

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Angelica S., Eduardo M., Liam W., Leo B., Xavier L., and Immigrant Defenders Law Center hereby move the Court, pursuant to 5 U.S.C. § 705, Federal Rule of Civil Procedure 65, and Local Civil Rule 65.1 for a preliminary injunction against Defendants U.S. Department of Health and Human Services (“HHS”), Robert F. Kennedy, Jr., Secretary of HHS, and Angie Salazar, Acting Director of the Office of Refugee Resettlement (“ORR”). Plaintiffs are unaccompanied immigrant children in ORR custody unnecessarily separated from their parents or other caring potential sponsors because of ORR’s refusal to accept their sponsor’s proof of identification and/or financial stability, as well as a nonprofit organization representing unaccompanied immigrant children. The individual Plaintiffs file this motion pseudonymously, in accordance with Plaintiffs’ pending Motion for Leave to Proceed Under Pseudonym and to File Under Seal. ECF No. 2. Plaintiffs filed a motion for class certification on May 9, 2025. ECF No. 9.

Plaintiffs request the Court provisionally certify a putative class of unaccompanied immigrant children in ORR custody and issue a preliminary injunction (1) staying the Interim

Final Rule (“IFR”) promulgated by HHS on March 25, 2025; (2) prohibiting ORR from enforcing the new proof of identification requirements and new proof of income requirements currently contained in the March 7, 2025, and April 15, 2025, revisions of its Unaccompanied Children Policy Guide Section 2.2.4; (3) requiring ORR to promptly, and within no later than 10 days, inform all potential sponsors of unaccompanied children who were disqualified or denied based on ORR’s unlawful proof of identification and proof of income policies that they may now continue with their sponsorship applications; and (4) requiring ORR to adjudicate any sponsorship application denied, closed, or otherwise delayed in whole or in part because of the IFR or the above-described unlawful identification and/or proof of income policies according to the policies and requirements in place when the completed application was submitted.

As Plaintiffs discuss in greater detail in their accompanying memorandum of law, the IFR and ORR’s new proof of identification and proof of income policies are unlawful and were issued in violation of the Administrative Procedure Act. Plaintiff children are suffering emotional distress and other irreparable harm because of their unnecessary and ongoing separation from their parents and other close family members.

Plaintiffs request a hearing as soon as possible and in no more than 21 days from today’s date. *See* Local Civil Rule 65.1(d).

On May 8, 2025, Plaintiffs’ counsel provided Alex Haas, Diane Kelleher, and John Griffiths, the Directors of the Federal Programs Branch of the U.S. Department of Justice’s Civil Division, with a copy of the complaint, informed them that Plaintiffs intended to file a motion for preliminary injunction on May 9, and asked to confer about the motion with the attorneys assigned. Ms. Kelleher responded adding additional attorneys. As of the time of filing this motion, Defendants have not yet responded to Plaintiffs’ request to confer.

WHEREFORE, Plaintiffs respectfully request that this motion be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 9, 2025, I caused the foregoing to be mailed to the following addresses:

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND.....	4
I. ORR’s Statutory Mandate and Regulations	4
II. Sponsor Application Process.....	6
A.Family Reunification Application	6
B.Changes to Sponsor Application Proof of Identity Requirements.....	7
C.New Sponsor Proof of Income Requirements	9
D.Proposed Revisions to Family Reunification Application.....	10
E. Expanded Collection of Biometric Data on Sponsors	11
III. Information Sharing with DHS	12
A.Prior Information Sharing with DHS.....	12
B.Restrictions on Using ORR Data for Immigration Enforcement	13
ARGUMENT	14
I. Plaintiffs are Likely to Succeed on the Merits	15
A.The Interim Final Rule is Unlawful and Must be Set Aside.....	15
B.ORR’s New Sponsor Documentation Requirements Are Unlawful.....	27
II. Plaintiffs are Suffering Irreparable Injury	40
III. Balance of Harm and Public Interest Favor Plaintiffs.....	42
IV. Relief Requested	43
CONCLUSION	45

TABLE OF AUTHORITIES

Cases

<i>* Am. Fed. of Govt. Emps., AFL-CIO v. Block</i> , 655 F.2d 1153 (D.C. Cir. 1981)	16, 21
<i>Am. Wild Horse Pres. Campaign v. Perdue</i> , 873 F.3d 914 (D.C. Cir. 2017)	20
<i>* Arkema, Inc. v. EPA</i> , 618 F.3d 1 (D.C. Cir. 2010)	38, 39
<i>Barr v. Am. Ass’n of Pol. Consultants, Inc.</i> , 591 U.S. 610 (2020)	23
<i>Bd. of Cnty. Comm’rs of Weld Cnty. v. EPA</i> , 72 F.4th 284 (D.C. Cir. 2023).....	38
<i>* Bennett v. Spear</i> , 520 U.S. 154 (1997)	28
<i>Chicago & S. Air Lines v. Waterman S. S. Corp.</i> , 333 U.S. 103 (1948)	28
<i>Consumer Energy Council of Am. v. Fed. Energy Reg. Comm’n</i> , 673 F.2d 425 (D.C. Cir. 1982), <i>aff’d sub nom. Process Gas Consumers Grp. v. Consumer Energy Council of Am.</i> , 463 U.S. 1216 (1983)	20
<i>Damus v. Nielsen</i> , 313 F.Supp.3d 317 (D.D.C. 2018)	15
<i>Davenport v. Int’l Brotherhood of Teamsters</i> , 166 F.3d 356 (D.C. Cir. 1999)	14
<i>De Niz Robles v. Lynch</i> , 803 F.3d 1165 (10th Cir. 2015).....	38
<i>* DHS v. Regents of Univ. of Cal.</i> , 591 U.S. 1 (2020)	20, 23, 27, 33, 36
<i>Drs. for Am. v. Off. of Pers. Mgmt.</i> , No. CV 25-322, 2025 WL 452707 (D.D.C. Feb. 11, 2025).....	37
<i>* FCC. v. Fox Television Stations, Inc.</i> , 556 U.S. 502 (2009).....	27, 33, 34, 36
<i>Fla. Inst. of Tech. v. FCC</i> , 952 F.2d 549 (D.C. Cir. 1992).....	28
<i>Gomez v. Trump</i> , 485 F. Supp. 3d 145 (D.D.C. 2020).....	14
<i>INS v. St. Cyr</i> , 533 U.S. 289 (2001).....	38, 39
<i>Int’l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.</i> , 407 F.3d 1250 (D.C. Cir. 2005)	15
<i>* J.E.C.M. v. Lloyd</i> , 352 F. Supp. 3d 559 (E.D. Va. 2018)	24, 26, 28, 31

<i>Jacinto-Castanon de Nolasco v. U.S. Immigr. & Customs Enf't</i> , 319 F. Supp. 3d 491 (D.D.C. 2018)	42
Judgment, <i>Lucas R. v. Becerra</i> , No. 18-5741 (C.D. Cal. Sept. 16, 2024), ECF No. 449	32
* <i>Kirwa v. U.S. Dep't of Defense</i> , 285 F. Supp. 3d 257 (D.D.C. 2018)	38, 39
* <i>L.V.M. v. Lloyd</i> , 318 F. Supp. 3d 601 (S.D.N.Y. 2018)	24, 28, 31, 36
<i>Landgraf v. USI Film Prods.</i> , 511 U.S. 244 (1994)	38
<i>League of Women Voters v. Newby</i> , 838 F.3d 1 (D.C. Cir. 2016)	42
* <i>Lucas R. v. Becerra</i> , No. 18-5741, 2022 WL 2177454 (C.D. Cal. Mar. 11, 2022)	32, 36, 42
<i>Lucas R. v. Becerra</i> , No. 18-5741, 2022 WL 3908829 (C.D. Cal. Aug. 30, 2022)	32
<i>M.G.U. v. Nielsen</i> , 325 F. Supp. 3d 111 (D.D.C. 2018)	43
* <i>Mack Trucks, Inc. v. EPA</i> , 682 F.3d 87 (D.C. Cir. 2012)	16, 18
<i>Martin v. Hadix</i> , 527 U.S. 343 (1999)	38
<i>Milliken v. Bradley</i> , 418 U.S. 717 (1974)	44
<i>Moore v. City of E. Cleveland</i> , 431 U.S. 494 (1977)	35, 43
* <i>Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.</i> , 463 U.S. 29 (1983)	passim
<i>Nat'l Mining Ass'n v. McCarthy</i> , 758 F.3d 243 (D.C. Cir. 2014)	28
<i>Nat'l Parks Conservation Ass'n v. Salazar</i> , 660 F. Supp. 2d 3 (D.D.C. 2009)	20
<i>Nat'l Treasury Emps. Union v. Cornelius</i> , 617 F. Supp. 365 (D.D.C. 1985)	20
<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	42
<i>Ohio v. E.P.A.</i> , 603 U.S. 279 (2024)	22
<i>Port of Bos. Marine Terminal Ass'n v. Rederiaktiebolaget Transatlantic</i> , 400 U.S. 62 (1970)	28
<i>Public Utilities Comm'n of State of Cal. v. FERC</i> , 988 F.2d 154 (D.C. Cir. 1993)	44
<i>Purdue Univ. v. Scalia</i> , No. CV 20-3006 (EGS), 2020 WL 7340156 (D.D.C. Dec. 14, 2020)	16

