

FACT SHEET: THE "BEST INTERESTS OF THE CHILD" STANDARD



WHAT IS THE "BEST INTERESTS OF THE CHILD" STANDARD?

The "best interests of the child" is a principle to ensure government policies safeguard the rights and holistic needs of children. The principle is applied in countries around the world and in all 50 states, the District of Columbia, and U.S. territories for specific decisions regarding children.¹ The "best interests of the child" term refers to certain factors that contribute to children's well-being. These factors include:

- » **The child's views:** Children's views should be given due weight according to their age and maturity to avoid paternalism and discrimination.
- » **The child's safety:** Children should be protected from all forms of violence, injury, and abuse.
- » **The child's well-being:** Policies should ensure children's development, including their physical, mental, and emotional health, access to education, and access to play and leisure.
- » **The child's identity:** While all children have universal needs, there are needs that are specific to groups of children based on their race, ethnicity, gender, sexual orientation, disability, religion, and immigration status, among other things.
- » **Family unity:** Policies should seek to maintain family relationships, including extended family, where there is not an imminent threat of harm to the child.

This standard can apply to all forms of policymaking, including laws, policies, strategies, programs, plans, guidelines, and budgets. Through the application of this principle, we can improve outcomes for children, their families, and everyone in the United States.

WHY IS THE "BEST INTERESTS" STANDARD IMPORTANT FOR CHILDREN?

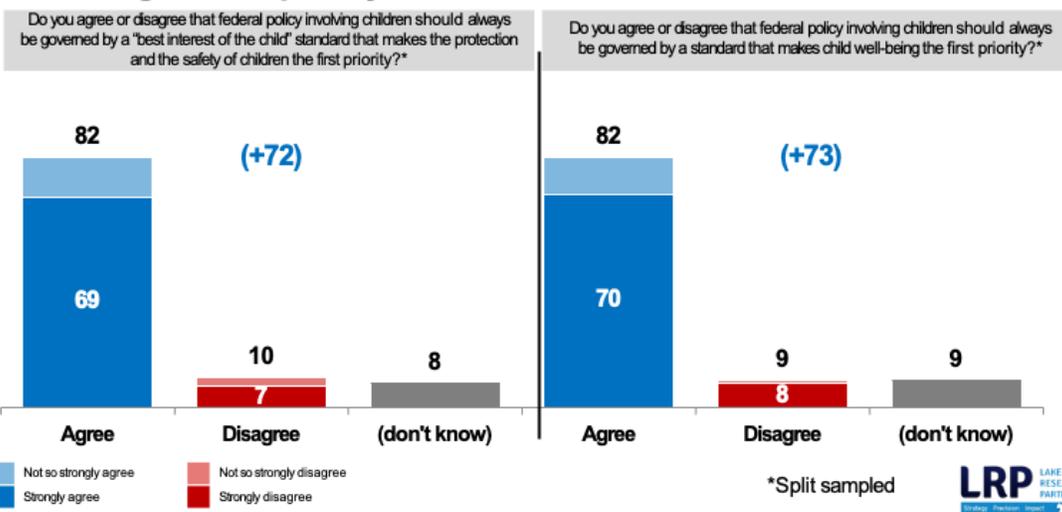
Children are too often an afterthought in federal policymaking. Though every aspect of government policy impacts kids, from health care to transportation, the government has no way to evaluate whether policies would be good or bad for children, and no unified standard to use for that evaluation. The United States' response to the needs of children, both domestically and globally, is fragmented and undermines the ability to holistically advance children's well-being. Because of their age, dependency, maturity, and lack of mechanisms to make the case for their own interests and needs, children depend on adults in society and government to support of their health and well-being. Without a clear mandate to consider their needs, children will continue to be disregarded in policy decisions that impact their lives and well-being. A "best interests of the child" standard would make positive outcomes for children a major objective of policymaking and create a benchmark through which all policies can be evaluated.

CONCLUSION

The American people agree that all government policies should be governed by a best interest standard. Americans have been consistent in their support for this standard and support it regardless of their political persuasion and whether or not they have children. Whether through executive action or through legislation, our government must adopt a "best interest of the child" standard for all government policies, advancing child well-being today and for years to come.

¹The "best interests" principle is also one of the fundamental principles of the Convention on the Rights of the Child, which all countries but the United States have ratified. Committee on the Rights of the Child General Comment 14, para. 1.

Voters express intense and broad support for federal policy protecting children – whether we refer to the best interest of the child or making child well-being the first priority. Both are core values.



Case Study: Young Center for Immigrant Children's Rights

Federal immigration law does not require immigration officials to consider children's best interests when making decisions about them nor does it mandate that all policies address children's best interests. However, for 18 years, the Young Center for Immigrant Children's Rights has provided independent child advocates (best interests guardians ad litem) to unaccompanied children in deportation proceedings to identify children's best interests and advocate with federal immigration officials. Based on the organization's experience working with thousands of children, the Young Center also advocates for changes to laws, policies, and practices by all agencies with authority over immigrant children's cases that are grounded in a best interests perspective. These have included:

- » Challenging the separation of children from parents and other family members at the border
- » Arguing for an end to the "Title 42" and "Remain in Mexico" programs because they undermined the best interests of every impacted child
- » Developing a framework for each agency to consider the child's best interests in every decision, focusing on the child's wishes, safety, and rights to family unity, liberty, development, and identity, even without a statutory mandate

Example: Application to International Climate Policies

On November 3, 2021, the U.S. Agency for International Development (USAID) announced its commitment to develop a new climate strategy to guide the agency's efforts to integrate climate change considerations into all its programs. They also released a draft strategy for public review. In thinking through its climate policies, USAID can examine how the factors outlined above would affect the final outcomes of its policies and programs.

- » Child views: Children in the United States and around the world have been organizing in support of addressing climate change. USAID bureaus could speak directly to children and learn their views about climate change generally or about specific policies.
- » Child Safety: Climate-related disasters may expose children to violence and exploitation through displacement or making it unsafe to go to school.
- » Child Well-being: Toxic pollution or climate-related disasters may disrupt children's access to health services, keep them away from school, and deny them safe places for recreation and play, all of which negatively impact their healthy development.
- » Child Identity: Environmental racism and colonialism display how failure to act or harmful policies disproportionately impact children of color, including those in "Global South" countries.
- » Family Unity: Climate change is likely to displace millions of children from their homes, which may result in family separation.

By considering children's best interests, USAID can ensure that its revised climate policies maximize the health and well-being of all children.