



## DEPARTMENT OF HEALTH & HUMAN SERVICES

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### ADMINISTRATION FOR CHILDREN AND FAMILIES

Mary E. Switzer Building  
330 C ST, S.W.  
Washington, D.C. 20201

FOIA No: 20-F-0091

August 4, 2020

Mr. Austin Evers  
Executive Director  
American Oversight  
1030 15<sup>th</sup> Street NW, Suite B255  
Washington, DC 20005

Dear Mr. Evers:

This is the final response of the Administration for Children and Families (ACF), January 9, 2020 Freedom of Information Act (FOIA) request. You requested “any contracts, agreements, memoranda of understanding (MOUs), or memoranda of agreement (MOAs) between (1) the Administration for Children & Families (ACF) and/or its Office of Refugee Resettlement and (2) other federal, state, or local agencies or nongovernmental organizations regarding sharing information about migrants and/or sponsors for migrant children from January 20, 2017, through the date of the search.

The Office of Refugee Resettlement (ORR) conducted a search and located 54 pages responsive to your request.

Some of the information on the disclosed pages has been withheld under the FOIA exemptions (b)(6), b)(7)(C), and (b)(7)(E) .

FOIA exemption (b)(6) permits the withholding of records which, if released, would constitute a clearly unwarranted invasion of personal privacy. In this case, the withheld information consists of the identities and/or other private information of individuals. Public disclosure of this information would constitute an invasion of privacy of those individuals whose identifying information was disclosed.

Exemption (b)(7) authorizes our agency to withhold records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would cause the following harm(s):

- (b)(7)(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

- (b) (7) (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, if such disclosure could reasonably be expected to risk circumvention of the law; or could reasonably be expected to endanger the life or physical safety of any individual.

If you are not satisfied with any aspect of the processing and handling of this request, please contact Kaleah Aaron at [Kaleah.aaron@acf.hhs.gov](mailto:Kaleah.aaron@acf.hhs.gov). You also have the right to contact the ACF FOIA Public Liaison for assistance at:

Kenneth Wolfe FOIA Public Liaison  
U.S. Department of Health and Human Services  
Administration for Children and Families  
Office of Communications, Room 4002A  
330 C Street, S.W.  
Washington, DC 20201

You have the right to appeal this determination. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

Your appeal must be mailed within 90 days from the date of this response, to:

Kim Hutchinson  
Agency Chief FOIA Officer  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
Room 729H  
200 Independence Avenue, S.W.  
Washington, DC 20201

Please clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

Sincerely yours,

**Carla C.**  
**Smith -S**

Digitally signed by  
Carla C. Smith -S  
Date: 2020.08.04  
18:52:37 -04'00'

Celeste Smith  
Director  
Freedom of Information Office  
Office of Communications  
Administration for Children and Families  
U.S. Department of Health and Human Services

# Unaccompanied Alien Children Joint Concept of Operations

July 31, 2018



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List of Acronyms

A-File	Alien File
A-Number	Alien Number
ACF	Administration for Children and Families
CBP	U.S. Customs and Border Protection
COA	Change of Address
COV	Change of Venue
CRCL	Office of Civil Rights and Civil Liberties
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
DUCO	Division of Unaccompanied Children's Operations
EOIR	Executive Office for Immigration Review
ERO	Enforcement and Removal Operations
FFS	Federal Field Specialist
FOJC	Field Office Juvenile Coordinator
HHS	U.S. Department of Health and Human Services
HPC	HHS Processing Centers
ICE	U.S. Immigration and Customs Enforcement
IJ	Immigration Judge
INA	Immigration and Nationality Act
JCO	Joint Concept of Operations
JFRMU	Juvenile and Family Residential Management Unit
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NCIC	National Crime Information Center
NTA	Notice to Appear
OFO	Office of Field Operations
OIG	Office of Inspector General
ORR	Office of Refugee Resettlement
ROR	Released on Own Recognizance
SEN	Significant Event Notification
SIJ	Special Immigrant Juvenile
SIR	Significant Incident Report
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008
UAC	Unaccompanied Alien Child(ren)
UAC MAP	Unaccompanied Alien Children Manual of Procedures
USBP	U.S. Border Patrol

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### Introduction

An unaccompanied alien child (UAC) is defined in statute as a child who: A) has no lawful immigration status in the United States; B) has not attained 18 years of age; and C) with respect to whom (i) there is no parent or legal guardian in the United States, or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

The Department of Homeland Security (DHS) and the Department of Health and Human Services (HHS) each have separate responsibilities for the care, custody, and transfer of UAC. U.S. Customs and Border Protection (CBP) apprehends and holds UAC encountered at or near the border. U.S. Immigration and Customs Enforcement (ICE) apprehends UAC in the interior of the country, is responsible for custody transfer and repatriation activities, and represents the U.S. Government in removal proceedings before the U.S. Department of Justice (DOJ). HHS' Office of Refugee Resettlement (ORR) is responsible for coordinating and implementing UAC care and placement responsibilities once UAC<sup>1</sup> are transferred to the program by DHS, as well as conducting suitability determinations to ensure safe releases of UAC to sponsors who can provide for their physical and mental well-being.

The 1997 *Flores* Settlement Agreement, Homeland Security Act of 2002, (6 U.S.C. § 279), and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) (8 U.S.C. § 1232) directly impact UAC policies and procedures. Departmental guidance, policies, procedures, and interagency agreements further inform UAC operations.

#### *Office of Inspector General (OIG) Report Background*

In March 2008, the HHS Office of Inspector General (OIG) issued a report recommending that HHS and DHS establish a Memorandum of Understanding (MOU) that would, "...clearly delineate the role and responsibilities of each Department" with regard to UAC operations. In written comments to the draft report, HHS' Administration for Children and Families (ACF) pointed out that ORR was drafting a Joint Operations Manual with DHS as a first step toward drafting an MOU. Due to intervening changes in statutory authority and other administrative priorities, work on a Joint Operations Manual stalled.

#### *2016 Memorandum of Agreement*

On February 19, 2016, DHS and HHS signed a Memorandum of Agreement (MOA) regarding UAC. The purpose was to accomplish the following: continue addressing the needs of UAC to ensure the safe and expedited transfer and placement from DHS to HHS custody; maximize efficiency in the allocation and expenditure of respective program costs; ensure information is transmitted to facilitate appropriate placement decisions and for HHS to promptly place the child in the least restrictive setting that is in the child's best interest until the child is released to an appropriate sponsor; continue the statutorily-required consultation between the departments with respect to UAC placement determinations; protect UAC in the custody of the United States or

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<sup>1</sup> Certain UAC from contiguous countries (Mexico and Canada) will not be transferred to ORR.

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released to sponsors from mistreatment, exploitation, and trafficking; and promote effective immigration processing as well as the safe repatriation and reintegration of UAC.

### *Working Group Structure*

The 2016 MOA called for the establishment of a working group comprised of UAC subject matter experts from both departments to address operational matters for inclusion in a Joint Concept of Operations (JCO). The working group from HHS included ORR staff from a diverse group of backgrounds including supervisory program operations staff; field components; grantee oversight; monitoring and compliance; and policy and procedures. The working group met on several occasions in late 2016 and concluded that a JCO outlining the responsibilities of DHS and HHS in the overlapping operations concerning processing, care (services), and transportation of UAC, would fulfill each responsibility required under Paragraph 4A of the 2016 MOA. The co-chairs of the working group left open the possibility of further collaboration on additional overlapping topic areas for inclusion in the JCO outline once the initial draft is published in order to further document joint efforts between the agencies or address operational issues in a cooperative manner.

### *2018 Memorandum of Agreement*

On April 13, 2018, ORR, ICE, and CBP entered into a new Memorandum of Agreement (MOA) regarding consultation and information sharing practices between the agencies. In the 2018 MOA, ORR agreed to do the following: fingerprint all sponsors and adult members of the sponsor's household prior to the release of a UAC from ORR care and custody; transmit fingerprints/biographic information on sponsors and adult household members to DHS while a UAC is in ORR care; and to report certain situations or incidents to DHS component agencies as outlined in the MOA. DHS agreed to provide ORR certain documents at the time of initial referral necessary for ORR to make informed placement decisions; provide ORR with criminal history information or investigatory information, to the extent allowed by law, that would aid ORR in making care and placement decisions for UAC; provide ORR summary responses to fingerprint/biographic submissions, specifically immigration status information, criminal history checks of the national databases, and checks for wants and warrants. The 2016 MOA remains in effect and is not superceded by the 2018 MOA.

### *Purpose and Scope*

This Joint Concept of Operations memorializes current practices in accordance with:

- Homeland Security Act of 2002, Pub. L. No. 107-296, § 462, 116 Stat. 2135, 2202 (codified at 6 U.S.C. § 279);
- Immigration and Nationality Act of 1952 (INA), Pub. L. 82-414, 66 Stat. 163, 8 U.S.C. ch. 12;
- Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, § 235, 122 Stat. 5044 (codified in principal part at 8 U.S.C. § 1232);

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- Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §15607, Jenny Lisette Flores, et al. v. Janet Reno, Attorney General of the United States, et al., Case No. CV 85-4544-RJK (Px) (C.D. Cal. 1996) (*Flores* Settlement Agreement);
- Memorandum of Agreement ORR-ICE-CBP Regarding Consultation and Information Sharing in UAC Matters (April 13, 2018) (MOA ORR-ICE-CBP);
- Memorandum of Agreement DHS-HHS Regarding Unaccompanied Alien Children (February 22, 2018). (MOA 2016);
- Departmental and agency guidelines, policies, and procedures.

## I. TRANSPORTATION

Transportation from DHS custody to HHS custody and determination of placement while in HHS custody, is a shared responsibility between CBP, ICE – Enforcement and Removal Operations (ICE/ERO), and HHS/ORR.

### A. PLACEMENT INTO ORR CUSTODY

#### 1. Notification

##### a. Responsible Agency:

- i. ORR makes the placement determinations and notifies both the Referring Agency and the facility's representative by email ("Placement Confirmation") when UAC placement has been obtained, which must occur within 72 hours of the UAC determination. See UAC MAP, sections 1.3.1-1.3.2
- ii. Upon placement confirmation from ORR, ICE/ERO is responsible for facilitating the UAC transfer from DHS custody to HHS custody. See ORR Policy Guide, section 1.1; UAC MAP, section 1.3.4.
- iii. ICE/ERO is responsible for transfer to ORR care provider facilities after ORR designates placement. ICE/ERO may have local agreements in place with CBP to conduct transfers to ORR care providers.
- iv. In most areas, the ICE/ERO transportation contractor coordinates directly with CBP and HHS for operational arrangements and estimated time of arrival notices. To meet the statutorily mandated 72-hour transfer requirement the ICE/ERO transportation contractor tracks movements from the Referring Agency's time of UAC determination.