<i>Ramirez v. ICE</i> , 471 F. Supp. 3d 88 (D.D.C. 2020).....	31
* <i>Saco River Cellular, Inc. v. FCC</i> , 133 F.3d 25 (D.C. Cir. 1998)	37
<i>Saravia v. Sessions</i> , 280 F. Supp. 3d 1168 (N.D. Cal. 2017).....	42
* <i>Saravia v. Sessions</i> , 905 F.3d 1137 (9th Cir. 2018)	31
<i>Sierra Club v. EPA</i> , 955 F.3d 56 (D.C. Cir. 2020)	28
<i>Sorenson Commc’ns Inc. v. F.C.C.</i> , 755 F.3d 702 (D.C. Cir. 2014)	16, 21
<i>Stanley v. Illinois</i> , 405 U.S. 645 (1972).....	43
<i>Treasure State Resource Industry Ass’n v. EPA</i> , 805 F.3d 300 (D.C. Cir. 2015).....	39
<i>Tri-Cnty. Tel. Ass’n, Inc. v. FCC</i> , 999 F.3d 714 (D.C. Cir. 2021).....	16
<i>Troxel v. Granville</i> , 530 U.S. 57 (2000).....	43
* <i>United States ex rel. Accardi v. Shaughnessy</i> , 347 U.S. 260 (1954).....	28
<i>United States v. Nixon</i> , 418 U.S. 683 (1974).....	28
<i>Util. Solid Waste Activities Grp. v. EPA</i> , 236 F.3d 749 (D.C. Cir. 2001).....	17, 18
<i>Vitarelli v. Seaton</i> , 359 U.S. 535 (1959)	28
<i>Washington v. Reno</i> , 35 F.3d 1093 (6th Cir. 1994)	42
<i>Way of Life Television Network, Inc. v. FCC</i> , 593 F.2d 1356 (D.C. Cir. 1979)	28
* <i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008)	14
* <i>World Duty Free Americas, Inc. v. Summers</i> , 94 F. Supp. 2d 61 (D.D.C. 2000).....	19

Statutes

44 U.S.C. § 3502	37
44 U.S.C. § 3507	11, 36
5 U.S.C. § 553	15, 16, 20, 21
5 U.S.C. § 704	27
5 U.S.C. § 705	14

5 U.S.C. § 706	22, 31, 33
5 U.S.C. §§ 702	27
6 U.S.C. §§ 279	1, 4
8 U.S.C. § 1232	passim
8 U.S.C. § 1373	18, 22
Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, 133 Stat. 2317 (2019)	13
Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, 139 Stat. 9 (2025)	13

Rules

Unaccompanied Children Foundational Rule, 89 Fed. Reg. 34384 (Apr. 30, 2024)	passim
Unaccompanied Program Foundational Rule, 88 Fed. Reg. 68908 (Oct. 4, 2023)	23
Unaccompanied Program Foundational Rule; Update to Accord with Statutory Requirements, 90 Fed. Reg. 13554 (Mar. 25, 2025)	2

Regulations

45 C.F.R § 410.1205	5, 31, 32, 33
45 C.F.R § 410.1205(b)	44
45 C.F.R. § 1202	31, 35
45 C.F.R. § 410.1201	5, 18, 28, 31
5 C.F.R. § 1320.6	37

Other Authorities

Cal. Dep’t of Motor Vehicles, <i>ID Cards</i> , https://www.dmv.ca.gov/portal/driver-licenses-identification-cards/identification-id-cards/ (last visited May 8, 2025)	30
Comments, Unaccompanied Children Program Foundational Rule, https://perma.cc/DL56-J2TT	17
Dep’t of Health & Hum. Servs., Office of the Inspector Gen., Report No. OEI-09-18-00431, <i>Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody</i> (Sept. 2019)	12

Dep’t of Just., Attorney General’s Manual on the Administrative Procedure Act (1947)	17
H.R. Rep., No. 116-450 (2021)	13
N.Y. Dep’t of Motor Vehicles, <i>Driver Licenses and the Green Light Law</i> , https://dmv.ny.gov/driver-license/driver-licenses-and-the-green-light-law (last visited May 8, 2025)	30
Office of Legal Counsel, <i>Relationship Between Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and Statutory Requirement for Confidentiality of Census Information</i> , 1999 WL 34995963 (O.L.C. May 18, 1999)	19
Office of Refugee Resettlement, Field Guidance #26 (“FG-26”): Fingerprint Background Checks and Acceptable Supporting Documentation for a Family Reunification Application (Feb. 14, 2025), https://perma.cc/3R26-GK9Y	11
Office of Refugee Resettlement, Field Guidance #27 (“FG-27”): DNA Testing Expansion (Mar. 14, 2025), https://perma.cc/67MF-ELB8	11
Office of Refugee Resettlement, Unaccompanied Alien Children Bureau Policy Guide (“Policy Guide”) § 2.2.1, https://perma.cc/TZ83-H2PC	6, 7, 9, 30
Proposed Information Collection Activity: Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278), 90 Fed. Reg. 17438 (Apr. 25, 2025)	10
Testimony of Jonathan Hayes before the Subcomm. on Lab., Health & Hum. Services, Educ., & Related Agencies, U.S. House Comm. on Appropriations (Sept. 18, 2019), https://www.c-span.org/video/?464368-1/administration-officials-testify-migrant- children-mental-health	12
Tex. Dep’t of Pub. Safety, <i>How to Apply for a Texas Identification Card</i> , https://www.dps.texas.gov/section/driver-license/how-apply-texas-identification-card (last visited May 8, 2025)	29
U.S. Citizenship & Immigr. Servs., <i>Temporary I-551 Stamps and MRIVs</i> , https://perma.cc/HBL5-CUYT	7
UC Program Foundational Rule Update on Info Sharing, https://perma.cc/HB8B-CDZ8	17
William Kandel, Cong. Rsch. Serv., R43599 <i>Unaccompanied Alien Children: An Overview</i> (updated Sept. 2024)	5

INTRODUCTION

Unaccompanied children fleeing violence and persecution arrive at our borders hoping to grow up safely in the United States with family. These children are held in the custody of the Office of Refugee Resettlement (“ORR”) within the Department of Health and Human Services (“HHS”) while they await release to a sponsor who is willing and able to care for them while they undergo immigration proceedings. Plaintiff children are suffering unnecessarily prolonged—and possibly permanent—separation from their parents or other family members because of new ORR policies promulgated in violation of the Administrative Procedure Act.

Until recently, ORR’s policies and regulations prioritized releasing children without unnecessary delay to their parents, legal guardians, or other close relatives, regardless of their potential sponsor’s immigration status. ORR also assured sponsors—through explicit language on its application forms and in its policies and regulations—that the extensive personal information they and their household members provide to ORR would be used only to determine their ability to care for the child, not for immigration enforcement purposes. These policies reflect a well-established consensus that it is in children’s best interests to grow up with family rather than confined in an institution. They also reflect Congress’s deliberate choice to transfer the care of unaccompanied children out of an immigration enforcement agency—the former Immigration and Naturalization Service (“INS”)—and to a non-enforcement agency like ORR with a mandate to make decisions in children’s best interests. 6 U.S.C. §§ 279(a), (b)(1)(B); 8 U.S.C. § 1232(c)(2)(A).

In early March 2025, ORR abruptly informed sponsors that it would refuse to accept most of the proof of identification documents listed on its sponsor application form. Contrary to

its own regulations prohibiting sponsor denials based solely on immigration status, ORR instead demanded proof of work authorization or other forms of identification such as State-issued driver's licenses that are not generally available to sponsors without stable lawful immigration status. ORR applied this new policy to all sponsors regardless of their relationship to the child, including those who had already completed their sponsorship applications and undergone fingerprint-based background checks.

Children looking forward to imminent reunification with their family were devastated to learn that their release processes had been upended overnight. This included many children expecting release to their parents, such as 14-year-old Eduardo M. and his 7-year-old brother, 15-year-old Liam W., and 17-year old Xavier L. and his 13-year-old sister. It also included children whose applications were complete but were just pending medical clearance from ORR, such as 17-year-old Angelica S. and her newborn daughter, and Eduardo M. and his brother. Instead of benefiting from her sister's support in caring for her baby, Angelica S. learned that her sister had been abruptly disqualified and she and her baby no longer had any release options.

On March 25, 2025, ORR formalized its change in policy and promulgated an Interim Final Rule ("IFR") rescinding prior regulatory prohibitions on (1) disqualifying sponsors based solely on immigration status, (2) collecting sponsor immigration status information for enforcement purposes, and (3) sharing sponsor immigration status information with enforcement agencies. *See Unaccompanied Program Foundational Rule; Update to Accord with Statutory Requirements*, 90 Fed. Reg. 13554 (Mar. 25, 2025) (to be codified at 45 C.F.R. pt. 410). Despite representing a significant change in policy with far-reaching consequences for unaccompanied children, ORR made the IFR effective immediately without first considering notice and

comment. ORR's justification focused only on a purported statutory conflict related to information sharing and offered no reasoned justification for permitting sponsorship denials based on immigration status or collecting sponsor information for enforcement purposes.

In April 2025, ORR created further obstacles for children seeking release to sponsors without certain immigration status by implementing a new requirement that all sponsors provide specific types of documentation to show proof of income. Sponsors without work authorization are not lawfully permitted to work in the U.S. and requiring evidence of U.S. income while refusing to accept other proof of financial stability—such as bank statements—unlawfully excludes sponsors based on immigration status.

ORR's IFR and concurrent policy changes are procedurally defective, arbitrary and capricious, and contrary to law, in violation of the Administrative Procedure Act. Plaintiffs are likely to succeed on multiple independent grounds. ORR's unlawful policies are inflicting irreparable harm on Plaintiffs and numerous other children by prolonging their time in detention, separating them from their parents and other loving family members, causing extreme stress and uncertainty, and leaving many children with no release options at all. Each day children remain unnecessarily separated from their families, the greater the irreparable harm becomes. The public interest favors family integrity and the well-being of children.

Plaintiffs thus seek a preliminary injunction on behalf of Plaintiffs and a putative class of all unaccompanied children who are or will be in the custody of HHS and who (a) have or had a potential sponsor who has been identified; and (b) have not been released to a sponsor in whole or in part because they are missing documents newly required on or after March 7, 2025 ("Proposed Class"). Plaintiffs filed a motion for class certification on May 9, 2025. *See* ECF 9.

