

# Rights of Children in ORR Custody to Prompt Release

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# Overview

All children in the custody of the Office of Refugee Resettlement (ORR) are entitled to release from custody **without unnecessary delay**, subject to an assessment of sponsor suitability and the need to protect the child's safety or that of others. Children seeking release to parents, legal guardians, or other close relatives have additional **due process protections**, including timelines for deciding sponsorship applications, notice requirements, and an opportunity for sponsors to appeal the denial of their sponsorship application.

If your client is facing obstacles to prompt release, they have legal rights under the following:

## U.S. Constitution

- Due Process Clause of the Fifth Amendment
  - See *Lucas R. v. Becerra*, No. 18-CV-5741, 2022 WL 2177454, at \*24-28 (C.D. Cal. March 11, 2022); see also *J.E.C.M. by & through Saravia v. Marcos*, 689 F. Supp. 3d 180, 194-95 (E.D. Va. 2023); *Maldonado v. Lloyd*, No. 18-CV-3089, 2018 WL 2089348, at \*6-10 (S.D.N.Y. May 4, 2018); *Santos v. Smith*, 260 F. Supp. 3d 598, 611-15 (W.D. Va. 2017); *Beltran v. Cardall*, 222 F. Supp. 3d 476, 489 (E.D. Va. 2016).

## Statutes

- Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232(c)
- Homeland Security Act, 6 U.S.C. § 279

## Regulations

- 45 C.F.R. § 410.1000, *et seq.* (ORR Foundational Rule)

## Court Orders

- Order Granting Declaratory Judgment, *Lucas R. v. Becerra*, No. 18-CV-5741, ECF 447 (C.D. Cal. Sept. 16, 2024)

This Guide is designed to explain what rights your clients have and what source of law undergird these rights.

# Overview

## What You Can Do

If your client is facing obstacles to prompt release, you can:

- **Reach out to the National Center for Youth Law** – We can help identify potential legal violations and suggest options for relief. Please contact NCYL at [immigration@youthlaw.org](mailto:immigration@youthlaw.org).
- **Contact the program director and Federal Field Supervisor responsible for your client's facility** – Identify what obstacles are occurring, citing relevant laws, regulations, and policy provisions, and make specific requests for your client.
- **Encourage your client's sponsor to seek legal assistance** – VECINA's ReUnite Project provides pro bono legal assistance to sponsors of detained unaccompanied children and may be able to assist with the sponsorship process and/or a sponsor denial appeal. See VECINA's ReUnite [website](#) for more information and referral forms.
- **Report concerns to ORR** – Email [uchearings@acf.hhs.gov](mailto:uchearings@acf.hhs.gov) to report concerns regarding discrimination in the release process, including but not limited to discrimination based on disability, race, and national origin. See [ORR Nondiscrimination Notice](#).
- **File a complaint with the UC Office of the Ombuds** – The ORR Foundational Rule creates a UC Office of the Ombuds with the authority to receive and investigate complaints regarding ORR's adherence to federal law and ORR regulations and standards. See [45 C.F.R. § 410.2002](#). Complaints can be submitted through the UC Office of the Ombuds [website](#) or by email at [UC.Ombuds@acf.hhs.gov](mailto:UC.Ombuds@acf.hhs.gov).
- **Consider pursuing an administrative appeal or federal litigation to enforce your client's rights** – Reach out to NCYL at [immigration@youthlaw.org](mailto:immigration@youthlaw.org) if you would like assistance finding counsel for your client.

# Release Options

## Does my client have the right to release to a sponsor?

- ORR must release a child from its custody without unnecessary delay, subject to an assessment of sponsor suitability. [45 C.F.R. § 410.1201\(a\)](#). A sponsor is suitable if they can provide for the child's physical and mental well-being. [45 C.F.R. § 410.1205\(a\)](#); see also [8 U.S.C. § 1232\(c\)\(3\)\(A\)](#).
- ORR must make and record prompt and continuous efforts toward a child's release. [45 C.F.R. § 410.1203\(a\)](#).
- ORR is also required to promptly place a child "in the least restrictive setting that is in the best interest of the child." [8 U.S.C. § 1232\(c\)\(2\)\(A\)](#); see also [45 C.F.R. § 410.1003\(f\)](#). The least restrictive setting is likely to be release from ORR custody. See [8 U.S.C. § 1232\(c\)\(2\)\(A\)](#); [45 C.F.R. § 410.1209\(e\)](#); *Saravia v. Sessions*, 905 F.3d 1137, 1143 (9th Cir. 2018).
- ORR will deny release if it determines that a sponsor is not capable of providing for the child's well-being or that release would endanger the safety of the child or the community. [45 C.F.R. § 410.1205\(a\)](#).

