decisions and recommend action priorities. Its members are professionals and community leaders who share a vision to improve the quality of life for children in California. CAI is also honored to have former Council members who served for many years remain a part of the Council as emeritus members. Accordingly, the CAI Council for Children includes the following:

**Council Chair:** Gary F. Redenbacher, J.D.  
*Attorney at law*

**Council Vice-Chair:** Gary Richwald, M.D., M.P.H.  
*Consultant Medical Director, California Cryobank*

**Council Members:** Bill Bentley  
*Child Advocate*

Denise Moreno Ducheny  
*Attorney, Former State Senator*

Anne E. Fragasso, Esq.  
*California Appellate Project, Staff Attorney*

John M. Goldenring, M.D., M.P.H., J.D.  
*Health Plan Medical Director, Pediatrician and Adolescent Medicine specialist, and attorney at law*

Hon. Leon S. Kaplan  
*Retired Judge, Los Angeles Superior Court*

David M. Meyers  
*Chief Operating Officer, Dependency Legal Services*

Thomas A. Papageorge, J.D.  
*Special Prosecutor, Economic Crimes Division, San Diego District Attorney's Office*

Gloria Perez Samson  
*Retired school administrator*

Ann Segal  
*Consultant*

John Thelan  
*Senior Vice President, Costco Wholesale*



**Emeritus Members:**

Robert Black, M.D.

*Pediatrician*

Birt Harvey, M.D.

*Professor of Pediatrics Emeritus, Stanford University*

Louise Horvitz, M.S.W., Psy.D.

*Licensed clinical social worker, individual and family psychotherapist*

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*Past President and Chief Executive Officer, Children's Hospital and Health Center*

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*Retired neonatologist; Past President of the Medical Board of California; President, Federation of State Medical Boards of the United States*

Owen Smith

*Past President, Anzalone & Associates*

<sup>†</sup>Deceased

## STAFF

During 2018 CAI was extremely fortunate to have the following passionate and dedicated team of employees, all of whom contributed greatly to the work CAI did — and the achievements CAI made on behalf of children and youth across the state and nation:

**Executive Director:**

Robert C. Fellmeth

*Price Professor of Public Interest Law*

**CAI Team:**

Tina Calvert

*Executive Assistant*

Melanie Delgado

*Senior Staff Attorney / Director of Transition Age Youth Projects*

Katie Gonzalez

*Assistant Director, Public Interest Law Communications*

Amy Harfeld

*National Policy Director / Senior Staff Attorney*

Jessica Heldman

*Fellmeth-Peterson Professor in Residence in Child Rights*

Ed Howard

*Senior Counsel / Senior Policy Advocate*

Elisa Weichel

*Administrative Director / Senior Staff Attorney*

# HELP CAI HELP KIDS

We greatly appreciate your continued support of CAI's work. Here are a few different ideas for how you can help us help kids:

- ★ Make a tax-deductible donation to CAI online at [law.sandiego.edu/caigift](http://law.sandiego.edu/caigift) or for other donation options, contact us by phone or email (see below).
- ★ Participate in meetings of the **Children's Advocates' Roundtable** and/or follow the Roundtable activities on Facebook.
- ★ Volunteer to serve as an **Educational Rights Holder** for a San Diego County Juvenile Court-involved student.
- ★ For attorneys involved in class actions that result in a **cy pres distribution**, identify CAI as a potential recipient.
- ★ Subscribe to **E-NewsNotes**, periodic emails from CAI about important legislative or regulatory proposals, significant litigation, new reports and publications, and other important events that impact the health and well-being of California's children.
- ★ Join **Lawyers for Kids**, which gives attorneys, law students, and others in the legal community the opportunity to use their talents and resources as advocates to promote the health, safety, and well-being of children; assist CAI's policy advocacy program; and work with CAI staff on impact litigation or by offering expertise in drafting amicus curiae briefs.

- ★ Make CAI your charity of choice when using [www.goodsearch.com](http://www.goodsearch.com) to conduct online searches or [www.goodshop.com](http://www.goodshop.com) when shopping online. GoodSearch is a Yahoo-powered search engine that donates about a penny per search to CAI each time you use it to search the Internet. GoodShop is an online shopping mall which donates up to 30% of each purchase to CAI. Hundreds of vendors — stores, hotels, airlines, and other goods and service providers — are part of GoodShop, and every time you place an order, part of your purchase price will go directly to CAI!
- ★ Purchase a **California Kids' Plate**, a special license plate featuring one of four special symbols: a star, a hand, a plus sign, or a heart. Proceeds support local and statewide programs to prevent child injury and abuse, as well as childcare health and safety programs.
- ★ Review the list of CAI's legislative priorities currently pending at the state and federal levels (see [www.caichildlaw.org](http://www.caichildlaw.org)) and express support to your elected officials.

**For information on these opportunities and all of CAI's activities, please visit CAI's website at [www.caichildlaw.org](http://www.caichildlaw.org), email us at [info@caichildlaw.org](mailto:info@caichildlaw.org), or call us at (619) 260-4806.**