Plaintiffs request that the Court provisionally certify the Proposed Class and preliminarily enjoin Defendants from enforcing their harmful policies during the pendency of this litigation.

BACKGROUND

I. ORR’s Statutory Mandate and Regulations

In the Homeland Security Act (“HSA”) of 2002, Congress entrusted ORR with the placement, care, custody, and release of unaccompanied children who arrive in the United States without a parent or legal guardian and without lawful immigration status. 6 U.S.C. § 279; 8 U.S.C. § 1232. Although unaccompanied children were previously held in INS custody, Congress intentionally chose to transfer responsibility for these vulnerable children out of the immigration enforcement system to ORR. The Trafficking Victims Protection Reauthorization Act (“TVPRA”) of 2008 reinforced the separation between the immigration enforcement system and ORR’s child welfare mandate, requiring any federal agency with custody of an unaccompanied child to transfer the child to HHS within 72 hours and mandating that ORR promptly place unaccompanied children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. §§ 1232(b)(3), (c)(2)(A). The TVPRA contemplates that children will usually be placed with “a suitable family member” and provides for ORR to conduct suitability assessments of potential sponsors focused on the safety and well-being of the child. 8 U.S.C. §§ 1232(c)(2)(A), (c)(3).

In April 2024, ORR promulgated its Foundational Rule, a set of regulations aimed at implementing its statutory mandate and codifying its policies related to the custody and release of unaccompanied children. Unaccompanied Children Foundational Rule, 89 Fed. Reg. 34384, 34385 (Apr. 30, 2024) (the “Foundational Rule”). The Preamble to the Foundational Rule

repeatedly emphasizes ORR’s role as a child welfare agency rather than an immigration enforcement agency. *See id.* at 34399, 34442-43, 34452, 34568. The Foundational Rule requires ORR to “release a child from its custody without unnecessary delay,” with preference to a parent, legal guardian, or adult relative. 45 C.F.R. § 410.1201. Recognizing children’s strong interest in prompt release, the regulations further require ORR to “adjudicate the completed sponsor application of a parent or legal guardian” or other close relative within 10 or 14 days, depending on the closeness of the relationship, absent an unexpected delay. 45 C.F.R. § 410.1205(b).

Consistent with ORR’s role as a child welfare rather than an immigration enforcement agency, the Foundational Rule further provided that:

ORR shall not disqualify potential sponsors based solely on their immigration status and shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes. ORR shall not share any immigration status information relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time.

45 C.F.R. § 410.1201(b). Plaintiffs will refer to the three parts of § 410.1201(b) as the Disqualification, Information Collection, and Information Sharing provisions, respectively.

These provisions are significant because most potential sponsors lack lawful immigration status and discriminating based on immigration status would thus prevent ORR from releasing children to their close relatives. *See* Ex. 2, Declaration of Mari Dorn-Lopez ¶ 8, May 4, 2025 (“Dorn-Lopez Decl.”); Ex. 3, Declaration of Jenifer Smyers ¶ 7, May 6, 2025 (“Smyers Decl.”). In 2018, for example, ICE data indicated that approximately 80 percent of sponsors or household members lacked lawful immigration status. *See* William Kandel, Cong. Rsch. Serv., R 43599 *Unaccompanied Alien Children: An Overview* 24 (updated Sept. 2024).

On March 25, 2025, ORR issued an Interim Final Rule rescinding 45 C.F.R. § 410.1201(b), effective immediately. 90 Fed. Reg. 13554. The sole justification for this IFR was a purported conflict between the Information Sharing provision and 8 U.S.C. § 1373, an immigration statute regarding communication between the INS and other government entities. *Id.* Aside from a conclusory assertion that the Disqualification and Information Collection provisions are inextricably linked with the Information Sharing provision, the IFR included no justification for changing ORR’s policies related to disqualifying sponsors based on immigration status or collecting sponsor information for enforcement purposes. Nor did it address the likely impacts on unaccompanied children, the reliance interests of those who already provided personal information to ORR, or the conflict with ORR’s statutory mission.

II. Sponsor Application Process

A. Family Reunification Application

When a child enters ORR custody, ORR interviews the child and close family members to identify potential sponsors. *See* Office of Refugee Resettlement, Unaccompanied Alien Children Bureau Policy Guide (“Policy Guide”) § 2.2.1, <https://perma.cc/TZ83-H2PC> (as of May 9, 2025). ORR then sends the child’s potential sponsor a Family Reunification Packet (“FRP”) with an application form. *Id.* § 2.2.3.

The Family Reunification Application (“FRA”) currently in use by ORR and approved by the Office of Management and Budget (“OMB”) requires proof of identity from sponsors and any household members in the “Supporting Documents” section. *See* Ex. 1-A, Family Reunification Application at 8, Declaration of Diane de Gramont, May 9, 2025 (“de Gramont Decl.”). The list of acceptable forms of government-issued identification includes forms of

identification issued by foreign governments and permits the sponsor or adult household member to establish their identity through a foreign passport or two or more documents such as a birth certificate, foreign national identification card, or similar documentation. *Id.* The application asks sponsors how they will financially support the child but does not require specific supporting documentation. *Id.* at 6, 8-10.

B. Changes to Sponsor Application Proof of Identity Requirements

Although ORR has not updated its application form, on March 7, 2025, ORR unilaterally and without any warning to sponsors or children amended its Policy Guide § 2.2.4 to include a new, more restrictive list of acceptable forms of identification for sponsors, adult household members, and alternative adult caregivers.¹ *See* de Gramont Decl. Ex. 1-F (Policy Guide § 2.2.4 as amended on March 7, 2025); *see also id.* Ex. 1-E (prior version of the Policy Guide). The new list eliminates all forms of identification issued by foreign governments, except for Canadian driver's licenses and foreign passports accompanied by proof of lawful U.S. immigration status such as "an endorsement to work" or an I-551 indicating permanent residence. *See* Policy Guide § 2.2.4; *see also* U.S. Citizenship & Immigr. Servs., *Temporary I-551 Stamps and MRIVs*, <https://perma.cc/HBL5-CUYT>. While the FRA explicitly permits the use of expired documents to establish proof of identification, revised Policy Guide § 2.2.4 forbids them.

ORR applied this new policy to all pending sponsorship applications, including to completed applications ready for approval. *See* Declaration of Deisy S. ¶ 22, ECF 9-12 ("Deisy S. Decl."); Declaration of Rosa M. ¶¶ 4-5, ECF 9-13 ("Rosa M. Decl."); Ex. 5, Declaration of

¹ ORR requires each sponsor application to include a sponsor care plan identifying an alternative adult caregiver who could care for the child if the sponsor becomes unavailable. *See* Policy Guide §§ 2.6; 2.7.6; Smyers Decl. ¶ 8.

J.E.D.M. ¶ 6, April 16, 2025 (“J.E.D.M. Decl.”); Declaration of Sofia W. ¶¶ 6-7, ECF 9-14 (“Sofia W. Decl.”); Declaration of Ximena L. ¶¶ 6-8, ECF 9-15 (“Ximena L. Decl.”). Parents and other sponsors who had already provided a copy of their foreign passport as permitted by the FRA but lacked accompanying immigration documentation (not required by the FRA) were told that their foreign passports were now insufficient under the new policy. Rosa M. Decl. ¶¶ 3, 5; Sofia W. Decl. ¶¶ 4, 7; Ximena L. Decl. ¶ 6; Deisy S. Decl. ¶¶ 11, 22.

The new policy permits exceptions only in the case of a parent or legal guardian sponsor, and even then, only if “supported by clear justification” and approved by ORR Headquarters “on a case-by-case basis.” Policy Guide § 2.2.4. To the extent such an exception is possible, it appears available only to the parent themselves. *Id.* Any adult household members living with the parent or backup caregiver would still have to provide qualifying identification. *Id.*

Rosa M., for example, was told she could not even be considered for an exception until after she completed DNA testing and identified a backup caregiver with the approved form of identification. Rosa M. Decl. ¶¶ 4-7. Liam W.’s release to his mother has not been able to move forward because the adults living in his mother’s home lack qualifying identification. Declaration of Liam W. ¶ 7, ECF 9-9 (“Liam W. Decl.”); Sofia W. Decl. ¶ 7. Sofia was advised that if she wanted to sponsor Liam she would have to move out of the home she shares with her adult children and nephew, or ask them to leave the home. Sofia W. Decl. ¶ 7. There is no timeline or decision criteria for ORR’s approval of exception requests. Despite doing everything she could to sponsor her sons, Rosa M.’s exception request has been pending ORR approval since April 28, 2025, with no response and no way to comfort her young sons. Rosa M. Decl. ¶¶ 9-11.

Angelica S. has been in custody since November 2024. Declaration of Angelica S. ¶ 2, ECF 9-7 (“Angelica S. Decl.”). Although her sister’s application was complete in February 2025, Angelica was awaiting vaccines for her newborn daughter and has now had her release blocked altogether as a result of these policy changes. *Id.* ¶ 8; Deisy S. Decl. ¶¶ 22-25. Leo B. is missing his opportunity to finish high school because ORR is refusing to release him to his sister, even though ORR previously vetted and approved release to his sister and he lived with her safely for two years. Declaration of Leo B. ¶¶ 3, 6-9, ECF 9-10 (“Leo B. Decl.”).

C. New Sponsor Proof of Income Requirements

On April 15, 2025, ORR again amended Policy Guide § 2.2.4 to require specific documentation of proof of income from all sponsors. *See de Gramont Decl. Ex. 1-G.* All sponsors must now provide either their previous year’s tax return, 60 days of continuous paystubs, or a letter from their employer on company letterhead verifying their employment and salary information. *Id.* Once again, the policy change differed from the requirements of the FRA and was applied retroactively to all pending sponsorship applications. Rosa M. Decl. ¶ 8; Ximena Decl. ¶ 10. The Policy Guide includes no exceptions for parents or legal guardians and no other mechanism to prove financial stability and ability to care for the child. Policy Guide § 2.2.4.