## Who is eligible to sponsor a child in ORR custody?

- ORR releases a child, in order of preference, to (1) a parent; (2) a legal guardian; (3) an adult relative; (4) an adult individual or entity designated by the parent or legal guardian; (5) a licensed program willing to accept legal custody; or (6) an adult individual or entity seeking custody (at ORR's discretion and when there is no other alternative). [45 C.F.R. § 410.1201\(a\)](#).
- Unaccompanied children cannot be released on their own recognizance. [6 U.S.C. § 279\(b\)\(2\)\(B\)](#); [45 C.F.R. § 410.1201\(c\)](#).



# Release Options

## Who qualifies as a close relative for sponsorship purposes?

- ORR's regulations provide additional rights and protections to parents, legal guardians, and other "close relative" potential sponsors. See, e.g., [45 C.F.R. § 410.1205](#).
- A "close relative" is "a brother, sister, grandparent, aunt, uncle, first cousin, or other immediate biological relative, or immediate relative through legal marriage or adoption, and half-sibling." [45 C.F.R. § 410.1001](#). ORR refers to these close relatives as Category 2 sponsors. [ORR Policy Guide § 2.2.1](#).

## Does ORR have to consider my client's preferences regarding their release options?

- Yes, ORR's sponsor suitability assessment must consider the child's perspective regarding release and their wishes and concerns. [45 C.F.R. § 410.1202\(c\), \(e\)](#).

## Can my client be released to a potential sponsor without a pre-existing relationship?

- As part of its suitability assessment, ORR assesses the nature and extent of the potential sponsor's relationship with the child and the child's family. [45 C.F.R. § 410.1202\(d\)](#).
- The lack of a pre-existing relationship between the potential sponsor and the child may be a factor in ORR's decision but does not categorically disqualify a potential sponsor. [45 C.F.R. § 410.1202\(d\)](#); [ORR Policy Guide § 2.2.4](#). Care providers should not refuse to consider a sponsor based solely on the lack of a pre-existing relationship.

## How does a potential sponsor's immigration status affect their sponsorship application?

- ORR does not disqualify a potential sponsor based solely on their immigration status. See [45 C.F.R. § 410.1201\(b\)](#); [ORR Policy Guide § 2.6](#).
- ORR should not ask sponsors for their immigration status. See [ORR Policy Guide § 2.6](#).

# Release Options

## Will ORR share information related to a potential sponsor's immigration status with the Department of Homeland Security?

- ORR is prohibited from collecting information on the immigration status of potential sponsors for law enforcement or immigration enforcement purposes. [45 C.F.R. § 410.1201\(b\)](#).
- ORR is also prohibited from sharing potential sponsors' immigration status information with law enforcement or immigration enforcement entities. [45 C.F.R. § 410.1201\(b\)](#); [ORR Policy Guide § 2.6](#); [ORR Policy Guide § 5.10](#).

## Are potential sponsors protected from discrimination based on national origin, disability, or other characteristics?

- Yes, ORR is prohibited from discriminating based on race, color, national origin, disability, religion, age, or sex (including pregnancy, sexual orientation, and gender identity). See [ORR Nondiscrimination Notice](#); [HHS Nondiscrimination Notice](#).

- Sponsors with disabilities are entitled to reasonable modifications in the release process to avoid discrimination based on disability. See [45 C.F.R. § 85.21](#); [45 C.F.R. § 84.68\(b\)\(7\)\(i\)](#).
- Although not explicitly applicable to ORR, the Department of Health and Human Services has detailed regulations related to non-discrimination against parents and caregivers with disabilities in the child welfare system, including guidance on reasonable modifications in evaluation procedures. See [45 C.F.R. § 84.60](#).

## Lionel

Lionel has two potential sponsors in the United States: (1) his uncle, who is married to his biological aunt and is a U.S. citizen; and (2) his first cousin, who is undocumented. Both are eligible to sponsor Lionel and both qualify as close relatives. Although Lionel has never met his uncle in person, he would prefer to be released to his uncle because his uncle has more room in his house and Lionel would be able to attend school with his cousins. ORR should take Lionel's wishes into account and should not automatically disqualify his uncle based on a lack of pre-existing relationship. Lionel should be aware, however, that a lack of pre-existing relationship may affect ORR's decision on whether his uncle is capable of providing for his well-being.