##### b. Timeframe/Deadline:

- i. Notification to ORR should be made as soon as possible, but no later than 48 hours after apprehension or any claim or suspicion that an alien in custody is under the age of 18.<sup>2</sup>
- ii. Notification to ICE/ERO for transportation is made immediately upon receipt of placement notification.

##### c. Requirements:

- i. *UAC Initial Placement Referral Form:* The *UAC Portal* should be used whenever feasible. However, in the event that the *UAC Portal* is not

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<sup>2</sup> 8 U.S.C. § 1232(b)(2).

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available, a placement request can be submitted by completing the *UAC Initial Placement Referral Form* and submitting to the ORR Intakes mailbox. A completed *UAC Initial Placement Referral Form*, along with any supporting documentation, should be scanned and emailed to [orrducs\\_intakes@acf.hhs.gov](mailto:orrducs_intakes@acf.hhs.gov) (with read receipt), or faxed to (202) 401-1022. If there are concerns regarding the placement request, please call ORR Intakes directly at (202) 401-5709. See UAC MAP, sections 1.3.1-1.3.2

- ii. For UAC with indicators requiring placement in a restrictive setting (e.g. secure, staff secure, or residential treatment facility), Intakes staff additionally complete the *Intakes Placement Checklist* and forward the placement request to an ORR FFS Supervisor for a final placement decision. The Intakes team communicates the final placement decision to DHS. See UAC MAP sections, 1.2.4; 1.3.2

## 2. Preparation

### a. Responsible Agency:

- i. Prior to transporting, CBP and ICE are responsible for ensuring that the UAC has been processed, charging documents have been properly served as applicable, ORR shelter placement has been requested, and bed space is confirmed.
- ii. CBP is responsible for the initial medical screening. The CBP Transport, Escort, Detention, and Search (TEDS) policy states that if officers/agents suspect that a detainee has an observed or reported medical condition, such as a contagious disease, appropriate protective precautions must be taken and any required notifications be made according to the operational office's policies and procedures.

### b. Timeframe/Deadline:

- i. If a UAC encountered at a land border or port of entry of the United States does not meet criteria for withdrawal of an application for admission per 8 U.S.C. §§ 1232(a)(2)(A) and (B), or if no determination can be made within 48 hours of apprehension in accordance with 8 U.S.C. § 1232(a)(4), the UAC must be transferred to ORR within 72 hours after the UAC determination.<sup>3</sup>

### c. Requirements:

- i. *IHSC-795J*, Medical Summary (Juvenile): The UAC cannot travel without a recent medical summary, including an attached list of any medications.

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<sup>3</sup> 8 U.S.C. § 1232(a)(4).

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- ii. *CBP-93, UAC Screening Addendum*: Utilized, as appropriate, to assess the likelihood that a UAC has been a victim of trafficking or is at risk of being trafficked, has a fear of return, and assesses the child's ability for independent decision-making.
- iii. *Form I-770, Notice of Rights and Request for Disposition*: DHS must provide this form to all UACs.

**3. Logistics**

a. Responsible Agency:

- i. ICE/ERO is required to provide appropriate numbers of escort and transportation vehicles for transporting UAC, in accordance with agency policy.
- ii. Non-Secure Staff/Shelter
  - 1. *Commercial Air*: The ICE/ERO UAC transportation contractor coordinates directly with HHS, and CBP as appropriate, for operational arrangements and estimated time of arrival notices. The ICE/ERO UAC transportation contractor provides unarmed escorts nationwide on long-distance commercial air services of UAC that terminates at non-secure ORR shelters.
  - 2. *Ground Transport*: The ICE/ERO UAC transportation contractor also provides ground transportation to local ORR shelters in some areas.
  - 3. *Charter*: The ICE/ERO UAC transportation contractor can coordinate charter flights for travel to New York, Chicago, Miami, and Phoenix, if approved by ICE/ERO Juvenile & Family Residential Management Unit. These cities have high concentration of ORR shelter beds.

iii. Secured Staff Shelter

- 1. ICE/ERO conducts transportation to ORR secure and staff-secure facilities.

b. Timeframe/Deadline:

Movements are conducted expeditiously to ensure there are no TVPRA violations. In most cases, transportation occurs within 24 hours of placement confirmation.

c. Requirements:

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- i. Notification to ORR through U.S. Border Patrol's (USBP) system of record (E3) or the *UAC Portal* includes (see UAC MAP, sections 1.1, 1.3; 2018 MOA ORR-ICE-CBP, Section IV(A)(1)):
  - 1. Basic UAC Biographical Data (name, date of birth, country of birth, potential sponsor information);
  - 2. Situational Factors (Health, Pregnancy, travel companions, etc.);
  - 3. Human trafficking indicators; and
  - 4. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, gang affiliation or suspected gang affiliation, and violence or behavioral concerns.
- ii. ORR Placement Confirmation email notification, which includes (see UAC MAP, section 1.3.3; 2018 MOA ORR-ICE-CBP, Section IV(A)(3)):
  - 1. Basic UAC Biographical Data;
  - 2. Care provider facility name and address; and
  - 3. Facility point-of-contact name and phone number.
- iii. *DHS I-191*: ICE/ERO generates *DHS I-191*, Accounting for Disclosure, for each record, or group of records disclosed to ORR.

**4. Custody Transfer**

- a. Responsible Agency:
  - i. ORR assumes custody upon physical arrival of UAC at the designated care provider facility. See ORR Policy Guide, section 1.1.
- b. Timeframe/Deadline:
  - i. Except in the case of exceptional circumstances, any department or agency of the Federal Government that has a UAC in its custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is a UAC.
- c. Requirements:
  - i. The custody-transfer packet includes (see UAC MAP, section 1.3.4; MOA ORR-ICE-CBP, section IV(A)(2)):

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1. Copies of all identification documents;
  2. *Form I-213*, Record of Deportable/Inadmissible Alien;
  3. *Form I-216*, Record of Person and Property Transferred;
  4. *Form I-217*, Information for Travel Document or Passport;
  5. *Form I-862*, Notice to Appear or charging document;
  6. *Form I-770*, Notice of Rights and Request for Disposition for Minors;
  7. *Form I-200*, Warrant for Arrest of Alien;
  8. *CBP Form 93*, UAC Screening Addendum (trafficking information), if conducted;
  9. Copies of any publicly available federal, state, or local criminal records in possession of the apprehending DHS Component (ICE or CBP) at the time of transfer describing any gang, immigration, criminal or other activity that may affect placement, including *Orantes* notification as applicable;
  10. *DIHS-794*, In-Processing Health Screening Form;
  11. Any medical paperwork (e.g., hospital records); and
  12. List of medications.
- ii. Although it is standard operating procedure for ICE/ERO to deliver custody transfer packets in the manner prescribed in this section, an ORR care provider cannot refuse to accept a UAC because of missing DHS-issued paperwork, without ORR's permission. See ORR Policy Guide, section 1.3.3.

## B. DISCHARGE FROM ORR CUSTODY

### 1. Notification

- a. Responsible Agency:
  - i. Release to Sponsor: ORR is responsible for notifying ICE/ERO that a UAC is being prepared for release, and again when a UAC is released. See ORR Policy Guide, section 2.8.2; 2.8.3; UAC MAP, section 2.8.
  - ii. Age-Outs: ORR is responsible for notifying ICE/ERO that a UAC is turning 18 years old or that an age-determination has found the alien to be more than 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.

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- iii. Voluntary Departure/Final Orders of Removal: ICE/ERO will notify ORR that a UAC in ORR's custody was granted Voluntary Departure or was issued a Final Order of Removal.<sup>4</sup>
- b. Timeframe/Deadline
- i. Release to Sponsor: The ORR care provider will notify ICE/ERO at least 24 hours prior to the UAC's physical release from ORR custody. The ORR care provider will notify ICE/ERO again within 24 hours of the UAC's physical release. See ORR Policy Guide, section 2.8.2; 2.8.3; UAC MAP section 2.8.
  - ii. Age-Outs: The ORR care provider and/or ORR/Federal Field Specialists (FFS) notify ICE/ERO that the child will be turning 18 years old approximately 30 days before the UAC's 18<sup>th</sup> birthday, and again 24-hours prior to the UAC's 18<sup>th</sup> birthday. In the case of an age redetermination, ORR will notify ICE/ERO within three (3) calendar days from when ORR reasonably suspects that an individual in ORR's custody is over 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
  - iii. Voluntary Departure/Final Orders of Removal: ICE/ERO will notify ORR and the ORR care provider within three (3) business days of a grant of Voluntary Departure or the entry of a Final Order of Removal issued for a UAC in ORR custody.
- c. Requirements:
- i. Release to Sponsor: The ORR care provider provides a *Discharge Notification* to ICE/ERO with the UAC's biographical information, the name of the UAC's sponsor, the relationship to the sponsor, and the sponsor's address. See ORR Policy Guide, section 2.8.3; UAC MAP, section 2.8.
  - ii. Age-Outs: The ORR care provider and/or ORR/FFS will notify the ICE/ERO ICE/ERO Juvenile Coordinator via email of the pending Age-Out. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
  - iii. Voluntary Departure/Final Orders of Removal: ICE/ERO transmits copies of the Immigration Judge's order to the ORR care provider and ORR/FFS. ICE/ERO is responsible for obtaining necessary travel documents from the consulate of the UAC's country of origin.

## 2. Preparation

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<sup>4</sup> It is likely that a UAC's attorney will notify ORR and the child ORR care provider prior to the ICE/ERO notification of the immigration case outcome. However, ICE, as the prosecuting office, will be in the best position to notify ORR in all cases.

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### a. Responsible Agency:

- i. Release to Sponsor: ORR is responsible for preparing the UAC for transport to a sponsor, with assistance from the sponsor as required. ORR, working with the ORR care provider, will follow all ORR policies regarding adult escorts to ensure UAC arrive safely to a point of release with the UAC's sponsor. See ORR Policy Guide, section 2.8.2.
- ii. Age-Outs:
  1. Post-18/Release on Own Recognizance (ROR), and all other cases: Attorney and/or ORR/FFS may work with ICE/ERO Field Office Juvenile Coordinator (FOJC) to determine whether a UAC approaching 18 years old may be OREC thereafter. Once the DHS/ICE FOJC has made a decision they will notify the UAC's ORR care provider, attorney, and the ORR/FFS that the UAC may be directly released from the ORR. See ORR Policy Guide, section 3.3.2.
  2. Age Determinations/Transfers to DHS custody: For cases where an alien was determined through joint HHS-DHS policies to be over 18 years old or for UAC approaching 18 who are not ROR cases, the ORR care provider will notify the individual and attorney or ORR funded local-legal service provider that the individual is being prepared for transfer to ICE/ERO. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6; TVPRA, 8 U.S.C. § 1232(c)(2)(B).
- iii. Voluntary Departure/Final Orders of Removal:
  1. The ORR care provider requests that the ORR funded local-legal service provider screen the UAC for immigration relief if the UAC has no legal relief options and no available sponsor and/or the UAC requests an expedited hearing or other hearing before an immigration judge. See ORR Program Guidance, Notice to Appear Changes (July 3, 2014).
  2. ICE/ERO has responsibility to notify the local consulate of a pending Voluntary Departure or Final Order of Removal in order to obtain travel documents. DHS and ORR will closely coordinate preparations between each respective agency, the UAC, and the consulate, as required.