These new policies have already led to significant delays in children’s reunification with their families. Eduardo M. and his 7-year-old brother have been in ORR custody since January 2025 but have not yet reunified with their mother despite her diligent efforts to fulfill ORR’s ever-changing sponsor requirements. Rosa M. Decl. ¶¶ 3-9; Declaration of Eduardo M. ¶¶ 3-6, April 16, 2025, ECF 9-8. Although Rosa M. provided bank statements and a letter about her

income, she has been waiting for over 10 days without a response on whether ORR will make an exception to the strict new requirements in the Policy Guide. Rosa M. Decl. ¶¶ 8-9.

These children's experiences are far from unique. Plaintiff Immigrant Defenders reports that the children it represents are remaining in custody far longer because of ORR's new identification and proof of income requirements. Ex. 4, Declaration of Cynthia Felix ¶¶ 7-8, May 6, 2025 ("Felix Decl."). ORR's data indicates that it is now detaining children for dramatically longer periods as a result of its new policies. The average length of care for children discharged from ORR custody has climbed precipitously from 37 days in January 2025 to 49 days in February 2025 to 112 days in March 2025. *See de Gramont Decl. Ex. 1-H.*

D. Proposed Revisions to Family Reunification Application

On April 25, 2025, ORR published a notice of information collection under the Paperwork Reduction Act to revise the Family Reunification Application (to be renamed the "Sponsor Application"), with a 60-day comment period. *See Proposed Information Collection Activity: Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278)*, 90 Fed. Reg. 17438 (Apr. 25, 2025). The proposed Sponsor Application changes the Supporting Documents to match ORR's recent changes to Policy Guide 2.2.4 related to proof of identification, proof of income, and other documents. *See de Gramont Decl. Ex. 1-C at 6-7.* The new proposed Authorization for Release of Information removes language stating that the Department of Homeland Security ("DHS") generally cannot use the sponsor's information for enforcement purposes. *Compare id. Ex. 1-D, with id. Ex. 1-B.*

The burden estimate for this proposed information collection acknowledges that these policies are likely to lead to increased lengths of detention, stating that ORR expects "a decrease

in the number of sponsors applying to sponsor a child and an increase in the number [of] care provider facilities.” 90 Fed. Reg. at 17439. Even though the comment period is still open on this revised information collection and ORR has yet to receive OMB approval for its new requirements as required by the Paperwork Reduction Act, 44 U.S.C. § 3507(a), ORR is already enforcing the new documentation requirements on sponsors as if the new Sponsor Application was already in force.

E. Expanded Collection of Biometric Data on Sponsors

In addition to implementing restrictive proof of identification and proof of income requirements, ORR has simultaneously and dramatically increased the amount and sensitivity of information collected from sponsors by requiring that all adult sponsors, all adult household members, and all backup adult caregivers submit to fingerprint-based background checks prior to release, including when the child is seeking release to a parent. *See* Office of Refugee Resettlement, Field Guidance #26 (“FG-26”): Fingerprint Background Checks and Acceptable Supporting Documentation for a Family Reunification Application (Feb. 14, 2025), <https://perma.cc/3R26-GK9Y>.

ORR also now requires DNA testing of the child and sponsor in every case where a sponsor claims a biological relationship with the child. *See* Office of Refugee Resettlement, Field Guidance #27 (“FG-27”): DNA Testing Expansion (Mar. 14, 2025), <https://perma.cc/67MF-ELB8>. This DNA requirement has led to additional delays of weeks and potentially months in children’s cases, including the cases of children whose release was previously interrupted by ORR’s new proof of identification requirements. *See* Sofia W. Decl. ¶ 8; Rosa M. Decl. ¶ 7.

III. Information Sharing with DHS

A. Prior Information Sharing with DHS

In 2018, ORR expanded fingerprinting requirements for potential sponsors and entered into a memorandum of agreement (“MOA”) with DHS to share information obtained through the sponsorship vetting process directly with U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Customs and Border Protection (“CBP”), which they planned to use for enforcement purposes. This policy change led to a reduction in sponsors willing to come forward to sponsor children, dramatically increased lengths of stays in detention, and serious harms to children’s mental health and wellbeing. *See* Dorn-Lopez Decl. ¶¶ 5-6; Smyers Decl. ¶¶ 7, 17; *see also* Dep’t of Health & Hum. Servs., Office of the Inspector Gen., Report No. OEI-09-18-00431, *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody* 13 (Sept. 2019) (“Facilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty.”); *id.* at 12-13 (“According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.”). ORR itself acknowledged that information-sharing was leading to unnecessary delays in release. As a result, in 2019, it suspended reconciliation of sponsor background checks with ICE.²

² *See* Testimony of Jonathan Hayes before the Subcomm. on Lab., Health & Hum. Services, Educ., & Related Agencies, U.S. House Comm. on Appropriations (Sept. 18, 2019) at 1:29:00-1:31:00, <https://www.c-span.org/video/?464368-1/administration-officials-testify-migrant-children-mental-health>.

B. Restrictions on Using ORR Data for Immigration Enforcement

In response to the serious and well-documented harm caused by ORR’s prior information-sharing policy, Congress placed explicit restrictions on DHS’s use of information obtained from HHS regarding unaccompanied children and their potential sponsors. Congress did so after a House of Representatives report described how ORR sharing information about a sponsor’s immigration status with DHS undermined children’s wellbeing and access to immigration relief. H.R. Rep., No. 116-450, at 185 (2021). These appropriations restrictions began in fiscal year 2020 and have been extended each year through fiscal year 2025. *See* Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. 2317, 2513 (2019); Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, Div. A, §§ 1104-05, 139 Stat. 9, 12 (2025). With narrow exceptions for specific crimes, Congress has prohibited DHS from using information shared by HHS “to place in detention, remove, refer for a decision whether to initiate removal proceedings, or initiate removal proceedings against a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).” Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. at 2513.

In December 2024, ORR published a notice of a new system of records in the Federal Register as required by the Privacy Act. *See* Office of Refugee Resettlement, Privacy Act of 1974; System of Records, 89 Fed. Reg. 96250 (Dec. 4, 2025). Because ORR maintains a mixed system of records that includes some information related to individuals covered by the Privacy Act and some not, ORR exercised its discretion to treat all information in its system of records as protected by the Privacy Act. *Id.* at 96250. Like the Foundational Rule, the notice emphasizes

that “ORR is not an immigration enforcement agency and does not maintain records for immigration enforcement purposes,” so sharing information with entities such as DHS for immigration enforcement purposes is “incompatible with ORR’s program purpose” and is not a permissible routine use under the Privacy Act. *Id.* at 96251, 96253.

The family reunification packet currently in use by ORR specifically states, “I also understand that DHS cannot use my information for immigration enforcement actions, including placement in detention, removal, referral for a decision whether to initiate removal proceedings, or initiation of removal proceedings, unless I have been convicted of a serious felony, am pending charges for a serious felony, or I have been directly involved in or associated with any organization involved in human trafficking.” de Gramont Decl. Ex. 1-B. The FRA also states that “ORR prefers to release a child to a parent or legal guardian, regardless of your immigration status. ORR is not an immigration enforcement agency.” de Gramont Decl. Ex. 1-A at 2.

ARGUMENT

To obtain a preliminary injunction, a plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “These factors interrelate on a sliding scale and must be balanced against each other.” *Davenport v. Int’l Brotherhood of Teamsters*, 166 F.3d 356, 360 (D.C. Cir. 1999). The same standard applies to a request for preliminary relief under the APA, 5 U.S.C. § 705. *See Gomez v. Trump*, 485 F. Supp. 3d 145, 168 (D.D.C. 2020).

Plaintiffs are entitled to an order staying the IFR and enjoining ORR from enforcing its new proof of identification and proof of income policies because they are likely to succeed on

the merits, they are currently suffering irreparable harm, and the balance of the equities and the public interest favor a preliminary injunction. For the reasons set forth in Plaintiffs' Motion for Class Certification, ECF 9, Plaintiffs are also entitled to provisional class certification. *See Damus v. Nielsen*, 313 F. Supp. 3d 317, 328 (D.D.C. 2018).

I. Plaintiffs are Likely to Succeed on the Merits

Plaintiffs are likely to succeed on the merits of their claims for multiple independent reasons, including that the IFR lacks good cause and is arbitrary and capricious on its face and that the new policy changes are contrary to ORR's binding regulations, arbitrary and capricious, contrary to the requirements of the Paperwork Reduction Act, and impermissibly retroactive.

A. The Interim Final Rule is Unlawful and Must be Set Aside

1. The IFR is procedurally invalid because ORR bypassed notice and comment and made the IFR effectively immediately without good cause.

- a. *ORR had no good cause to skip notice and comment.*

Under the Administrative Procedure Act, when promulgating a rule, an agency must publish a proposed rule and give the public "an opportunity to participate in the rule making through submission of written data, views, or arguments." 5 U.S.C. § 553(b)-(c). Only after considering the public's comments can the agency finalize the rule. *Id.* § 553(c). The notice-and-comment requirement is meant "(1) to ensure that agency regulations are tested via exposure to diverse public comment, (2) to ensure fairness to affected parties, and (3) to give affected parties an opportunity to develop evidence in the record to support their objections to the rule and thereby enhance the quality of judicial review." *Int'l Union, United Mine Workers of Am. v. Mine Safety & Health Admin.*, 407 F.3d 1250, 1259 (D.C. Cir. 2005).