# Timeline for Review of Sponsorship Applications

## How quickly should ORR review a sponsorship application?

- ORR's timelines vary depending on the potential sponsor's relationship with the child. Absent an unexpected delay such as a home study, ORR is required to make a decision on a sponsorship application:
  - Within 10 days of receipt of a completed sponsorship application from a child's parent, legal guardian, sibling, or grandparent. [45 C.F.R. § 410.1205\(b\)](#). This timeline also applies if the sponsor is a close relative who was previously the child's primary caregiver. *Id.*
  - Within 14 days of receipt of the completed sponsorship application for other close relative potential sponsors (e.g., aunts, uncles, first cousins). [45 C.F.R. § 410.1205\(b\)](#).
- ORR's regulations do not establish a set timeline for sponsorship applications from distant relatives or unrelated adults. In all cases, however, ORR is required to release a child without unnecessary delay and to make and record its prompt and continuous efforts toward a child's release. [45 C.F.R. §§ 410.1201\(a\), 410.1203\(a\)](#).

## What protections exist for children with prolonged sponsorship processes?

- If a child has been in ORR custody for 90 days, an ORR supervisory staff member (e.g., a Federal Field Specialist (FFS) Supervisor) must conduct an automatic review of all pending sponsorship applications to identify and resolve obstacles to timely release. [45 C.F.R. § 410.1207\(a\)](#). After the completion of this review, the child and their sponsor must receive an update on the status of the case and any reasons the release process is incomplete. [45 C.F.R. § 410.1207\(b\)](#).
- If a child remains in custody after the initial 90-day review, ORR supervisory staff must conduct additional reviews at least every 90 days until pending sponsor applications are resolved. See [45 C.F.R. § 410.1207\(c\)](#).
- Following the completion of the 90-day review, the case manager or other ORR or care provider staff must work with the potential sponsor, ORR, and other stakeholders to address the portions of the sponsor application that remain unresolved. [45 C.F.R. § 410.1207\(b\)](#). The child's attorney and child advocate likely qualify as relevant stakeholders for purposes of this regulation.

# Timeline for Review of Sponsorship Applications

## Carlos

Carlos has been in ORR custody for over two months and his current sponsor is his older sister. Carlos and his sister have different last names, and his sister is having trouble locating all the documentation requested by Carlos's case manager to establish their family relationship. If Carlos is in custody for 90 days, an FFS Supervisor should review his sister's pending application and determine what steps are needed to accelerate his safe release. This could include, for example, suggesting alternative means to prove a family relationship or instructing Carlos's case manager that some of the requested documents are not required under ORR policy. Carlos's case manager should then work with Carlos's sister and Carlos's child advocate and/or attorney to resolve any remaining issues with the sponsorship application.

## How can I find out the status of my client's sponsorship applications?

- The child advocate and the child's attorney of record can request the child's case file. [45 C.F.R. §§ 410.1308\(e\)](#) (child advocates); [410.1309\(c\)\(2\), \(3\)](#) (attorneys).
- ORR must promptly provide the child's attorney with the name and telephone number of potential sponsors who have submitted a completed family reunification application (if the sponsor consents to sharing this information). [45 C.F.R. § 410.1309\(c\)\(2\)](#).



# Denial of Release to a Sponsor

## Who makes the final decision on a sponsorship application?

- In most cases, the ORR Federal Field Specialist (FFS) makes the final release decision after considering the recommendation of the child's case manager and the case coordinator. See [ORR Policy Guide § 2.7](#).
- If the FFS denies release to a parent, legal guardian, or other close relative (e.g., sibling, grandparent, aunt, uncle, first cousin), the denial must be reviewed by the ORR Director or a neutral and detached designee. [45 C.F.R. § 410.1205\(d\)](#).

## What are the grounds for denying release to a sponsor?

- ORR will deny a sponsorship application if it determines that the potential sponsor is not capable of providing for the physical and mental well-being of the child or that the placement would result in danger to the child or the community. See [45 C.F.R. § 410.1205\(a\)](#); see also [8 U.S.C. § 1232\(c\)\(3\)\(A\)](#).
- Specific categories of criminal convictions or adverse child welfare findings will automatically lead to a denial of sponsorship for a non-parent or legal guardian sponsor. See [ORR Policy Guide § 2.7.4](#).