### b. Timeframe/Deadline:

- i. Release to Sponsor: ORR care providers are expected to physically release the UAC within three (3) calendar days of an ORR/FFS approving the release, absent exigent circumstances. See ORR Policy Guide, section 2.8.2.
- ii. Age-Outs:

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1. Post-18/ROR: ORR care provider submits a *Post-18 Plan* to ICE/ERO FOJC two (2) weeks prior to UAC's 18<sup>th</sup> birthday, if applicable. See ORR Policy Guide, section 3.3.2.
  2. Age Determinations: ORR provides the results of an age re-determination, including relevant evidence to ICE/ERO FOJC within three (3) business days of receiving results. ORR and ORR care provider will follow existing policies to prepare UAC for transfer to ICE/ERO within 30 days of turning 18 years old. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
  3. Voluntary Departure/Final Orders of Removal: Timing for scheduling of expedited hearings is dependent on local immigration court rules, and current joint-EOIR, DHS, and ORR procedures.
- c. Requirements:
- i. Release to Sponsor: ORR care providers ensure UAC is prepared for travel; an escort is arranged, if applicable; DHS has been notified of the pending release; and, the sponsor and UAC's family have received notification of the pending release. See ORR Policy Guide, section 2.8.2; UAC MAP, section 2.8.
  - ii. Age-Outs:
    1. Post-18/ROR: ORR care provider submits the *Post-18 Plan* to the ORR and the ICE/ERO FOJC for comment. *UAC MAP section 3 - PENDING*
    2. Age Determinations: ORR provides the results of an age re-determination, including relevant evidence to ICE/ERO FOJC within 3 business days of receiving results. See ORR Policy Guide, section 1.6; UAC MAP, section 1.6.
    3. Voluntary Departure/Final Orders of Removal: DHS provides notice to consulates. DHS is responsible for obtaining travel documents from consulate.

## 5. Logistics

- a. Responsible Agency:
- i. Release to Sponsor: ORR coordinates transportation and logistics directly with sponsor according to ORR's policies and procedures. See ORR Policy Guide, sections 2.8.2; 2.8.3; UAC MAP, section 2.8.
  - ii. Age-Outs:

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1. Post-18/ROR: Logistics for release are contained in the individual *Post-18 Plan*, agreed to in advance of the UAC turning 18 years old. UAC MAP section 3 - PENDING.
  2. Age Determinations: If an age re-determination indicates the UAC is over age 18, ORR will coordinate with the ICE/ERO FOJC to pick-up the alien for transfer into DHS custody, or other plans as requested. See ORR Policy Guide, section 1.6; UAC MAP section 1.6.
  3. All other cases: The ICE/ERO FOJC coordinates transportation for the UAC with the ORR care provider. Transport will occur on the day the alien turns 18 years old. See UAC MAP, section 1.6.
- iii. Voluntary Departure/Final Orders of Removal:
1. Upon request from a consulate and approval from ORR, the ORR care provider shares relevant contact and background information on a UAC's family in their country of origin. ORR Policy Guide, sections 5.4.6, 5.4.7.
  2. Once the consulate informs DHS that travel documents have been approved and the UAC's family is contacted in the country of origin, DHS makes transportation arrangements for the UAC's repatriation to his or her country of origin. DHS informs the ORR care provider of the repatriation and coordinates with the provider the date and time ICE/ERO will arrive at the facility to transport the UAC for repatriation.
- b. Timeframe/Deadline:
- i. Release to Sponsor: The ORR care providers are expected to physically release UAC within three (3) calendar days of an ORR/FFS approving the release, absent exigent circumstances. See ORR Policy Guide, section 2.8.2; UAC MAP, section 2.8.
  - ii. Age-Outs: Logistics for age out cases should be completed at least three (3) calendar days prior to the UAC turning 18 years old, but in no event less than 24-hours prior to the UAC's 18<sup>th</sup> birthday. UAC MAP, section 1.6.2.
  - iii. Voluntary Departure/Final Orders of Removal: Repatriation of UAC will occur between 5 to 15 days of receiving travel documents from the consulate.
- c. Requirements:
- i. Release to Sponsor: Requirements follow ORR's general policies for release to a sponsor are found in the ORR Policy Guide, Section 2. ORR provides a copy of the appropriate Discharge Notification to the local ICE/ERO FOJC

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and to the Immigration Court with jurisdiction over the UAC's case. The discharge notification form should include:

1. Date of Discharge
2. UAC Name
3. UAC A#
4. UAC Date of Birth
5. UAC Country of Birth
6. Sponsor's Name
7. Relationship to Sponsor
8. Sponsor's Address (verify the validity of the address given by using the U.S. Postal Service webpage).
9. Sponsor's Telephone Number

ii. Age-Outs:

1. Post-18/ROR: *Post-18 Plan*; Birth certificate, copy of ICE/ERO email confirming ROR. *UAC MAP section 3 – PENDING.*
2. Age Determinations: Copy of documents used to verify age, including but not limited to (see ORR Policy Guide, section 1.6.2):
  - i) Official government-issued documents, including birth certificates. If the UAC in question is not in possession of original documentation, or if the authenticity of the original documentation is in question, government officials of the UAC's home country must be consulted in order to verify the validity of the documentation, in accordance with applicable privacy rights (e.g., protection of asylum seekers).
  - ii) Other reliable records (e.g., baptismal certificates, school records, medical records) that indicate the UAC's date of birth.
  - iii) Statements provided by the UAC regarding his or her age or birth date. Note: A UAC's uncorroborated declaration regarding age is not used as the sole basis for an age determination.
  - iv) Statements from the UAC's parent(s) or legal guardian(s), if such persons can be identified and contacted.
  - v) Statements from other persons.
  - vi) Information from another government agencies (Federal, State, local or foreign).
  - vii) State/local arrest records.
  - viii) Child welfare agency records.
  - ix) Medical records, including copies of documents used to make a medical age assessment. In accordance with 8 U.S.C. §1232(b)(4), neither DHS nor HHS relies exclusively on radiographs to determine age.

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3. All other cases: ICE/ERO provides order confirming UAC to be remanded into DHS custody.
- iii. Voluntary Departure/Final Orders of Removal: ICE/ERO FOJC notifies ORR and the ORR care provider of the imminent transfer of custody, and to prepare the UAC for travel. ORR care provider will ensure all needed legal documents are maintained and collected for copy into the UAC case file.
1. If an Immigration Judge orders a UAC removed from the United States or grants voluntary departure, DHS arranges for the UAC's safe return to his or her country of origin or last habitual residence according to applicable policies and procedures.
  2. DHS recognizes that UAC are particularly vulnerable population and must be repatriated with special consideration and care. To safeguard the welfare of all UACs, DHS Components follow established policies<sup>5</sup> whenever repatriating UAC through the following actions:
    - i) Repatriate during only daylight hours;
    - ii) Ensure receiving government official or designee signs for custody to record the transfer;
    - iii) Repatriate the UAC at a designated port of entry;
    - iv) Provide the UAC an opportunity to communicate with a consular official prior to departure; and
    - v) Preserve the unity of families during repatriation (for repatriation to Mexico, doubts of kinship should be coordinated with the Consulate of Mexico to safeguard the UAC's well-being).
  3. The majority of UAC repatriations conducted by ICE/ERO occur via commercial air. ICE/ERO provides two escort officers for each UAC. An additional officer is added for each group that exceeds five UACs. Instances where both male and female children are being transported require an escorting officer of each gender.

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<sup>5</sup> Note that current DHS policies regarding repatriation of UAC from non-contiguous countries go beyond what is statutorily required in 8 U.S.C. §USC 1232(a)(2)(C).

## II. PROCESSING

DHS and HHS collaborate and coordinate the processing of all UAC. In so doing, the agencies comply with 6 U.S.C. § 279 and all agency internal policies, procedures, and guidance to ensure that UAC are treated with dignity and respect and with special concern for their vulnerability as UAC. The agencies also adhere to the TVPRA. All UAC are processed expeditiously and are given priority over other aliens in custody in order to move them swiftly to HHS/ORR placement.

Immediately after a minor is apprehended, one of the first tasks of the apprehending DHS component is to determine age, identity, and immigration status. As age and identity are determined, the apprehending DHS component creates an Alien File (either a permanent “A-file” or a temporary “T-file”), according to departmental guidelines prior to transfer of the UAC to ORR. The A-file or T-file must generally contain, at a minimum, the original *Form I-862* Notice to Appear (NTA), with signature and service on the alien (if the UAC is above 14 years of age), plus three copies, and any documentary evidence. If the UAC is below 14 years of age, then the certificate of service on the NTA will be served upon HHS/ORR when the custody of the UAC is transferred. The ICE/ERO FOJC provides instructions to the apprehending agency for delivery of the A-file or T-file to ICE/ERO.

### A. Immigration Process Matters

#### 1. Issuing NTAs to UAC (*under 14; 14 and over*)

##### a. Responsible Agency:

i.

(b)(7)(E)

- ii. NTAs can only be signed by UAC 14 years of age and older, and must be left blank for UAC under 14 years of age.
- iii. For UAC under 14 years of age, the NTA must be personally served on the “conservator.” In most cases, the conservator will be an ORR care provider facility employee. ICE/ERO FOJC is responsible for visiting the ORR facility to personally serve the conservator, ensuring that the conservator legibly signs the NTA and prints his or her name and title beneath the signature. This requirement will ensure that ICE/ERO can demonstrate proper service of the NTA to the immigration court.

##### b. Timeframe/Deadline:

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- i. UAC that are 14 years of age and older will be issued NTA prior to transfer to the custody of ORR.
- ii. When CBP issues an NTA to a UAC under 14 years of age, it may be necessary to delay service of the NTA until custody can be transferred to ORR. ORR should sign the NTA and other legal documentation and receive all copies of legal documentation on behalf of the UAC.
- c. Requirements: Refer to JCO Section I(A)(4)(c)(i) for relevant documents provided in the DHS Transfer Packet. See also UAC MAP, section 1.3.4; 2018? MOA ORR-ICE-CBP, section IV(A)(2).