The statute allows the agency to skip notice and comment if it finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest” and provides a “brief statement of reasons.” 5 U.S.C. § 553(b)(B). “Because notice-and-comment procedures are vital to ensuring informed agency decisions,” *Purdue Univ. v. Scalia*, No. CV 20-3006 (EGS), 2020 WL 7340156, at *6 (D.D.C. Dec. 14, 2020), the “good cause” exception “is to be narrowly construed and only reluctantly countenanced.” *Tri-Cnty. Tel. Ass’n, Inc. v. FCC*, 999 F.3d 714, 719 (D.C. Cir. 2021); *see also Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 93 (D.C. Cir. 2012). It generally “should be limited to emergency situations.” *Am. Fed. of Govt. Emps., AFL-CIO v. Block*, 655 F.2d 1153, 1156 (D.C. Cir. 1981) (“*AFGE*”). Courts owe no deference to an agency’s legal conclusion that good cause exists; courts review those conclusions de novo. *Sorenson Commc’ns Inc. v. F.C.C.*, 755 F.3d 702, 706 (D.C. Cir. 2014).

Here, ORR claimed there was good cause to repeal 45 C.F.R. § 410.1201(b) in its entirety without notice and comment because:

45 CFR 410.1201(b) contravenes 8 U.S.C. 1373. ORR had no authority to promulgate such a rule; revoking it immediately is in the public interest; and notice and comment is unnecessary and contrary to the public interest because no amount of public input could give ORR the power to contravene a duly-enacted law of Congress via regulation.

90 Fed. Reg. at 13555. This reasoning is insufficient to establish good cause for multiple reasons.

First, ORR did not apply the relevant legal standards. ORR does not contend that notice and comment would be “impracticable.” The “unnecessary” prong of the good cause inquiry is “confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public,” *Mack Trucks, Inc.*, 682 F.3d at 94, such as “the issuance of a minor rule in which the public is not

particularly interested.” *Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001) (quoting Dep’t of Just., Attorney General’s Manual on the Administrative Procedure Act 31 (1947)). The IFR does not match any of those descriptions.

The IFR rescinds regulations that go to the heart of the agency’s purpose—to ensure unaccompanied children are placed in the least restrictive setting that is in their best interest. The IFR significantly impacts children and their potential sponsors, who are usually close family members. Allowing ORR to deny sponsors based solely on immigration status and to collect and share immigration status information for immigration enforcement purposes causes vulnerable children to stay detained in federal immigration custody much longer than they otherwise would. Dorn-Lopez Decl. ¶¶ 5-6; Smyers Decl. ¶¶ 5-7; Felix Decl. ¶¶ 7-9. Sponsors who have already gone through lengthy questioning, biometric appointments, and in some cases home studies are being told they cannot sponsor their children or other family member because they lack immigration documentation accompanying their passport. Rosa M. Decl. ¶¶ 3-5; Deisy S. Decl. ¶¶ 11, 24-27; Ximena L. ¶¶ 6-8, 10. The longer the IFR is in place, the more harm will be caused.

Furthermore, the IFR is not a “routine determination” or a “minor rule in which the public is not particularly interested.” The Foundational Rule, part of which the IFR repealed, received over 73,000 comments. *See* Comments, Unaccompanied Children Program Foundational Rule, <https://perma.cc/DL56-J2TT>. Although the comment period is still open, as of the time of filing the IFR itself has already received numerous comments addressing serious policy concerns regarding the harm of such policies to unaccompanied children. *See* UC Program Foundational Rule Update on Info Sharing, <https://perma.cc/HB8B-CDZ8>.

And “[the public interest prong of the good cause exception is met only in the rare circumstance when ordinary procedures—generally presumed to serve the public interest—would in fact harm that interest.” *Mack Trucks, Inc.*, 682 F.3d at 95. For example, this prong may apply “when the timing and disclosure requirements of the usual procedures would defeat the purpose of the proposal,” such as cases where “announcement of a proposed rule would enable the sort of financial manipulation the rule sought to prevent.” *Id.* (quoting *Util. Solid Waste Activities Grp.*, 236 F.3d at 755). But ORR failed to explain how following normal APA notice-and-comment procedures would affirmatively harm the public.

Second, the premise underlying ORR’s good cause assertion—that 45 C.F.R. § 410.1201(b) so clearly contravenes 8 U.S.C. § 1373 that considering the public’s views would be pointless—is overbroad and incorrect. 45 C.F.R. § 410.1201(b) places three different restrictions on ORR:

[(1)] ORR shall not disqualify potential sponsors based solely on their immigration status and [(2)] shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes. [And [(3),] ORR shall not share any immigration status information relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time.

Taking the first two of these provisions together, the Disqualification and Information Collection provisions clearly do not contravene § 1373. Nothing in § 1373 requires ORR to disqualify sponsors based solely on immigration status or to collect immigration status information for enforcement purposes. The statute simply does not address those topics. ORR claims in a footnote that Disqualification and Information Collection provisions are “inextricably linked” to the Information Sharing provision. 90 Fed. Reg. at 13555 n.1. But they are not. Even if, under § 1373, ORR could not restrict the sharing of any immigration status information it has

with DHS, ORR could continue to consider all potential sponsors regardless of immigration status and refrain from collecting immigration status information for enforcement purposes. Rescinding the Disqualification and Information Collection provisions is a major substantive change to ORR's program that is not mandated by § 1373 and requires an opportunity for notice and comment. *See World Duty Free Americas, Inc. v. Summers*, 94 F. Supp. 2d 61, 65 (D.D.C. 2000) (holding that ATF "unreasonably determined that notice-and-comment was unnecessary" where the rules went "beyond a mere recitation of the statutory language to provide definitions not found in the statute").

As for the Information Sharing provision, ORR incorrectly assumed that it contravenes § 1373. The agency read § 1373 as an affirmative grant of authority, and requirement, to share immigration-related information with DHS. But that statute does not affirmatively grant that authority, and it does not override other Congressional statutes that restrict the sharing of immigration-related information. Instead, the statute operates to limit the discretion of federal agencies to withhold information from DHS where they otherwise have statutory authority to share that information. *See* Office of Legal Counsel, *Relationship Between Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and Statutory Requirement for Confidentiality of Census Information* at 6, 1999 WL 34995963 (O.L.C. May 18, 1999). And the TVPRA, which was enacted after 8 U.S.C. § 1373, imposes obligations on ORR that the agency could not fulfill if it were to share immigration status information with DHS. In particular, Congress required ORR to ensure that "an unaccompanied alien child in the custody of the Secretary of Health and Human Services shall be promptly placed in the least restrictive setting that is in the best interest of the child," 8 U.S.C. § 1232(c)(2)(A). ORR cannot fulfill this instruction if potential sponsors

are unable to come forward out of fear that their information would be shared with immigration authorities.

Further, even if the Information Sharing provision was arguably legally flawed, that is not a sufficient reason to skip notice and comment. “[T]he question whether the [previous] regulations are indeed defective is one worthy of notice and an opportunity to comment.”

Consumer Energy Council of Am. v. Fed. Energy Reg. Comm’n, 673 F.2d 425, 448 (D.C. Cir. 1982) (rejecting argument that “notice and comment requirements do not apply to ‘defectively promulgated regulations’”), *aff’d sub nom. Process Gas Consumers Grp. v. Consumer Energy Council of Am.*, 463 U.S. 1216 (1983); *see also Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 928 (D.C. Cir. 2017); *Nat’l Parks Conservation Ass’n v. Salazar*, 660 F. Supp. 2d 3, 5 (D.D.C. 2009); *Nat’l Treasury Emps. Union v. Cornelius*, 617 F. Supp. 365, 371 (D.D.C. 1985).

Also, even if ORR believed the Information Sharing provision was illegal, ORR should still have considered whether it had discretion to wind it down in a way that accounts for children’s and sponsors’ reliance interests. *See DHS v. Regents of the Univ. of California*, 591 U.S. 1, 30 (2020) (requiring the government to consider whether it had “flexibility in addressing any reliance interests of DACA recipients” when rescinding DACA even though the Attorney General determined that the DACA program was illegal).

Had there been a notice and comment period, the public could have provided “data, views, or arguments,” 5 U.S.C. § 553(c), regarding the interaction between § 1373 and the statutes and regulations governing ORR’s program and suggested regulatory alternatives to reduce harms to children, sponsors, and other regulated parties. Instead, ORR abruptly repealed § 410.1201(b) based on flawed reasoning with no notice to the many parties involved and

without a sufficient showing of good cause for its haste. Courts' review of an agency's determination of good cause "is meticulous and demanding," *Sorenson Commc'ns Inc.*, 755 F.3d at 706 (quotation marks omitted). ORR's statement of good cause simply does not pass muster. Thus, the IFR should be set aside.

b. ORR failed to establish good cause to hasten the IFR's effective date.

The Administrative Procedure Act also "requires that a rule be published not less than thirty days before its effective date." *AFGE*, 655 F.2d at 1155; 5 U.S.C. § 553(d). This requirement "serve[s] the laudable purpose of informing affected parties and affording them a reasonable time to adjust to the new regulation." *AFGE*, 655 F.2d at 1156. An agency can make a rule effective fewer than 30 days after publication for "good cause found and published with the rule," 5 U.S.C. § 553(d)(3), but this good cause exception, like the § 553(b) exception, is also "narrowly construed and only reluctantly countenanced" and is reserved for emergency situations. *AFGE*, 655 F.2d at 1156.