- If a child has a disability, ORR must make reasonable modifications in the release process and must affirmatively assist potential sponsors to access and coordinate community-based services to support the sponsor's ability to care for the child. See [45 C.F.R. § 410.1311\(e\)\(2\)](#). A potential sponsor should not be denied on the basis that they are not capable of providing for a child's disability-related needs unless ORR first offers support to help the sponsor meet those needs. See [Guide to Rights of Children with Disabilities](#).
- Sponsors with disabilities are also entitled to reasonable modifications in the release process to avoid discrimination based on disability. See [45 C.F.R. § 85.21](#); [45 C.F.R. § 84.68\(b\)\(7\)\(i\)](#).



# Denial of Release to a Sponsor

## How will my client and their potential sponsor be notified of a release denial?

- If ORR denies release to a parent, legal guardian, or other close relative:
  - ORR must promptly notify the sponsor through a Notification of Denial letter that includes an explanation of the reasons for the denial, the evidence supporting the denial, and notice regarding the sponsor's appeal rights. See [45 C.F.R. § 410.1205\(c\)](#).
  - ORR must inform the child, the child advocate, and the child's counsel (or assigned legal service provider if the child has no counsel) of the denial. [45 C.F.R. § 410.1205\(e\)](#). ORR must also inform these individuals that they have the right to inspect the evidence underlying ORR's decision upon request, unless ORR is legally prohibited from sharing the information. [45 C.F.R. § 410.1205\(e\)](#).
- If ORR denies release to any sponsor based solely on a determination that the child is a danger to themselves or others, the child and their counsel must receive a complete Notification of Denial letter. [45 C.F.R. § 410.1205\(f\)](#); [ORR Policy Guide § 2.7.7](#).
- If ORR denies release to a distant relative or unrelated sponsor based on concerns related to sponsor suitability, ORR's regulations do not include any specific notice requirements. Under ORR Policy, the care provider will provide verbal notice to the sponsor of the denial and the reasons for the denial. [ORR Policy Guide § 2.7.7](#).
- In all cases, the child advocate and the child's attorney of record can request the child's case file. See [45 C.F.R. §§ 410.1308\(e\)](#) (child advocates); [410.1309\(c\)\(2\), \(3\)](#) (attorneys).

# Denial of Release to a Sponsor

## What can I do if my client's case manager is not moving a sponsorship application forward but the sponsor has not been officially denied?

- If the case manager says that the sponsor is unresponsive or is not interested in moving forward, you can request the sponsor's contact information and try to reach out to the sponsor yourself to determine the sponsor's position. See [45 C.F.R. § 410.1309\(c\)\(2\)](#).
- If the case manager is requesting additional documentation that the sponsor is unable to provide, check [ORR Policy Guide § 2.2.4](#) to see if this documentation is required and whether it is possible to submit alternative documents.
- Reach out to the Federal Field Specialist (FFS) and/or the FFS Supervisor to address continued roadblocks to release. Note that the FFS Supervisor should automatically review your client's pending sponsorship applications if your client has been in custody for 90 days, and every 90 days thereafter. See [45 C.F.R. § 410.1207](#).
- If the sponsor is a parent, legal guardian, or close relative and they have submitted a completed family reunification application but ORR is refusing to make a decision on the application, encourage the potential sponsor to consult with pro bono counsel. The sponsor could choose to request a formal denial to trigger the sponsorship appeal procedures in [45 C.F.R. § 410.1206](#). Alternatively, the sponsor could attempt to file a sponsor denial appeal on the grounds that ORR's failure to timely decide their application under [45 C.F.R. § 410.1205\(b\)](#) has resulted in a constructive denial.

# Appeal of Denial of Release

## Who can appeal a release denial?

- A parent, legal guardian, or other close relative potential sponsor can appeal a release denial. See [45 C.F.R. § 410.1206\(a\)](#).
- An unaccompanied child may appeal a release denial at any time after denial of release if the sole reason for the denial is a concern that the child is a danger to self or others. See [45 C.F.R. § 410.1206\(c\)](#). An unaccompanied child in this situation could also seek a risk determination hearing (see comparison chart below). [45 C.F.R. § 410.1903](#).

## Who is the decision-maker in an appeal of a denial of release?

- The Assistant Secretary of the Administration for Children and Families or their neutral and detached designee hears and decides appeals of a release denial. [45 C.F.R. § 410.1206\(g\)](#).