### 2. Filing NTAs (*special procedures*)

- a. Responsible Agency:
  - i. Generally, CBP initiates the vast majority of removal proceedings for UAC.
  - ii. ICE/ERO also encounters UAC during interior enforcement operations, initiates removal proceedings, maintains and performs general UAC case management, and resolves any issues with the A-File and NTA to ensure proper service and to file the NTA with the DOJ's EOIR.
- b. Timeframe/Deadline:
  - i. The NTA is filed (i) 60 days after the UAC's apprehension (a UAC in an ORR care provider facility); (ii) upon notice by ORR to file the NTA while the UAC is in an ORR care provider facility; or (iii) upon notice provided in the ORR *Discharge Notification* form that a UAC was released to a sponsor (in the jurisdiction of the UAC located at sponsor's address). See ORR Program Guidance, Notice to Appear Changes (July 3, 2014).
- c. Requirements:
  - i. ICE/ERO requires a properly served NTA to file with EOIR in order to initiate immigration proceedings.

### 3. Information Requests between HHS and DHS

- a. Responsible Agency:
  - i. ORR:

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1. Case File Information: ORR is responsible for processing DHS requests, as applicable, for information on all UAC in ORR custody and for information contained in UAC case files. See Requests for UAC Case File Information (September 23, 2013).
2. Unauthorized Absence notices: In the event that a UAC absconds from ORR custody, ORR is responsible for notifying the local ICE/ERO FOJC with jurisdiction over the case. ORR will immediately notify local law enforcement agencies. See ORR Policy Guide, section 5.8.1.
3. Allegations of Abuse in DHS custody:
  - i) For an allegation of sexual abuse that occurred while the UAC was in DHS custody, the ORR care providers must report the allegation to the DHS Office of Civil Rights and Civil Liberties (CRCL), CBP, and ICE. See ORR Policy Guide, section 5.8.4.
  - ii) If a UAC makes an allegation of abuse, other than sexual abuse, that occurred while he or she was in the custody of DHS, ORR care providers must report the incident to DHS by emailing a copy of the significant incident report (SIR) to CRCL. See ORR Policy Guide, section 5.8.4.
4. Death of a UAC in ORR custody: ORR reports deaths of UAC in ORR custody to the ICE/ERO FOJC with jurisdiction over the case. See ORR Policy Guide, section 5.8.1.
5. Arrest of a UAC in ORR custody: The ORR funded care provider contacts the DHS/ICE FOJC with jurisdiction over the case by telephone and provides notice by email. See MOA ORR-ICE-CBP, section IV(B)(1).
6. Alleged or suspected fraud, human smuggling, human trafficking, drug trafficking, weapons trafficking, or gang-related activity. ORR notifies the ICE Homeland Security Investigations Tip Line by email and, for human trafficking specifically (either by or of a UAC), ORR also emails the ICE Human Trafficking Help Desk. See MOA ORR-ICE-CBP, section IV(B)(1).
7. Violence by a UAC while in ORR care. ORR notifies the ICE/ERO FOJC of incidents of physical violence or assault by a UAC in its care, including incidents between a UAC and facility staff. See MOA ORR-ICE-CBP, section IV(B)(1).

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8. Change in level of care. ORR provides notice by email to the ICE/ERO FOJC of any step up/step down to or from secure care for the UAC. See MOA ORR-ICE-CBP, section IV(B)(1).

ii. DHS

1. If ICE or CBP becomes aware of any criminal information (e.g., information regarding gang affiliation) that it did not have at the time of initial referral and transfer, ICE or CBP will notify ORR as expeditiously as practicable, and as a matter of general practice, within 48 hours after becoming aware of the information. This includes providing supporting documentation to aid in ORR's consideration of whether transfer of the UAC may be necessary.
2. To the extent permitted by law, and consistent with policy, ICE or CBP will report to ORR the results of any investigations (including investigations commenced following ORR's notification under Section IV(B)(1) of 2018 MOA ORR-ICE-CBP) they conduct that would be relevant to ORR's determinations concerning UAC care and placement. Such information will be provided as expeditiously as possible, and ideally within 96 hours of such information becoming available.

b. Timeframe/Deadline:

i. ORR:

1. Case File Information: DHS requests for UAC case file information are triaged and responded to, as soon as possible, according to the nature of the request and any exigent circumstances regarding the request. See Requests for UAC Case File Information (September 23, 2013).
2. While UAC are in ORR care, ORR will notify ICE or CBP of incidents identified in section (3)(a)(i)(1)-(8) as expeditiously as possible, but no later than 48 hours after discovery of the incident. See MOA ORR-ICE-CBP, section IV(B)(1).

c. Requirements:

i. ORR:

1. Case File Information: Request for UAC case file information will follow ORR's policies regarding the disclosure of confidential information to government agencies.<sup>6</sup> Additionally, the requesting party must file an

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<sup>6</sup> See Requests for UAC Case File Information.

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*Authorization for Release of Records.*<sup>7</sup> ORR may redact information as required to protect the privacy or confidentiality of non-subjects to the request. ORR does not typically share psychiatric or psychological records absent a court-issued subpoena for those records. See Requests for UAC Case File Information (September 23, 2013).

2. ORR follows reporting requirements as outlined in the 2018 ORR-ICE-CBP MOA as described in (a)(i)(3) and (b)(i)(2) above.

#### 4. Change of Address/Change of Venue Notices

a. Responsible Agency:

- i. ORR is responsible for the filing of applicable Change of Address (COA) and Change of Venue Notices (COV), for UAC transferring placement between ORR care provider facilities (including Long Term Foster Care providers). The UAC's sponsor is responsible for COA/COV notices for the UAC once the UAC is released. See ORR Policy Guide, section 1.4.2; UAC MAP, section 1.4.

b. Timeframe/Deadline:

- i. Transfers: The ORR care provider case manager at the referring ORR care provider completes copies of the immigration court COA/COV documents and the *Notice of Transfer to the ICE Chief Counsel Change of Address/Change of Venue*. UAC MAP, section 1.4.
- ii. Releases: The ORR care provider facility provides the sponsor with the local immigration court's change of address/change of venue information, if the UAC's NTA has already been filed with the immigration court. See UAC MAP, section 1.4.

c. Requirements:

- i. Transfers: Copies of COA/COV and the UAC's NTA are sent to the receiving jurisdiction's immigration court and emailed or mailed to the local ICE/ERO FOJC and the local ORR-funded Legal Service Provider (LSP). See UAC MAP, section 1.4.

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<sup>7</sup> The *Authorization for Release of Records*, normally requires the consent of the UAC prior to release of their records in most instances. ORR has an exception to this requirement for other government agencies requesting UAC case files. ORR will examine the nature of the request, including the reasons for the requested information, and make a determination on a case-by-case basis on what information to release, if any, to DHS. Typically, a UAC's health information is not disclosed, nor is a sponsor's home study or post-release service information unless relevant to the DHS request.

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- ii. Releases: Prior to the physical release to a sponsor, the ORR care provider case manager will ensure the UAC (as appropriate) and sponsor are educated on the COA/COV process and informed on how to file for and verify that COA and COV has been completed. See ORR Policy Guide, section 2.8.1; UAC MAP, section 2.8.

### B. Referral & Placement Process

#### 1. Notification of Referral (*referral to ORR*)

##### a. Responsible Agency:

- i. The apprehending DHS agency is responsible for the notification to ORR of a UAC requiring placement. See ORR Policy Guide, section 1.1.

##### b. Timeframe/Deadline:

- i. The referring DHS component will notify ORR, once the referring agency or apprehending agency has identified a minor as a UAC or with any claim or suspicion that an alien in their custody is under 18 years of age. Notifications will be made as soon as possible, but not to exceed 48 hours after the UAC determination.

##### c. Requirements:

- i. Once a UAC has been identified, a request for ORR placement must be submitted via ORR's *UAC Portal*. Generally, it is the apprehending agency's responsibility to refer the child to ORR via the *UAC Portal*. USBP has developed an electronic process whereby information entered into its system of record (E3) is automatically transferred into ORR's *UAC Portal*. All ICE/ERO FOJCs should have access to the *UAC Portal*. See UAC MAP, section 1.3. In the event a child is separated from a parent or other related adult USBP or ICE will enter this information into the *UAC Portal*.
- ii. In the event that the *UAC Portal* is not available, a placement can be requested by completing the *UAC Initial Placement Referral Form* and submitting to the ORR intake mailbox at [Orrducs\\_Intakes@acf.hhs.gov](mailto:Orrducs_Intakes@acf.hhs.gov). See UAC MAP, section 1.3.
- iii. The referring agency will complete the *UAC Initial Placement Referral Form* in its entirety, including as much detail as possible. The referring agency should review and verify all information to ensure accuracy of UAC medical information (where possible), UAC's criminal records (if applicable), sibling or other family with whom the UAC was traveling. Contact information for parents, legal guardians, or adult relatives should also be included, as this information can assist in ORR's reunification process. Medical conditions

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and criminal history must be disclosed if known, to allow ORR to place each UAC in a facility that is equipped to handle that UAC's specific needs. See UAC MAP, sections 1.3, 1.3.2.

### 2. Placement Process

- a. Responsible Agency:
  - i. ORR is responsible for the prompt placement designation of UAC referred to the agency by other Federal agencies and departments. See ORR Policy Guide, sections 1.1, 1.2.
- b. Timeframe/Deadline:
  - i. ORR attempts to designate placement within 3 hours during standard business hours, assuming there are no exigent circumstances, but within 24 hours in most cases. See UAC MAP, section 1.3.2
  - ii. DHS transfers physical custody of the UAC to ORR within 72 hours of the UAC determination. See ORR policy Guide, section 1.2.
- c. Requirements:
  - i. At the time of placement designation, DHS will be responsible for providing ORR the information referred to in JCO, Section I (A)(3)(c)(i):
  - ii. ORR considers the following factors when making a placement determination (See ORR Policy Guide, section 1.2.1):
    1. Trafficking or other safety concerns;
    2. Any special needs or issues requiring specialized services (for example, a child with language needs, mental health or medical concerns, or a youth who is pregnant or parenting);
    3. Possibility of heightened vulnerability to sexual abuse due to prior sexual victimization;
    4. Prior sexual abusiveness;
    5. Identification as lesbian, gay, bisexual, transgender, questioning or intersex, or gender non-conforming appearance or manner;
    6. Location of potential sponsor and family sponsorship options;
    7. Siblings or parents in ORR custody;

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8. Immigration issues (for example, legal representation needs, immigration proceedings);
9. Behavior;
10. Criminal or juvenile background;
11. Danger to self;
12. Danger to the community;
13. Escape risk;
14. Age;
15. Gender;
16. Expected length of stay in ORR custody; and
17. Location where the child or youth was apprehended.