ORR claims that "[g]ood cause exists for immediate effect, *see* 5 U.S.C. 553(d)(3), because this IFR brings an ORR regulation into compliance with a federal statute and regulated entities do not need time to adjust their behavior before this rule takes effect." 90 Fed. Reg. at 13555. For the reasons stated above, ORR's assertion that the IFR is necessary to bring the agency "into compliance with a federal statute" is incorrect. At a minimum, this assertion raises issues that public commenters should have had an opportunity to address. Moreover, Defendants' assertion that regulated entities do not need time to adjust their behavior is patently incorrect, given the substantial reliance interests that Plaintiffs and others have in the protections guaranteed them by the Foundational Rule, which had been in effect since the spring of 2024,

and which reflected longstanding policy. As described in more detail below, ORR's changes to sponsor requirements to increase scrutiny of sponsor's immigration status and permit denials based on immigration status have caused significant disruption and delays in ORR's release process. Thus, for the same reasons that ORR lacked good cause to proceed without notice and comment, it also lacked good cause to make its IFR immediately effective.

2. The IFR is arbitrary and capricious because ORR offered no reasoned explanation for significant changes in policy.

In addition to failing to follow procedure required by law, the IFR must be held unlawful and set aside because it is "arbitrary, capricious, [and] an abuse of discretion." 5 U.S.C. § 706(2). An agency action is arbitrary and capricious when the agency fails to "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'" *Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal citations omitted); *see also Ohio v. E.P.A.*, 603 U.S. 279, 292 (2024). "[A]n agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Id.*

Here, ORR has provided *no* reasoned justification at all for rescinding the Disqualification and Information Collection provisions of the ORR Foundational Rule, beyond a conclusory statement that these provisions are inextricably linked and not severable from the Information Sharing provision. 90 Fed. Reg. at 13555 n.1. As discussed above, 8 U.S.C. § 1373

in no way requires ORR to deny sponsors based solely on immigration status or to collect sponsor information for enforcement purposes.

Moreover, severability applies to a *court's* remedial powers to strike down regulations, not to an agency's amendment of its own regulations. Courts presume that policymakers would prefer that the offending part of a statute or regulation be severed than for an entire statute or regulation to fall. The presumption “allows courts to avoid judicial policymaking or *de facto* judicial legislation in determining just how much of the remainder of a statute [or regulation] should be invalidated.” *Barr v. Am. Ass’n of Pol. Consultants, Inc.*, 591 U.S. 610, 626 (2020). That concern is not present when the agency is considering whether to amend its own regulation. Consistent with this understanding of the different roles of courts and agencies, in promulgating the severability provision as part of the Foundational Rule, ORR stated its intent that, if “any portion of the requirements arising from the final rule is declared invalid *by a court*, . . . all other parts of the final rule that are capable of operating in the absence of the specific portion that has been invalidated to remain in effect.” *See* Unaccompanied Program Foundational Rule, 88 Fed. Reg. 68908, 68914 (Oct. 4, 2023) (proposed rule). The severability clause does not permit ORR itself to make major regulatory changes without reasoned justification.

Denying sponsors based solely on immigration status and collecting sponsor information for enforcement purposes represent significant policy changes and the agency has offered no rational explanation for these changes, much less acknowledged the likely consequences or considered alternatives to minimize harms. *See DHS v. Regents of Univ. of Cal.*, 591 U.S. 1, 30 (2020) (“*State Farm* teaches that when an agency rescinds a prior policy its reasoned analysis must consider the ‘alternative[s]’ that are ‘within the ambit of the existing [policy].’”) (quoting

State Farm, 463 U.S. at 51); *see also L.V.M. v. Lloyd*, 318 F. Supp. 3d 601, 613 (S.D.N.Y. 2018) (holding that policy requiring ORR Director approval for release was arbitrary and capricious because “[the ORR Director] had no factual or legal basis for adopting” this policy, “he made no analysis of the policy’s impact; and he offered no justification for the policy”).

With specific regard to the Disqualification provision, permitting sponsorship denials based solely on immigration status is a seismic change in ORR policy with far-reaching consequences that the agency wholly fails to acknowledge in the IFR. Most of the potential sponsors of children in ORR custody are undocumented. Dorn-Lopez Decl. ¶ 8; Smyers Decl. ¶ 7. Disqualifying sponsors without lawful immigration status is thus nearly guaranteed to prolong children’s time in custody, delay placement in the least restrictive setting as required by the TVPRA, 8 U.S.C. § 1232(c)(2)(A), and result in some children being released to more distant relatives or unrelated sponsors merely because they have stable immigration status, rather than their parents or other close relatives who lack lawful status. *See J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 583 (E.D. Va. 2018) (noting that an “amicus brief filed on behalf of the Human Trafficking Legal Center confirms what common sense dictates, namely that the information-sharing policy could dissuade otherwise qualified sponsors from filing family reunification applications, forcing ORR to hold unaccompanied minors in custody for longer than necessary or to release them to less qualified or unrelated sponsors.”). The IFR failed to “examine the relevant data” and “entirely failed to consider [these] important aspect[s] of the problem.” *State Farm*, 463 U.S. at 43.

The Foundational Rule’s prohibition on denial of sponsorship applications based solely on immigration status codified the agency’s longstanding practice of considering applications

from all potential sponsors, regardless of their immigration status. *See* Preamble to ORR Foundational Rule, 89 Fed. Reg. at 34440 (noting that the Disqualification provision was “consistent with existent policy”). ORR also stated its “strong belief that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility, whenever feasible, is in the best interests of unaccompanied children.” *Id.* Many commenters to the Foundational Rule supported the Disqualification provision and noted the benefits of encouraging qualified sponsors to come forward to reduce length of stay and encourage relatives with cultural competency to sponsor a child. *Id.* at 34441; Smyers Decl. ¶ 18. In response to comments on the Foundational Rule, ORR took the position that it “does not have statutory authorization to investigate the immigration status of potential sponsors” and that the HSA and TVPRA “do not imbue ORR with the authority to inquire into immigration status as a condition for sponsorship.” 89 Fed. Reg. at 34442. Denying sponsors based on immigration status thus “relie[s] on factors which Congress has not intended it to consider.” *State Farm*, 463 U.S. at 43.

ORR similarly fails to acknowledge or explain its change of position with regard to the Information Collection provision. Many comments to the Foundational Rule strongly supported the Information Collection restrictions and urged ORR to go further to protect undocumented sponsors from immigration enforcement. 89 Fed. Reg. at 34441-42. In response to comments, ORR noted that “it is not an immigration enforcement agency” and, consistent with its statutory mandate, “to the extent ORR does collect information on the immigration status of a potential sponsor, it would be only for the purpose of evaluating the potential sponsor’s ability to provide

care for the child (*e.g.*, whether there is a plan in place to care for the child if the potential sponsor is detained).” *Id.* at 34442.

The IFR further fails to even mention ORR’s still-operative Privacy Act notice, which states clearly that ORR does not collect or share information for immigration enforcement purposes because this is “incompatible with ORR’s program purposes.” *See* 89 Fed. Reg. at 96251; *see also J.E.C.M.*, 352 F. Supp. 3d at 583 (finding that sharing information about sponsors and household members with DHS “runs counter to ORR’s mission to release the children in its custody into stable, nurturing environments”). This omission is especially significant given that, as discussed above, ORR is fully aware that the last time it collected information from sponsors for enforcement purposes, this policy deterred sponsors from coming forward and led to increased lengths of stay in custody. Dorn-Lopez Decl. ¶¶ 5, 14-15; Smyers Decl. ¶¶ 7-8, 17. Children in ORR custody are already suffering the effects. After Deisy S. was told she could not sponsor her sister and baby niece because of her lack of qualifying identification, she searched widely for other potential sponsors but was not able to find anyone willing to share their information with the government for fear of immigration consequences. Deisy S. Decl. ¶ 28. Angelica S. and her baby now have no prospects for release. Angelica S. Decl. ¶¶ 28-30. Similarly, Ximena W.’s financially-supportive partner is afraid to provide additional information to ORR for fear they will share it with immigration officials. Ximena W. Decl. ¶ 10.

Finally, the IFR fails to consider the reliance interests of sponsors such as Deisy S. and Ximena L. who already submitted sensitive information on ORR’s promises that their applications would receive fair consideration and that their information was not being collected

for enforcement purposes. Deisy S. Decl. ¶ 10; Ximena L. Decl. ¶¶ 5, 10; *see also Regents of Univ. of Cal.*, 591 U.S. at 31-33 (agency must consider reliance interests); *FCC. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Breaking the agency’s commitment to sponsors discourages sponsors from coming forward, which prolongs detention. Dorn-Lopez Decl. ¶ 15.

B. ORR’s New Sponsor Documentation Requirements Are Unlawful

Plaintiffs are also likely to succeed on their claims that ORR’s new sponsor documentation requirements violate the APA. The new requirements are contrary to law because they violate ORR’s own regulations and the TVPRA’s mandate that ORR place children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A). In addition, ORR has changed its information collection requirements without going through the statutorily-required process for agencies to modify information collections. ORR also acted arbitrarily and capriciously by drastically changing its proof of identification and proof of income requirements without any explanation and without any apparent consideration for the reliance interests of sponsors and unaccompanied children, the impact on children’s length of detention and well-being, or less burdensome alternatives to verify sponsor identity and proof of income. These policies are also impermissibly retroactive, as they have been applied to applications already submitted in reliance on ORR’s prior policies.

1. ORR’s Policy Guide revisions are final agency actions

ORR’s March 7, 2025, and April 15, 2025, revisions to Policy Guide § 2.2.4 are final agency actions subject to judicial review under the Administrative Procedure Act. 5 U.S.C. §§ 702, 704. These policies represent “the ‘consummation’ of the agency’s decisionmaking process,” determine “rights and obligations,” and create “legal consequences.” *Bennett v. Spear*,

520 U.S. 154, 177-78 (1997) (quoting *Chicago & S. Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103, 113 (1948) and *Port of Bos. Marine Terminal Ass’n v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, 71 (1970)). The new requirements are published in the Policy Guide as mandatory new requirements for potential sponsors and ORR has “applied the guidance as if it were binding on regulated parties,” including by blocking release of children to otherwise qualified sponsors who lack requisite documentation. *Sierra Club v. EPA*, 955 F.3d 56, 63 (D.C. Cir. 2020) (quoting *Nat’l Mining Ass’n v. McCarthy*, 758 F.3d 243, 253 (D.C. Cir. 2014)). Other courts considering changes to ORR release policies—including even unpublished release requirements—have found these policies to be final agency actions. *E.g.*, *L.V.M.*, 318 F. Supp. 3d at 612; *see also J.E.C.M.*, 352 F. Supp. 3d at 582 n.12 (ORR did not dispute that its policies “as reflected in ORR’s amendment of the Policy Guide, amount to final agency actions.”).