## Will my client or their potential sponsor receive a hearing?

- A potential sponsor can ask for a hearing or choose an appeal without a hearing. [45 C.F.R. § 410.1206\(b\)](#). A child requesting an appeal of a denial of release based on danger to self or others has the same options. [45 C.F.R. § 410.1206\(b\), \(c\)](#).
- If a potential sponsor or child does not wish to have a hearing, they can submit evidence in writing. [45 C.F.R. § 410.1205\(c\)\(4\)](#).
- If a potential sponsor or child requests a hearing, they can submit additional evidence in writing before the hearing or orally during the hearing and may present witnesses and cross-examine ORR's witnesses if those witnesses are willing to appear at the hearing. [45 C.F.R. § 410.1205\(c\)\(4\), \(5\)](#).

# Appeal of Denial of Release

## How long will it take to get a decision on the appeal?

- The Assistant Secretary, or their neutral and detached designee, must acknowledge the request for appeal within five business days of receipt. See [45 C.F.R. § 410.1206\(b\)](#).
- The appeal process, including notice of the appeal decision, must be completed within 30 calendar days of the potential sponsor's request for an appeal, unless an extension of time is granted by the Assistant Secretary or their neutral and detached designee for good cause. See [45 C.F.R. § 410.1206\(f\)](#).

## Does my client or their potential sponsor have a right to counsel regarding a sponsor denial appeal?

- Children have the right to counsel with respect to release or the denial of release to a potential sponsor, but the government is not required to pay for this representation. See [45 C.F.R. §§ 410.1205\(g\), 410.1206\(j\)\(2\)](#).
- Potential sponsors have the right to be represented by counsel during the appeal process, but the government does not need to pay for this representation. [45 C.F.R. § 410.1206\(j\)\(1\)](#). If your client's sponsor needs help locating pro bono legal counsel, consider referring them to VECINA's [ReUnite Project](#).

# Appeal of Denial of Release

## What evidence will my client or their potential sponsor receive to help prepare an appeal?

- The Notification of Denial letter sent to the potential sponsor (and to the child if the child is denied release based on danger to self or others) must include an explanation of the reasons for the denial and the evidence and information supporting ORR's denial decision. [45 C.F.R. § 410.1205\(c\)\(1\), \(2\)](#).
- ORR must provide the potential sponsor the full evidentiary record within a reasonable timeframe, including the evidence that supports the denial and any evidence that favors the sponsor. [45 C.F.R. § 410.1206\(d\)](#). ORR may withhold parts of the evidentiary record if it determines that providing this information to the potential sponsor would compromise the child's safety and well-being. [45 C.F.R. § 410.1206\(d\)](#).

- ORR must provide the child's complete case file:
  - To a parent or legal guardian potential sponsor on request within a reasonable timeframe. [45 C.F.R. § 410.1206\(e\)](#). ORR may withhold portions of the case file if it determines that sharing this information would compromise the child's safety and well-being.
  - To a child and the child's attorney within a reasonable time. [45 C.F.R. § 410.1206\(e\)](#).

## What interpretation and/or translation services are available during the appeal process?

- ORR must make qualified interpretation and/or translation services available to unaccompanied children and to close relative potential sponsors for purposes of appealing denials of release. [45 C.F.R. § 410.1206\(h\)](#).
- Such services must be available to unaccompanied children and potential sponsors in enclosed, confidential areas. [45 C.F.R. § 410.1206\(h\)](#).



# Appeal of Denial of Release

## Sara

Sara was denied release to her grandfather because of an old criminal conviction for a drug-related offense. The FFS concluded that her grandfather's conviction disqualified him from sponsorship under ORR policy. Sara's attorney disagrees and believes the conviction does not compromise his ability to ensure Sara's safety. Sara is not eligible to seek an appeal herself because there is no allegation that Sara is a danger to self or others. Sara's grandfather can pursue an appeal and is entitled to review the entire evidentiary record, including any information ORR has collected that supports his ability to safely care for Sara.

## How will my client and their potential sponsor be notified of the result of an appeal?

- The Assistant Secretary or their neutral and detached designee will send a written decision to the sponsor ordering release to the potential sponsor or denying release. [45 C.F.R. § 410.1206\(f\)](#), [\(g\)](#). If the decision denies release, the written decision must provide detailed, specific, and individualized reasoning for this decision. [45 C.F.R. § 410.1206\(g\)](#).