**3. Transfers to Long Term Foster Care**

- a. Responsible Agency:
  - i. ORR is responsible for Long Term Foster Care (LTFC) placement determinations for UAC. Non-ORR LTFC care providers in conjunction with the ORR/FFS explore viable placement options dependent on the UAC's individual needs and best interest. See ORR Policy Guide, sections 1.2.6, 1.4.3, 1.4.4.
- b. Timeframe/Deadline:
  - i. After determining appropriateness of placement into LTFC, the ORR care provider case manager files a transfer request in consultation with the ORR/FFS. The proposed LTFC provider has ten (10) business days to review the request and supporting documentation and make a request for additional information from the UAC's current care provider case manager. See UAC MAP, section 1.4.4.
  - ii. Requests for additional information by the LTFC provider must be responded to within three (3) business days by the UAC's care provider case manager.
  - iii. The LTFC provider completes and submits a *LTFC Placement Memo* within ten (10) business days of the original transfer request, and submits the

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completed memo to the ORR/FFS. The ORR/FFS reviews and communicates the transfer decision (generally within three (3) business days of receiving the completed memo) to the UAC's receiving/sending Case Coordinators, the UAC's care provider case manager, the LTFC provider case manager and the DHS/ICE FOJC. See UAC MAP, section 1.4.4.

- c. Requirements:
  - i. *LTFC Placement Memo.*
  - ii. *Transfer Request.*
  - iii. Change of Address/Change of Venue, as applicable.
  - iv. Logistics for transfer are coordinated between the sending care provider and the LTFC provider.

### III. CARE

Medical clearance, including screening, evaluation, and treatment, is a major component of the processing, movement, and release of UAC. UAC are typically in good health; however, some may have communicable diseases, significant behavioral or mental health issues, access and functional needs, or acute/chronic medical conditions. Likewise, many UAC come into Federal custody with experiences of trauma, including cases of victimization, sexual assault, and human trafficking. Some are pregnant.

UAC services in DHS and HHS custody are based upon the minimum standards of Exhibit 1 and Paragraph 12 of the *Flores* Settlement Agreement, as applicable.

#### A. SERVICE REQUIREMENTS

##### 1. Medical Evaluation in DHS Custody

a. Responsible Agency:

- i. ICE/ERO conducts a pre-transport screening to evaluate UAC for febrile respiratory disease and visible signs of potential communicable diseases prior to transfer from CBP to an ORR shelter in accordance with the Pre-Transport Screening Protocol. UAC diagnosed with fever, cough, sore throat, or visible signs of potential communicable diseases will not be cleared for transfer via commercial flight. Febrile UAC, or those visually presenting with symptoms mentioned, will be re-submitted to HHS/ORR for re-designation to local ORR shelters.
- ii. While in CBP custody, in accordance with the CBP National Standards on TEDS Policy, CBP Officers and Agents must be alert to medical symptoms such as coughing, fever, diarrhea, rashes or emaciation, in addition to obvious wounds, injuries, cuts, bruising or bleeding, heat related injury or illness, and dehydration. Any observed or reported injury or illness must be reported, and appropriate medical care must be provided or sought in a timely manner. TEDS also requires CBP to be alert to physical, mental, or developmental disabilities that may require particular care or oversight.

b. Timeframe/Deadline:

- i. During intake by CBP or ICE , UAC are screened for obvious diseases, injury, and/or disability and are referred for a medical evaluation, as needed.
- ii. UAC are screened for febrile respiratory disease and visible signs of potential communicable diseases prior to moving to a new location.
- iii. Any UAC with a serious medical condition or complaint will be transported to a local healthcare facility for evaluation and treatment. If still in ICE/ERO

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custody, ICE/ERO personnel shall accompany and remain with the UAC until the completion of treatment and official medical clearance is provided.

- iv. If the UAC is hospitalized, appropriate ICE/ERO supervisory notification shall occur.
  - v. **Transfer: Evaluation for Suitability to Air Transfer.** When the UAC is transported to HHS custody, ICE contractors review the paperwork to determine the necessary forms (either IHSC-795J or I-779) are included prior to initiating the transfer.
- c. Requirements:
- i. Medical Clearance for Release by either a physician or if the UAC went to a healthcare facility with a medical professional in processing health screening.
  - ii. Medical or Hospital Records.
  - iii. Medications, if applicable.

**2. Health Service Emergencies in DHS Custody**

- a. Responsible Agency:
- i. DHS shall respond immediately to observed or reported medical emergencies, and contact local emergency medical services when a UAC is determined to need urgent medical care.
  - ii. If the UAC is removed from the facility for medical treatment and he or she is in ICE/ERO custody, ICE/ERO personnel shall accompany and remain with the UAC until the completion of treatment and official medical clearance is provided.
  - iii. If the UAC is hospitalized, appropriate supervisory notifications shall occur.
- b. Timeframe/Deadline:
- i. Within two hours of reportable events or as soon as practical, telephonic notification must be made to the ICE/ERO Deputy Assistant for Field Operations for certain significant incidents, including significant injury or death. For other medical incidents, such as admittance to a hospital for less serious events, telephonic notification is not required, but the incident must be reported through an Executive Summary and Significant Event Notification (SEN) application within 24 hours. ICE/ERO should notify ORR once the UAC is released from the hospital or emergency care facility.

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ii. While in CBP custody, CBP assumes the responsibility to provide appropriate medical care for all UACs. Once the UAC is cleared for travel by a competent medical professional, CBP will request placement from ORR via the UAC Portal, to which all medically relevant information is relayed.

c. Requirements:

i. First aid supplies and equipment are the responsibility of each facility. All facilities should have a written emergency medical response plan (access to 9-1-1 and 9-1-1 access to the facility), on which all employees should be educated.

**3. Flores minimum standards for licensed facilities:**

a. Responsible Agency: ORR is responsible for the minimum standards listed in the *Flores* settlement exhibit 1 for UAC placed in a licensed facility.<sup>8</sup>

b. Timeframe/Deadline: Refer to requirements below for timeframes of minimum standards.

c. Requirements (see *Flores* Settlement Agreement, Exhibit 1; ORR Policy Guide, section 3.3):

i. Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal grooming items.

ii. Appropriate routine medical and dental care, family planning services, and emergency health care services. A complete medical examination (including screenings for infectious disease) will be conducted within 48 hours of admission, excluding weekends and holidays, unless the UAC was recently examined at another ORR care provider facility; and appropriate immunizations will be provided in accordance with recommendations of the U.S. Department of Health and Human Services /U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC); as will: administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

iii. An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UAC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family

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<sup>8</sup> A "licensed program" refers to any program, agency or organization that is licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children, including a program operating group homes, foster homes, or facilities for special needs minors. As applied to ORR care providers, this includes, shelters, groups homes, staff secure facilities, transitional foster care, long term foster care providers.

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relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the unaccompanied alien child's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.

- iv. Educational services appropriate to the UAC's level of development and communication skills in a structured classroom setting Monday-Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide unaccompanied alien children with appropriate reading materials in languages other than English for use during leisure time.
- v. Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- vi. At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short-term objectives, and addressing both the developmental and crisis-related needs of each child.
- vii. Group counseling sessions at least twice a week. Sessions are usually informal and take place with all UAC present. The sessions give new UAC the opportunity to get acquainted with staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational and other activities. The sessions allow staff and unaccompanied alien children to discuss whatever is on their minds and to resolve problems.
- viii. Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.
- ix. A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
- x. Whenever possible, access to religious services of the child's choice.

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- xii. Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation. The staff must respect the child's privacy while reasonably preventing the unauthorized release of the unaccompanied alien child.
- xiii. A reasonable right to privacy, which includes the right to wear his or her own clothes when available, retain a private space in the residential facility, group or foster home for the storage of personal belongings, talk privately on the phone and visit privately with guests, as permitted by the house rules and regulations, receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
- xiv. Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the UAC.
- xv. Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation. (This information is included in the Legal Resource Guide for Unaccompanied Alien Children.)

### B. ALLEGATIONS OF ABUSE IN DHS CUSTODY

#### 1. UAC Reported Abuse to DHS

a. Responsible Agency:

Agencies are responsible for making appropriate notification.

b. Timeframe/Deadline:

- i. DHS immediately ensures the safety and security of the alleged victim and offers adequate medical and mental health care. Within two hours of notification to ICE, the Field Office notifies the ICE Joint Intake Center (JIC) telephonically and the local ORR Field Office of the alleged sexual abuse/assault. Within 24 hours, the Field Office notifies the ICE JIC in writing via the ICE Significant Event Notification Database of the alleged sexual assault/abuse. The Field Office reports the allegation to the designated state or local services agency as necessary under applicable mandatory reporting law. Upon transfer out of ICE/ERO custody, the Field Office ensures that the receiving facility is informed of the incident and the alleged victim's potential need for medical or mental healthcare or victim services.

c. Requirements:

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- i. Any employee who has information pertaining to or otherwise suspects a child is being neglected or abused/or has knowledge of the neglect/abuse will immediately notify the supervisor and communicate the following information:
  - The location of the incident.
  - Any other pertinent information about the abuse or information concerning the child that could assist in the investigation.
  - The employee will provide the name, age, sex, nationality, and A-number of the child being neglected or abused, along with any other pertinent information such as other children involved, description of injuries, and adult guardian information.
- ii. The person who directly witnesses or is advised by another that a child is being neglected or abused will call the respective State's Department of Family Protective Services' Child Abuse Hot-Line immediately but no later than one hour following the incident.
- iii. Upon receiving initial notification of child neglect/abuse, the supervisor will immediately alert the HSA and/or designee, and the Duty Program Director. The Duty Program Director will then notify ICE. Within two hours of notification to ICE, the Field Office notifies the ICE JIC telephonically and the local Office of Professional Responsibility (OPR) Field Office of the alleged abuse/assault. Within 24 hours, the Field Office notifies the ICE JIC in writing via the ICE Significant Event Notification Database of the alleged assault/abuse.

### 2. UAC Reported Abuse to ORR

#### a. Responsible Agency:

- i. ORR documents allegations of abuse that occurred while in DHS custody in Significant Incident Reports (SIRs). ORR provides notice, including the SIR itself, to DHS as directed in ORR policy. See ORR Policy Guide, section 5.8.4; MOA ORR-ICE-CBP, section IV(B)(1).
- ii. ORR documents allegations of abuse that occurred in ORR custody in SIRs. See ORR Policy Guide, section 5.8.