2. ORR’s revised identification and proof of income requirements unlawfully disqualify potential sponsors solely based on immigration status

ORR’s new requirements are contrary to law as they violate ORR’s own regulations. Because the IFR is unlawful for the reasons discussed above, ORR remains bound by its regulations prohibiting sponsor denials based solely on immigration status. *See* 45 C.F.R. § 410.1201(b)(2024). “[I]t is a ‘well-settled rule that an agency’s failure to follow its own regulations is fatal to the deviant action.’” *Fla. Inst. of Tech. v. FCC*, 952 F.2d 549, 553 (D.C. Cir. 1992) (quoting *Way of Life Television Network, Inc. v. FCC*, 593 F.2d 1356, 1359 (D.C. Cir. 1979)); *see also United States v. Nixon*, 418 U.S. 683, 695 (1974); *Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). ORR’s revisions to Policy Guide § 2.2.4 related to proof of identification and proof of income unlawfully disqualify sponsors based solely on their immigration status.

The March 7, 2025, revision to ORR's requirements for proof of identification disqualifies otherwise suitable sponsors solely based on their immigration status. This is most obvious with regard to the use of foreign passports. Deisy S., Rosa M., and Ximena L. provided copies of their passports as proof of identification. Deisy S. Decl. ¶ 11; Rosa M. Decl. ¶ 3; Ximena L. Decl. ¶ 6. ORR's Family Reunification Application states that a foreign passport is sufficient by itself to establish proof of identification. de Gramont Decl. Ex. 1-A. But under revised Policy Guide § 2.2.4, their passports are no longer acceptable unless accompanied by proof of lawful residency or work authorization. For Deisy, this means she is fully disqualified from sponsoring her sister and baby niece even though she provided proof of identification, fingerprints, and underwent a home study. *See* Deisy S. Decl. ¶¶ 12-17, 22-23, 25.

Importantly, the Foundational Rule prohibits ORR from disqualifying *any* potential sponsor based solely on their immigration status. That a minority of states allow undocumented individuals to obtain a driver's license or a state identification card does not render this policy valid; many potential sponsors are still disqualified based solely on their inability to produce required documentation because of their immigration status. *See, e.g.*, Smyers Decl. ¶ 12. Deisy, for example, cannot obtain a state identification because Texas requires proof of lawful status to obtain a state identification or driver's license. Deisy S. Decl. ¶ 22; *see* Tex. Transp. Code § 521.142(a).³ Although some states like California and New York permit individuals to obtain a driver's license without proof of lawful status, they still require lawful presence to

³ *See also* Tex. Dep't of Pub. Safety, *How to Apply for a Texas Identification Card*, <https://www.dps.texas.gov/section/driver-license/how-apply-texas-identification-card> (last visited May 8, 2025).

obtain a regular state identification card.⁴ As a result, sponsors such as Rosa M. who do not know how to drive have no means of obtaining a qualifying identification without proof of immigration status. Rosa M. Decl. ¶ 5. Even in the few states where obtaining a state identification card is possible, sponsors have still faced delays in obtaining a new identification. Ximena L. Decl. ¶ 8.

ORR’s new proof of income requirements similarly disqualifies sponsors based on their immigration status. Whereas the FRA requires only a narrative answer explaining how the sponsor will financially support the child—including potential financial support from others—revised Policy Guide § 2.2.4 requires that the sponsor provide either (1) the previous year’s tax return; (2) 60 days of continuous paystubs; or (3) a letter from the sponsor’s employer on company letterhead. *Compare* Ex. 1-A at 6 *with* Policy Guide § 2.2.4. This requirement is not accessible to sponsors without lawful work authorization and does not comport with child welfare best practices. Smyers Decl. ¶¶ 9-10. Although sponsors such as Rosa M. can provide bank statements showing their financial ability to care for their children, this documentation is not permitted under ORR’s revised policy. Rosa M. Decl. ¶ 8.

3. ORR refuses to accept alternate evidence of financial stability in violation of the Foundational Rule

The new requirements are also contrary to another provision of the Foundational Rule, which provides that “[a]s part of its suitability assessment, ORR may require such components as . . . verification of the employment, income, *or other information provided by the potential*

⁴ See Cal. Dep’t of Motor Vehicles, *ID Cards*, <https://www.dmv.ca.gov/portal/driver-licenses-identification-cards/identification-id-cards/> (last visited May 8, 2025); N.Y. Dep’t of Motor Vehicles, *Driver Licenses and the Green Light Law*, <https://dmv.ny.gov/driver-license/driver-licenses-and-the-green-light-law> (last visited May 8, 2025) (“You cannot apply for a Non-Driver ID Card”).

sponsor as evidence of the ability to support the child.” 45 C.F.R. § 1202(c) (emphasis added).

The regulations plainly contemplate that sponsors are not limited to proof of employment and income and instead can establish their ability to support the child through alternate evidence. By requiring proof of income or employment only, ORR’s revised Policy Guide § 2.2.4 contravenes the agency’s binding regulations and must be vacated. *See Accardi*, 347 U.S. at 268.

4. ORR’s revised identification and proof of income requirements lead to unnecessary delays in release to sponsors in violation of the TVPRA and the Foundational Rule

ORR’s new policies are further contrary to law because they violate ORR’s statutory and regulatory duties to minimize detention of children. 5 U.S.C. § 706(2)(A). As discussed above, the TVPRA mandates that ORR promptly place children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A). This is usually with “a suitable family member.” *Id.* Unnecessary delays in release to a suitable sponsor violate the TVPRA. *See Saravia v. Sessions*, 905 F.3d 1137, 1143 (9th Cir. 2018); *L.V.M.*, 318 F. Supp. 3d at 613-14; *J.E.C.M.*, 352 F. Supp. 3d at 588; *cf. Ramirez v. ICE*, 471 F. Supp. 3d 88, 178 (D.D.C. 2020) (noting that DHS has greater discretion than HHS with regard to whether to release an 18-year old but is nonetheless required to consider release to the least restrictive setting).

In addition, the Foundational Rule requires ORR to “release a child from its custody without unnecessary delay, in the following order of preference, to: (1) A parent; (2) A legal guardian; (3) An adult relative,” and then to other adults or entities seeking custody. 45 C.F.R. § 410.1201(a). A “completed sponsor application” from parents, legal guardians, or other close relatives must be adjudicated within 10 or 14 days, “absent an unexpected delay (such as a case that requires completion of a home study).” 45 C.F.R. § 410.1205(b). These timelines reflect the

requirements of a summary judgment order and preliminary injunction against ORR in *Lucas R. v. Becerra* to protect the due process rights of children to family reunification. *See* 89 Fed. Reg. at 34457; *Lucas R. v. Becerra*, No. 18-5741, 2022 WL 2177454, at *27 (C.D. Cal. Mar. 11, 2022) (summary judgment); *Lucas R.*, 2022 WL 3908829, at *2 (C.D. Cal. Aug. 30, 2022) (preliminary injunction). The *Lucas R.* Court later entered a final declaratory judgment incorporating its summary judgment order. Judgment, *Lucas R.* (C.D. Cal. Sept. 16, 2024), ECF No. 449.

By blocking the release of children to otherwise suitable sponsors merely because the sponsors cannot obtain specific forms of identification or proof of income, ORR is failing to promptly place children in the least restrictive setting and creating unnecessary delay in release. *See, e.g.*, Smyers Decl. ¶ 5; *see also* Leo B. Decl. ¶¶ 11-13, 16 (describing restrictive conditions in shelter); Liam W. Decl. ¶ 9; Angelica S. Decl. ¶ 13; Ximena L. Decl. ¶¶ 11-12. Children such as Angelica and Leo seeking release to their older sisters have been left with no sponsor at all, despite their sisters being fully vetted by ORR. *See* Angelica S. Decl. ¶¶ 6, 8-9; Deisy S. Decl. ¶¶ 6-25; Leo B. Decl. ¶¶ 3-9; *see also* J.E.D.M. Decl. ¶¶ 6-7 (release blocked to uncle based on new ID policy despite submitting application, fingerprints, and home study).

Moreover, ORR is failing to adjudicate completed sponsor applications within required timelines by demanding that sponsors provide documentation not required by the application form. Despite their mother's application being indisputably complete by early March 2025, 14-year-old Eduardo M. and his 7-year-old brother have remained in custody for *two additional months* without a release decision. Rosa M. Decl. ¶ 4. Even after providing more information to attempt to satisfy all ORR's new requirements, Rosa's application has been pending final ORR approval for over 10 days. *Id.* ¶ 9; *cf.* 45 C.F.R. § 410.1205(b).

ORR does not have authority to nullify its regulatory timelines by unilaterally declaring completed sponsor applications incomplete based on new policies that were not in place at the time the application was submitted. New generally applicable policies are not the type of “unexpected delay” contemplated by the regulations. *See* 45 C.F.R. § 410.1205(b) (stating that “a case that requires completion of a home study” is an example of an unexpected delay).

Further contrary to the Foundational Rule’s priority for close relatives, ORR care providers have told relatives that they cannot sponsor a child because of their lack of qualifying identification and to instead identify *any* adult they know with lawful immigration status and the correct type of identification. *See* Deisy S. Decl. ¶¶ 25, 28; J.E.D.M. Decl. ¶ 4.