- The child and the child's attorney must receive notice of any denial of release. [45 C.F.R. § 410.1206\(g\)](#).
- ORR must also inform the potential sponsor and the unaccompanied child of any right to seek review of an adverse decision in the United States District Court. [45 C.F.R. § 410.1206\(g\)](#).

## Can my client be released to a different sponsor while a sponsor appeal is ongoing?

- Yes, ORR must continue to make efforts to release your client regardless of whether an appeal has been filed. See [45 C.F.R. §§ 410.1201\(a\)](#), [410.1203\(a\)](#).
- If a child is released to a different sponsor during the appeal process, it will end all pending appeals. See [45 C.F.R. § 410.1206\(i\)](#).

# Appeal of Denial of Release

## If ORR alleges that my client is a danger to themselves or others, should they seek a release denial appeal or a risk determination hearing?

- If your client is denied release or is at risk of release denial based on allegations that they are a danger to themselves or others, they have the option of pursuing a release denial appeal and/or a risk determination hearing. See [45 C.F.R. §§ 410.1206\(c\), 410.1903\(a\), \(b\)](#). The below chart compares these options.

	<b>Release denial appeal</b> <b><a href="#">45 C.F.R. § 410.1206</a></b>	<b>Risk determination hearing</b> <b><a href="#">45 C.F.R. § 410.1903</a></b>
<b>Timing of request</b>	Any time after denial of release. <a href="#">§ 410.1206(c)</a> .	Automatic if child is in restrictive placement (can opt-out). <a href="#">§ 410.1903(a)</a> .  Any child in ORR custody can request at any time. <a href="#">§ 410.1903(b)</a> .
<b>Timeline</b>	Appeal process to be completed within 30 days of request for an appeal, unless extension is granted for good cause. <a href="#">§ 410.1206(f)</a> .	Not specified.
<b>Decision-maker</b>	Assistant Secretary of the Administration for Children and Families, or their neutral and detached designee. <a href="#">§ 410.1206(a)</a> .	Independent HHS hearing officer. <a href="#">§ 410.1903(a)</a> .
<b>Burden of proof</b>	Not specified.	ORR has burden to show danger to self or community by clear and convincing evidence. <a href="#">§ 410.1903(c)</a> .

# Appeal of Denial of Release

	Release denial appeal 45 C.F.R. § 410.1206	Risk determination hearing 45 C.F.R. § 410.1903
Right to counsel	Child may consult with counsel for assistance with the appeal, at no cost to the government. § 410.1206(c).	Child may be represented by a person of their choosing. § 410.1903(d).
Hearing?	Child can request a hearing or choose to submit a written appeal only. § 410.1206(b).	Yes, hearing will be held by videoconference. § 410.1903(d); <u>ORR Policy Guide § 2.9</u> .
Effect of a positive decision	Child ordered released to sponsor. § 410.1206(g).	The hearing officer cannot directly order a child's release or placement change. § 410.1903(i), (j). But a decision that a child is not a danger is binding on ORR and may remove the last obstacle to release. § 410.1903(f), (g)(3).
Effect of a negative decision	Child is denied release to sponsor. § 410.1206(g).  If there is new information or a change in circumstances, a new sponsorship application can be submitted. <u>ORR Policy Guide § 2.7.8</u> .	A decision that a child is a danger to self or the community is final and binding on ORR and is likely to prevent release. § 410.1903(h).  A child must demonstrate a material change in circumstances to receive a new hearing to revisit this decision. § 410.1903(h).

# Appeal of Denial of Release

## Opportunities for further appeal

### Release denial appeal 45 C.F.R. § 410.1206

May be able to seek further review in U.S. District Court. [§ 410.1206\(g\)](#); see also [5 U.S.C. § 702](#).

### Risk determination hearing 45 C.F.R. § 410.1903

A child or ORR can appeal to the Assistant Secretary for Children and Families, or their designee, within 30 days of the decision. [§ 410.1903\(g\)](#).

If ORR appeals a finding that a child is *not* a danger, a child's release should not be delayed absent specific findings set out in the regulations. [§ 410.1903\(g\)\(3\)](#).

A child may also be able to file a writ of habeas corpus in federal court if the child or their attorney believes they are being held unlawfully.

**FOR MORE INFORMATION,  
CONTACT NCYL**

[immigration@youthlaw.org](mailto:immigration@youthlaw.org)

**WWW.YOUTHLAW.ORG**

[contact@youthlaw.org](mailto:contact@youthlaw.org)  
1212 Broadway, Suite 600  
Oakland, CA 94612