#### b. Timeframe/Deadline:

- i. Allegations of abuse in DHS custody reported while in ORR custody:
- ii. If a UAC makes an allegation of abuse, other than sexual abuse, that occurred while he or she was in the custody of DHS, care providers must report the

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incident to DHS by emailing a copy of the SIR to the DHS CRCL no later than 4 hours after learning of the allegation. See ORR Policy Guide, section 5.8.4.

- iii. If a UAC makes an allegation of sexual abuse that occurred while he or she was in DHS custody, care providers must report the allegation to CRCL, CBP, and ICE no later than 4 hours after learning of the allegation by emailing a copy of the SIR. See ORR Policy Guide, section 5.8.4.
  - iv. Allegations of abuse in ORR custody reported while in ORR custody:
    1. If a UAC makes an allegation of abuse that occurs in ORR custody, the care provider reports the incident to ORR officials no later than 4 hours after learning of the allegation. The ORR care provider reports appropriate significant incidents to CPS, the State licensing agency, and/or local law enforcement in accordance with mandatory reporting laws, State licensing requirements, Federal laws and regulations, and ORR policies and procedures. See ORR Policy Guide, section 5.8.2.
    2. ORR care providers must report immediately but no later than 4 hours after obtaining any of the following: knowledge, suspicion, or information regarding an alleged or confirmed incident of sexual abuse, sexual harassment, or inappropriate sexual behavior; retaliation; or staff neglect/violation of responsibilities that occurs in ORR care via the Sexual Abuse Significant Incident Report (SA/SIR). For comprehensive information for reporting CPS, the State licensing agency, and/or local law enforcement, and in some cases to the FBI and HHS/OIG refer to ORR policy. ORR Policy Guide, sections 4.10.2, 5.8.3.
- c. Requirements:
- i. Allegations of abuse in DHS custody made while in ORR custody:
    1. SIR with allegation of abuse.
    2. Any allegations of abuse while in DHS custody should be reported to the Joint Intake Center (JIC). The JIC serves as the central "clearinghouse" for receiving, processing and tracking allegations of misconduct involving personnel and contractors employed by CBP and ICE.
    3. Allegations of abuse while in CBP custody are to be immediately reported using one of the following methods:
      - i) Call the toll-free Joint Intake Center Hotline at 1-877-2INTAKE or send a fax to (202) 344-3390;
      - ii) Send an e-mail message to [Joint.Intake@dhs.gov](mailto:Joint.Intake@dhs.gov);

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- iii) Call the OIG at 1-800-323-8603;
- iv) Access the online DHS OIG Complaint/Allegation Form at <http://www.oig.dhs.gov/hotline/hotline.php>; or
- v) Write to DHS OIG:

*DHS Office of Inspector General/MAIL STOP 0305  
Attn: Office of Investigations - Hotline  
245 Murray Lane SW  
Washington, DC 20528-0305*

- ii. Allegations of abuse in ORR custody made while in ORR custody. Follow ORR reporting policies. See ORR Policy Guide, sections 4.10.2; 5.8.1-5.8.2.

**C. NOTIFICATIONS AND ACCESS**

**1. Notification and approved Contacts while UAC is in DHS custody**

- a. Responsible Agency:
  - i. CBP or ICE (i.e. the apprehending agency).
- b. Timeframe/Deadline:
  - i. UAC are advised of their rights during case processing through the provision of Form I-770. This process involves informing the UAC that he or she may have access to a telephone to call the UAC's mother/father/any other adult relative/adult friend, with a consular or diplomatic officer from their country, and communicate with a lawyer, legal representative, or consular officer at any time prior to departure from the United States. UAC are provided a list of free and low cost legal services and informed of their right to contact an attorney. UAC will be offered a phone call upon apprehension and may also decline to make any calls.
- c. Requirements:
  - i. *Form I-770, Notice of Rights and Disposition for Minor*, if the UAC is younger than 14 years of age or unable to understand the notice, the form must be read and explained in a language and manner the UAC understands.
  - ii. Attorney-client and consulate visits/interviews are permitted, where applicable.

**2. Notification and Contact of UAC Family while UAC is in ORR custody**

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a. Responsible Agency:

- i. ORR is responsible for the notification and contact of a UAC's family and other stakeholders while the UAC is in HHS custody. ORR care provider Case Managers make notifications and contacts, after assessing the UAC's safety. See ORR Policy Guide, sections 2.2.1, 2.3.2.

b. Timeframe/Deadline:

- i. Within 24 hours of a UAC's admission into ORR custody the *Initial Intakes Assessment* is completed which includes questions to identify UAC family members. The care provider Case Manager will determine if it is safe for the UAC to contact family members following relevant policy and procedures. See ORR Policy Guide, section 3.2.1.
- ii. Within 5 days of a UAC's admission into ORR custody the *UAC Assessment* is administered. The *UAC Assessment* includes a section that includes family information. Any additional information later gathered in family contacts can be included on a subsequent *UAC Case Review*. See ORR Policy Guide, section 3.3.2.

c. Requirements:

- i. Identification of familial contacts is obtained in the *Initial Intakes Assessment* and/or *UAC Assessment/UAC Case Review*. See ORR Policy Guide, sections 3.2.1; 3.2.2.
- ii. ORR care providers follow internal program protocols for guaranteeing safe contacts for the UAC to communicate with family.

### D. Influx Matters

#### 1. Prioritization of Placement

a. Responsible Agency:

ORR is responsible for the placement of all UAC into HHS custody. The ORR Division of Unaccompanied Children Operations (DUCO) Intake Team is responsible for the placement processing following ORR's policies and procedures. The Intakes Team is also responsible for the prioritization of placement of UAC during an influx following ORR's policies and procedures. See ORR Policy Guide, section 1.7.

b. Timeframe/Deadline:

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ORR strives, even in times of exceptional circumstances such as an influx, to provide timely placement into ORR custody. See ORR Policy Guide, section 1.7.

c. Requirements:

i. The following especially vulnerable UAC are prioritized for placement (see ORR Policy Guide, section 1.2.2):

1. UAC age 12 or under;
2. UAC with identified health concerns – or mental, physical, or developmental disabilities;
3. Pregnant or parenting UAC;
4. UAC who may require a specialized placement (UAC with delinquent activity); and
5. UAC nearing or exceeding 72 hours in DHS custody.

ii. Initial criteria for placement into an Influx Care Facility, include UAC who are (See ORR Policy Guide, section 1.7.3):

1. Be between 13-17 years of age;
2. Speak either English or Spanish;
3. Have no known behavioral or medical issues, including contagious diseases or health issues requiring immediate evaluation or medical treatment by a healthcare provider;
4. Have no known special needs (mental health or identified health concerns);
5. Deemed not a danger to self or others;
6. Have no criminal history (i.e., not charged with having committed a criminal offense);
7. Have not be involved as a perpetrator or victim of smuggling or trafficking activities;
8. Is not subject to a pending age determination;
9. Not part of a sibling group with a sibling(s) age 12 years or younger;

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10. Not pregnant or parenting;
11. Medically cleared and vaccinated as required by the Influx Care Facility (for instance, if the Influx Care Facility is on a Department of Defense site):
  - Have completed the Medical Checklist for Influx Transfers
12. Able to be discharged from ORR expeditiously;
13. Not involved in an active State licensing, law enforcement, or PREA investigation;
14. Not turning 18 years old within 30 days of the transfer;
15. Not scheduled to be discharged in 3 days or less;
16. Does not have a pending Home Study; and
17. Does not have a current set docket date in immigration court or State/family court (juvenile included), or a pending adjustment of legal status, or nor an attorney of record.

**2. Use of HHS Influx Care Facilities**

- a. Responsible Agency:
  - i. ORR is responsible for opening and operating HHS Influx Care Facilities. ORR uses existing grantees or contractor(s) to operate facilities and provide wrap around services. See ORR Policy Guide, section 1.7.
  - ii. Other Federal Departments: Other federal departments may be land holders. HHS will enter into MOUs to obtain a licensing permit with the land holding federal department for use of the property.
- b. Timeframe/Deadline:
  - i. Time frames for use of HHS Influx Care Facilities are primarily determined by need and cost (whether referral numbers and overall capacity among ORR's network of care providers) to justify continued use of these facilities.
  - ii. If HHS has entered into MOUs with other land holding federal departments, the MOU will detail the timeframe in which HHS may operate, and will also include termination timeframes in the event HHS no longer requires use of the property.
- c. Requirements: Not applicable.

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**3. Services at HHS Influx Care Facilities:**

a. Responsible Agency:

ORR is responsible for all services at HHS Influx Care Facilities. DHS is responsible for transportation as identified in JCO Section 1 for initial placement into Influx Care Facilities.

b. Timeframe/Deadline:

i. Admission requirement (within 4 hours) for Influx Care Facility (see ORR Policy Guide, section 1.7.4):

1. Admit the UAC to the program in the ORR database;
2. Offer the UAC a meal and/or snack;
3. Offer the UAC an opportunity to shower, provide lice treatment, and give clean clothing; and
4. Complete an inventory of the UAC's belongings and DHS paperwork.

ii. Admission requirements (within 24 hours) for Influx Care Facility (see ORR Policy Guide, section 1.7.4):

1. Provide the UAC with all documents from the Legal Resource Guide.
2. Explain to the UAC the HPC:
  - Rules and responsibilities;
  - Grievance procedures
  - Sexual abuse reporting procedures.
3. Completes the Initial Intakes Assessment in the ORR database.
4. Contacts the UAC's family (following safety protocols) to notify them of the UAC's placement and determines if the UAC has a potential sponsor who resides in the United States.
5. Informs the UAC's family about the application process for the Safe and Timely Release of an UAC to a sponsor.
6. Informs the UAC's parent/legal guardian and identified potential sponsor that the placement is temporary and that when the UAC is transferred to a final ORR placement, the parent/legal guardian and potential sponsor will be notified.

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- iii. Medical Services: Influx Care Facilities must complete the initial medical examination within 48 hours. See ORR Policy Guide, section 1.7.5.
  
- c. Requirements:
  - i. Influx Care Facilities must follow basic standards of care including (See ORR Policy Guide, section 1.7.6):
    1. Maintain facilities that are safe and sanitary;
    2. Provide access to toilets, sinks, and showers;
    3. Provide drinking water and food;
    4. Maintain adequate temperature control and ventilation;
    5. Provide adequate supervision;
    6. Provide same gender supervision for any area where UAC regularly undress, including restrooms and showers;
    7. Provide UAC with appropriate clothing and personal grooming items;
    8. Provide UAC a reasonable access to privacy, which includes the opportunity to wear his or her own clothes, as appropriate; retain a space for storage of personal belongings; talk privately on the phone, as appropriate; visit privately with guests, as appropriate; and receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband;
    9. Separate UAC who are subsequently found to have past criminal/juvenile delinquency or gang affiliation history and/or who exhibit behavior that presents a danger to themselves or to other UAC;
    10. Adhere to a zero-tolerance policy towards sexual abuse and assault per ORR regulations and policy;
    11. Adhere to ORR policy and procedures on significant incident and sexual abuse reporting and follow-up;
    12. Allow reasonable access to legal services providers or UAC's attorneys of record that have provided proper documentation, subject to time and place restrictions;
    13. Provide for either an in-person Know Your Rights presentation by a legal service provider or video Know Your Rights presentation;

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14. Provide case management services for safe and timely release;
15. Follow ORR transport policies;
16. Allow access to religious services, if available;
17. Provide emergency clinical services;
18. Comply with reporting requirements as specified by ORR in consultation with HPC and Influx Care Facility providers;
19. Provide UAC an environment free from discrimination on the basis of gender, race, religion, national origin or sexual orientation; and
20. Keep UAC free from any cruel, harsh, unnecessary, demeaning or humiliating punishment.

To the extent practicable, non-State licensed HPCs and Influx Care Facilities are encouraged to provide the following services:

1. Educational services; and
2. Daily Recreational/Leisure time that includes one hour of large muscle activity and one hour of structured leisure time activities.

## Conclusion

Cooperation between DHS and HHS regarding the transport, processing, placing, and care of UAC is essential. Both departments take their roles seriously and work closely with interagency and foreign counterparts on a daily basis to ensure the humane treatment of UAC while simultaneously enforcing the laws Congress has passed.

The JCO provides field guidance and standardization of interagency policies, procedures, and guidelines related to the processing of UAC encountered by DHS, whose care will be transferred to HHS, after being placed in removal proceedings pursuant to section 240 of the INA. The process for returning UACs to a contiguous country (i.e., Canada or Mexico) through withdrawal of an application for admission will be in accordance with the TVPRA.

This document does not take the place of agency policy regarding the processing of UAC nor is it a substitute for legislative action, where required; rather it is an interagency agreement to standardize agency operational relations. The JCO will prove helpful in many situations, but it is not intended to be all-inclusive or to provide comprehensive guidance for every situation. If field staff members have a question that is not addressed here, they shall elevate the issue through their respective chain of command.

The JCO will be made available to all applicable staff within each department, as appropriate. Updates, amendments, and expansions will occur as needed with agreement from both departments. Suggestions for changes and additions are to be referred to each department's respective chain of command for consideration; however, all additions or alterations must be submitted to and approved by headquarters-level policy and counsel offices.

Nothing in this document shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency and to the extent this JCO contradicts any existing statute or regulation, the conflict should be resolved in favor of the statute or regulation. This document is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE DEPARTMENT OF HOMELAND SECURITY  
AND  
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGARDING  
UNACCOMPANIED ALIEN CHILDREN**

**1. Parties**

The Parties to this Memorandum of Agreement (hereinafter "MOA") are the Department of Health and Human Services (HHS) and the Department of Homeland Security (DHS) (hereinafter, collectively, the "Parties").

**2. Purpose**

To continue to address the needs of unaccompanied alien children (UAC), as defined at 6 U.S.C. § 279(g)(2), the Parties recognize the following shared goals: ensure the safe and expedited transfer and placement of UAC from DHS to HHS custody; maximize efficiency in the allocation and expenditure of the Parties' respective program costs; ensure information is transmitted between the Parties to facilitate appropriate placement decisions and for HHS to promptly place the child in the least restrictive setting that is in the child's best interest until the child is released to an appropriate sponsor; continue the statutorily-required consultation between departments with respect to UAC placement determinations; protect UAC in the custody of the United States or released to sponsors from mistreatment, exploitation, and trafficking; and promote the effective immigration processing and safe repatriation and reintegration of UAC.

The Parties acknowledge the critical role of consistent interagency coordination on the care, processing, and transport of UAC. This MOA is intended to provide a framework for interagency coordination on the responsibilities of the Parties in coordinating and establishing procedures, shared goals, and interagency cooperation with respect to UAC.

**3. Authority**

The primary authorities that authorize or support this MOA are:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b) (2), 462, 116 Stat. 2142, as amended (codified at 6 U.S.C. §§ 112(b) (2), 279);
- C. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5074, as amended (codified in part at 8 U.S.C. § 1232);
- D. Immigration and Nationality Act of 1952, as amended;
- E. Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54;
- F. Title 8, Code of Federal Regulations.

#### 4. Responsibilities

- A. The Parties agree to establish a Joint Concept of Operations (JCO) that should be completed no later than one year following the signing of this MOA, which should include, but need not be limited to standard protocols for consistent interagency cooperation on the care, processing, and transport of UAC, during both steady state operations as well as in the event the number of UAC exceeds the standard capabilities of the Parties to process, transport, and/or shelter with existing resources.
- B. The Parties agree to establish the following structure for UAC coordination to monitor and resolve issues, share information, and establish and maintain the JCO:
  1. The Parties will establish and co-chair a Senior Leadership Council to serve as the coordinating body for consistent interagency cooperation on the care, processing, and transport of UAC. The Senior Leadership Council will also serve as a forum for discussing broader policy issues arising from these operational concerns. The Senior Leadership Council shall be composed of an equal number of senior officials from HHS and DHS representing relevant operational, policy, and administrative divisions responsible for UAC policies and operations, and will be co-chaired by two senior officials, one each designated by HHS and DHS.
  2. The Parties will establish and co-chair an Interagency Work Group. The Group shall be composed of subject matter experts from each Party's relevant agencies and shall be co-chaired by a representative of HHS and DHS who shall be appointed by the Senior Leadership Council. Members may be added to the Interagency Work Group as co-chairs determine such additions to be necessary.
  3. The Senior Leadership Council will:
    - i. Oversee and monitor the work by the Interagency Work Group, including the development of the JCO and the implementation of the Unified Coordination Group Plan for UAC Surge (which outlines the coordinated Federal response activities for a surge influx of UAC using an integrated concept of operations (UAC Plan for UAC Surge));
    - ii. Review, approve, and ensure implementation of the policies, procedures, and protocols presented by the Interagency Work Group;
    - iii. Provide direction and instruction to the Interagency Work Group; and
    - iv.
    - v. Convene additional work groups as it deems necessary and appropriate.
  4. The Interagency Work Group will be composed only of federal officials from each Party's relevant headquarters and component agencies, including but not limited to representatives from HHS ACF, and such other HHS representatives as HHS may determine and representatives from DHS CBP, DHS ICE, DHS OHA, DHS CRCL, DHS PLCY, DHS CISOMB, DHS FEMA, DHS PRIV, and DHS USCIS.
    - i. Members may be added to the Interagency Work Group as co-chairs determine such additions to be necessary.

- ii. Members will participate in any subject matter interagency group established at the direction of the Executive Office of the President (EOP) to ensure cooperation and coordination across the Federal Government, to the extent such participation is consistent with the EOP directive.
  - iii. Members will prepare the JCO and implement the UAC Plan for UAC Surge as directed by the Senior Leadership Council, develop policies and procedures to ensure coordinate operations across agencies, and support and guide basic operational decisions at the field level to the extent permitted by law. Both the JCO and UAC Plan for UAC Surge are to be appropriately cleared within respective agencies and, if necessary, in the Interagency Work Group.
  - iv. The Interagency Work Group will also serve as a forum for resolving immediate complaints or concerns raised about the UAC process, identifying areas of concern, and attempting to resolve matters at the SME level before raising issues to the Senior Leadership Council.
5. Meetings of the Senior Leadership Council should take place quarterly. Meetings of the Interagency Working Group will take place as needed, and no less than once per month.

#### C. Information Sharing/Reporting Requirements

1. The Parties agree to establish data-sharing capabilities to facilitate coordinated UAC-related operations to the extent authorized by applicable law, regulations, and policy to facilitate coordinated UAC-related operations, as needed. In the event of a request for information from Congress, the media, or a member of the public, the originator of the information is responsible for responding to such requests. If the Party receiving such request is not the originator, that Party will expeditiously route the request to the originating agency within the other Party. With respect to reports and other products created jointly by the Parties, the Parties should consult with each other prior to the disclosure of the information.
2. The Parties agree to provide each other with UAC-related reports in a mutually agreed upon format, with mutually agreed upon regularity and with mutually agreed upon content.
3. The Parties agree on the need to ensure a closely coordinated and prompt response to seasonal and other changes in UAC migration patterns and flows.
4. The Parties agree to review and coordinate other migration plans (or portions thereof) that may relate to the UAC population to ensure the UAC population is properly incorporated.

#### D. Administrative Development

1. Each Party will make all reasonable efforts to notify the other about upcoming changes in UAC policy and procedures that may impact the other agency's policies or operations (absent exigent circumstances).
2. During UAC-relevant grant solicitation or panel review periods, each Party will invite the other agency to contribute any information that could be valuable to deliberations on awards.

**5. Disputes**

Disagreements between the Parties arising under or relating to this MOA will be resolved by consultation between the Parties. Attempts to resolve disputes will be made first at the lowest level possible. Any issues unresolved, after due consultation, may be raised to the appropriate level within each Party.

**6. Effective Date, Modification, and Termination**

This MOA is in effect upon the date of the last signature affixed hereto and will remain in effect until such time as the Parties enter into a new MOA, revise this MOA in writing by mutual consent, or terminate this MOA upon no less than 30 days' prior written notice by either Party. This MOA will be reviewed for modifications not less than once every five years from the effective date.

**7. No Private Right**

This MOA does not and is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person or entity in any matter, including any civil, criminal, or administrative matter. This MOA is intended to provide a framework for the Parties for handling the various matters described herein; it is not intended to be legally binding on either Party.

**8. Other**

- A. Nothing in this MOA is intended to conflict with or supersede current law, regulation, or Presidential memoranda, orders, or directives. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this MOA shall remain in full force and effect.
- B. Each Party shall use its own appropriated or allotted funds and resources in performing activities under this MOA. The MOA does not provide for the reimbursement of funds. If the Parties wish to enter into a reimbursement arrangement, the Parties will enter into that arrangement separate and apart from this MOA.
- C. Written notice to the Department of Homeland Security shall be sent to the official identified below or such successor as is identified by the agency:

Name: Mary Giovagnoli  
Deputy Assistant Secretary for Immigration Policy  
Office of Policy

Email: (b)(6); (b)(7)(C)@hq.dhs.gov

Written notice to the Department of Health and Human Services shall be sent to the

official identified below or such successor as is identified by the agency:

Name: Tricia Swartz  
Associate Deputy Director  
Office of Refugee Resettlement

Email: tricia.swartz@acf.hhs.gov

**APPROVED BY:**

\_\_\_\_\_ Date: \_\_\_\_\_

**Alan Bersin**  
Assistant Secretary for International Affairs and Chief Diplomatic Officer  
Office of Policy  
U.S. Department of Homeland Security

(b)(6)

Date: FEB 19 2016

**Mark H. Greenberg**  
Acting Assistant Secretary, Administration for Children and Families  
U.S. Department of Health and Human Services

official identified below or such successor as is identified by the agency:

Name: Tricia Swartz  
Associate Deputy Director  
Office of Refugee Resettlement

Email: (b)(6); (b)(7)(C) @acf.hhs.gov

**APPROVED BY:**

(b)(6)

Date:

2/22/2016

**Alan Bersin**  
**Assistant Secretary for International Affairs and Chief Diplomatic Officer**  
**Office of Policy**  
**U.S. Department of Homeland Security**

\_\_\_\_\_  
Date: \_\_\_\_\_

**Mark H. Greenberg**  
**Acting Assistant Secretary, Administration for Children and Families**  
**U.S. Department of Health and Human Services**

MEMORANDUM OF AGREEMENT  
AMONG  
THE OFFICE OF REFUGEE RESETTLEMENT  
OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND  
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AND  
U.S. CUSTOMS AND BORDER PROTECTION  
OF THE U.S. DEPARTMENT OF HOMELAND SECURITY  
REGARDING  
CONSULTATION AND INFORMATION SHARING  
IN UNACCOMPANIED ALIEN CHILDREN MATTERS

**I. Parties**

The Parties to this Memorandum of Agreement (MOA) are the Office of Refugee Resettlement (ORR) in the Administration for Children and Families of the U.S. Department of Health and Human Services (HHS), and U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) of the U.S. Department of Homeland Security (DHS) (collectively “the Parties”).

**II. Purpose**

The purpose of this MOA is to set forth the expectations of the Parties and implement processes for the Parties to share information about unaccompanied alien children (UACs) at the time of referral from ICE or CBP to ORR; while in the care and custody of ORR, including in the vetting of potential sponsors and adult members of potential sponsors’ households; and upon release from ORR care and custody. This MOA sets forth a process by which DHS will provide HHS with information necessary to conduct suitability assessments for sponsors from appropriate federal, state, and local law enforcement and immigration databases, as required by law. Such information includes information to which HHS would otherwise not have access and without which suitability assessments are incomplete. The Parties recognize such information-sharing as a top priority requiring special attention to ensure that the transfer, placement, and release of UACs are safe for the UACs and the communities into which they are released.

This MOA does not address all necessary coordination between the Parties, nor is that the intent of this document. It is not a substitute for, nor does it supersede or revise, the Parties’ responsibilities under the Memorandum of Agreement between the Department of Homeland Security and the Department of Health and Human Services Regarding Unaccompanied Alien Children, executed on February 22, 2016, which established a framework for interagency coordination.

### **III. Authorities**

This MOA is authorized under, and entered into consistent with, the following provisions of law:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b), 462, 116 Stat. 2135, 2142, 2202 (codified at 6 U.S.C. §§ 112(b), 279);
- B. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5077-79 (codified in principal part at 8 U.S.C. § 1232);
- C. Privacy Act of 1974, as amended, 5 U.S.C. § 552a;
- D. Immigration and Nationality Act of 1952, as amended, §§ 103(a), 287 (codified at 8 U.S.C. §§ 1103(a), 1357); and
- E. Tariff Act of 1930, as amended, § 589 (codified at 19 U.S.C. § 1589a).

### **IV. HHS and DHS Responsibilities Upon Initial Referral**

#### **A. Initial Referral and Transfer**

1. At the time of initial referral, the DHS component (ICE or CBP) referring the UAC to HHS (specifically, ORR) will electronically transfer the following information about the UAC, to the extent such information is known and can be gathered in an operationally reasonable manner, to ORR through the UAC Portal or by some other appropriate method:
  - a. Basic biographical data (e.g., name, date of birth, country of birth, potential sponsor information);
  - b. Situational factors (e.g., health, pregnancy, travel companions);
  - c. Human trafficking indicators; and
  - d. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, gang affiliation or suspected gang affiliation, and violence or behavioral concerns.
2. To ensure ORR has available information and supporting documentation to make an informed placement decision, the apprehending DHS component (ICE or CBP) will normally include in the Transfer Packet:
  - a. Copies of all identity documents;
  - b. DHS Form I-213, Record of Deportable/Inadmissible Alien;
  - c. DHS Form I-216, Record of Persons and Property Transferred;
  - d. DHS Form I-217, Information for Travel Document or Passport;

- e. DHS Form I-770, Notice of Rights and Request for Disposition;
  - f. DHS Form I-862, Notice to Appear or other charging document;
  - g. CBP Form 93, Unaccompanied Alien Child Screening Addendum (trafficking information), if conducted;
  - h. Other applicable DHS, ICE, or CBP forms, if applicable, such as DHS Form I-200, Warrant for Arrest of Alien; and
  - i. Copies of any publicly available federal, state, or local criminal records in the possession of the apprehending DHS component (ICE or CBP) at the time of transfer and appropriate available documentation describing any gang, immigration, criminal, or other activity that may affect placement.
3. As expeditiously as possible, but no later than 24 hours after receiving notification from ICE or CBP of a UAC needing placement at an ORR facility, ORR will send a notification email notifying both ICE and CBP of the placement location. At a minimum, the message will include:
- a. Identifying information of the UAC at issue;
  - b. Facility name and location; and
  - c. Facility point of contact (name and telephone number).

## **B. ORR Care**

1. While UAC are in ORR care, ORR will notify ICE or CBP of the following situations, as expeditiously as possible, but no later than 48 hours after the occurrence:
- a. Unauthorized absences. The ORR-funded care provider will contact the ICE Enforcement and Removal Operations (ERO) Field Office Juvenile Coordinator (FOJC) by telephone and provide notice by email.
  - b. Arrest of a UAC in ORR custody. The ORR-funded care provider will contact the FOJC by telephone and provide notice by email.
  - c. Death of a UAC. ORR headquarters will immediately notify, by telephone, ICE ERO.
  - d. Alleged or suspected fraud, human smuggling, human trafficking, drug trafficking, weapons trafficking, or gang-related activity. ORR will notify the ICE Homeland Security Investigations Tip Line by email and, for human trafficking specifically (either by or of a UAC), ORR will also email the ICE Human Trafficking Help Desk.
  - e. Abuse of a UAC in ICE or CBP custody. If ORR becomes aware of allegations of abuse of a UAC while he or she was in ICE or CBP custody, ORR will notify the appropriate DHS component (ICE or CBP) as required under ORR policy.
  - f. Violence by a UAC while in ORR care. ORR will notify the FOJC of incidents of physical violence or assault by a UAC in its care, including incidents between a UAC and facility staff.



B. ORR will provide ICE with the name, date of birth, address, fingerprints (in a format and transmitted as prescribed by ICE from time to time), and any available identification documents or biographic information regarding the potential sponsor and all adult members of the potential sponsor's household. ICE will then provide ORR with the summary criminal and immigration history of the potential sponsor and all adult members of the potential sponsor's household to the extent available to ICE, consistent with the applicable confidentiality provisions of the Immigration and Nationality Act (INA). ORR will use the criminal and immigration history information provided by ICE in ORR's individualized determination of sponsorship eligibility.

1. ICE will ascertain only criminal and immigration history information. ORR will remain responsible for searching various databases including public records, Sex Offender Registry, National (FBI) Criminal History, Child Abuse and Neglect, State Criminal History Repository, and local police records for all potential sponsors.

### C. DHS's Responsibilities

1. Upon notice from an ORR-funded care provider that a potential sponsor or adult member of a potential sponsors' household requires screening for criminal and immigration histories and that ORR has received proper authorization from the potential sponsor or adult household members, ICE will conduct the initial screening. At a minimum, the review will include:
  - a. A biographic criminal check of the national databases;
  - b. A biographic check for wants and warrants; and
  - c. An immigration status check of the immigration databases.
2. ICE will run the fingerprints of the potential sponsor and/or adult household member and review the response received for any criminal activity.
3. ICE will provide the relevant criminal and immigration history information (consistent with the applicable confidentiality provisions of the INA) on the potential sponsor and adult household members within 72 hours, excluding weekends and holidays, after ORR requests the information and provides ICE with the necessary background information on the potential sponsor or adult member of the potential sponsors' household.

## VI. Severability

Nothing in this Agreement is intended to conflict with current law or regulation or the directives of DHS, CBP, ICE, HHS, or ORR. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

**VII. Disputes**

Disagreements between the Parties arising under or related to this MOA will be resolved by consultation. Attempts to resolve disputes will occur first at the lowest level possible. Any issues left unresolved after due consultation may be raised to the appropriate levels in the Parties, or if necessary, DHS and HHS.

**VIII. Funding**

Each Party intends to bear its own costs in relation to this MOA. Expenditures are subject to the Parties' budgetary resources and availability of funds pursuant to applicable laws and regulations. The Parties expressly acknowledge that this MOA in no way implies that funding is to be made available for such expenditures and does not obligate the Parties to expend any funds. Nothing in this MOA is intended to or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1519.

**IX. No Private Rights**

This MOA is an agreement between the Parties and is not intended to, does not, and should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any administrative, civil, or criminal matter, against the United States, or any of its agencies, officers, or employees. This MOA does not and is not intended to place any limitations on the otherwise lawful enforcement or litigative prerogatives of the Parties.

**X. Effective Date, Modification, and Termination**

This MOA will take effect thirty (30) days after signature by the Parties and will remain in effect until revised or revoked in writing by mutual agreement of the Parties, or terminated without cause by any Party upon thirty (30) days advance notice in writing of intent to terminate.

Approved by:

(b)(6)

Kevin K. McAleenan  
Commissioner  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security

04/13/18  
Date

(b)(6)

Thomas D. Homan  
Deputy Director and Senior Official Performing the Duties of the Director  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security

APR 13 2018  
Date

(b)(6)

Steven Wagner  
Acting Assistant Secretary for Children and Families  
U.S. Department of Health and Human Services

04-13-18  
Date

(b)(6)

Scott Lloyd  
Director  
Office of Refugee Resettlement  
Administration for Children and Families  
U.S. Department of Health and Human Services

4/13/18  
Date