5. ORR’s revised identification and proof of income requirements are arbitrary and capricious

An agency must provide “a more detailed justification than what would suffice for a new policy created on a blank slate . . . when, for example, its new policy rests upon factual findings that contradict those which underlay its prior policy; or when its prior policy has engendered serious reliance interests that must be taken into account.” *Fox Television Stations*, 556 U.S. at 515. “[W]hen an agency rescinds a prior policy its reasoned analysis must consider the ‘alternative[s]’ that are ‘within the ambit of the existing [policy].’” *Regents of Univ. of Cal.*, 591 U.S. at 30 (quoting *State Farm*, 463 U.S. at 51).

ORR drastically changed its proof of identification and proof of income requirements without any explanation, without waiting to lawfully update the FRA, and without any apparent consideration for the reliance interests of sponsors and unaccompanied children, the impact on children’s length of detention, or less burdensome alternatives to verify sponsor identity and proof of income. These changes are arbitrary and capricious. *See* 5 U.S.C. § 706(2)(A).

Here, ORR had a longstanding policy of accepting government-issued identification from foreign governments and ORR has mechanisms to verify the validity of the foreign documentation with foreign embassies and consulates and to conduct further background investigations if there are concerns in a particular case. *See* Smyers Decl. ¶¶ 11-14; *see also* Dorn-Lopez Decl. ¶ 10; Preamble to Foundational Rule, 89 Fed. Reg. at 34445. ORR has offered no explanation for why it can no longer verify the identity of sponsors, household members, and backup caregivers through documents issued by foreign governments, much less a detailed justification. *See Fox Television Stations*, 556 U.S. at 515. ORR’s purported need for U.S.-issued identification or immigration paperwork to establish identity is further undermined by its new universal fingerprinting and DNA testing requirements, which also serve to establish identity. *See supra* Section II.E, Expanded Collection of Biometric Data on Sponsors.

ORR’s application of the new identity requirement for not only sponsors but also all adult household members and alternative caregivers creates further unnecessary barriers to family reunification. Rosa M., for example, was told she could not sponsor her own sons until she identified an alternative caregiver with the right form of identification. Rosa M. Decl. ¶ 6. Sofia W. similarly cannot sponsor her 15-year-old son Liam because her adult daughters and nephew lack qualifying identification, even though she has provided all the documentation required by the FRA and underwent a positive home study. Liam W. Decl. ¶¶ 4-5; Sofia W. Decl. ¶¶ 4-7.

The agency similarly lacks justification for its changed policy related to proof of income. ORR considered comments related to proof of income in the Foundational Rule and stated that although employment is “a permissible consideration as part of the suitability assessment[,] . . . ORR will not deny an otherwise qualified sponsor solely on the basis of low income or

employment status.” 89 Fed. Reg. at 34446. This reflects the agency’s mandate to ensure the child’s well-being, not to police whether a sponsor has formal work authorization. *See* Dorn-Lopez Decl. ¶ 9; Smyers Decl. ¶¶ 9-10. As discussed above, the regulations expressly permit potential sponsors to provide information other than employment or income verification to establish their ability to support the child. 45 C.F.R. § 410.1202(c). Yet the revised Policy Guide requires proof of income as an absolute precondition for sponsorship, with no exceptions and no provision for alternate evidence. ORR has no reasonable basis for requiring proof of income as the sole means of establishing the financial ability to care for the child and excluding reasonable alternate evidence such as bank statements. *See* Rosa M. Decl. ¶ 8. ORR also appears to have failed to consider that in some cases another individual—such as the sponsor’s partner—may contribute financial support to the child. *See* Ximena L. Decl. ¶ 10.

ORR recognizes that its new policies will decrease the number of potential sponsors available and increase children’s length of detention. *See* 90 Fed. Reg. at 17439. Despite this acknowledgement, ORR appears to have given no consideration to whether any marginal increase in its ability to verify sponsor identity and financial stability justifies the burden on children’s and sponsors’ weighty interests in release and reunification. *See State Farm*, 463 U.S. at 43 (action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem”); *see also Moore v. City of E. Cleveland*, 431 U.S. 494, 504-06 (1977) (“The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition” and “the choice of relatives in this degree of kinship to live together may not lightly be denied by the State.”); *Lucas R.*, 2022 WL 2177454, at *14, *25 (children in ORR custody

and close relative sponsors have significant constitutional interests in release and reunification); *L.V.M.*, 318 F. Supp. 3d at 613-14.

Moreover, by making its policy changes effective immediately to pending applications ORR appears to have given no consideration to the reliance interests of sponsors who have already provided extensive personal information to ORR because they were told they were eligible to sponsor a child. *See Fox Television Stations*, 556 U.S. at 515; *Regents of Univ. of Cal.*, 591 U.S. at 30-31. Nor did ORR appear to consider the emotional distress inflicted on children who believed they would be reunited with family members only to learn that they may never be released at all. *See, e.g.*, Leo B. Decl. ¶¶ 9-14; Angelica S. Decl. ¶¶ 8-9; Rosa M. Decl. ¶¶ 8, 10-11; Ximena L. Decl. ¶¶ 11-12.

6. ORR's unapproved change in information collection is contrary to the Paperwork Reduction Act

ORR's new sponsor requirements are also contrary to law because they violate the Paperwork Reduction Act (PRA). The PRA provides that "[a]n agency shall not conduct or sponsor the collection of information unless in advance of the adoption or *revision* of the collection of information" it follows certain procedural requirements, including publication in the Federal Register, an opportunity for public comment, approval by the Office of Management and Budget (OMB), and a control number from OMB. 44 U.S.C. § 3507(a) (emphasis added). A collection of information is defined to include identical questions or reporting requirements imposed on 10 or more persons. 44 U.S.C. § 3502(3). PRA violations can be raised under the Administrative Procedure Act. *See Drs. for Am. v. Off. of Pers. Mgmt.*, No. CV 25-322, 2025 WL 452707, at *7 (D.D.C. Feb. 11, 2025).

As discussed above, the Family Reunification Application currently in use by ORR and approved by OMB permits a wide range of identification documents and includes no specific proof of income requirement. *See supra* Section II.A, Family Reunification Application; de Gramont Decl. Ex. 1-A. On April 25, 2025, ORR published a notice of information collection under the Paperwork Reduction Act to revise the Family Reunification Application to match the new requirements of ORR Policy Guide § 2.2.4. *See* 90 Fed. Reg. at 17438; Ex. 1-C (revised and renamed “Sponsor Application”). Despite recognizing that it is required to follow PRA procedures to revise its application, ORR is unlawfully enforcing specific documentation requirements that are not contemplated in or directly contravene the operative FRA. In an analogous circumstance, the D.C. Circuit held that the Federal Communications Commission violated the PRA when it required a cellular license applicant to provide specific evidence of a firm financial commitment and deemed the application incomplete because the applicant’s letter of credit did not provide all the evidence required by a collection of information that OMB had not yet approved. *Saco River Cellular, Inc. v. FCC*, 133 F.3d 25, 33 (D.C. Cir. 1998). The agency was instead required to “permit respondents to prove or satisfy the legal conditions in any other reasonable manner.” *Id.* (quoting 5 C.F.R. § 1320.6(c)).

Here, ORR must permit sponsors to establish their proof of identification and financial ability to support the child through the reasonable means provided in the operative OMB-approved FRA. ORR is prohibited by law from penalizing sponsors for failing to provide the specific documentation required by the unapproved revisions to Policy Guide § 2.2.4.

7. ORR's revised identification and proof of income requirements are impermissibly retroactive as applied to completed applications

When it revised Policy Guide § 2.2.4, ORR applied the new requirements immediately, including to completed sponsorship applications. “In the administrative context, ‘[g]enerally, an agency may not promulgate retroactive rules without express congressional authorization.’” *Kirwa v. U.S. Dep’t of Defense*, 285 F. Supp. 3d 257, 270 (D.D.C. 2018) (quoting *Arkema, Inc. v. EPA*, 618 F.3d 1, 7 (D.C. Cir. 2010)). This anti-retroactivity principle applies to policy changes and agency interpretations as well as formal rulemaking. *Id.* at 271; *see also De Niz Robles v. Lynch*, 803 F.3d 1165, 1172 (10th Cir. 2015) (“[T]he more an agency acts like a legislator—announcing new rules of general applicability—the closer it comes to the norm of legislation and the stronger the case becomes for limiting application of the agency's decision to future conduct.”).

“A rule operates retroactively when it ‘would impair rights a party possessed when he acted, increase a party’s liability for past conduct, or impose new duties with respect to transactions already completed.’” *Bd. of Cnty. Comm’rs of Weld Cnty. v. EPA*, 72 F.4th 284, 289 (D.C. Cir. 2023) (quoting *Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994)). The retroactivity determination “should be informed and guided by familiar considerations of fair notice, reasonable reliance, and settled expectations.” *INS v. St. Cyr*, 533 U.S. 289, 321 (2001) (quoting *Martin v. Hadix*, 527 U.S. 343, 358 (1999)).

Here, by demanding new documents and information as a condition of sponsorship—contrary to longstanding policy and its own approved Family Reunification Application—ORR imposed new duties and obligations on sponsors who had already completed their applications and thereby harmed children by blocking their options for timely release. Rosa M. Decl. ¶¶ 3-8;

Sofia W. Decl. ¶¶ 4-7; Ximena L. Decl. ¶¶ 6-7. Because ORR’s new policies “contradict[] its past practice, narrowing the range of options and altering the legal landscape” for sponsorship applications, its refusal to consider already completed applications “is impermissibly retroactive.” *Arkema*, 618 F.3d at 9; *see also id.* (noting that effect of new EPA rule was to “undo what the EPA had, in practice, approved under” prior rules and was impermissibly retroactive); *Kirwa*, 285 F. Supp. 3d at 271-72 (Department of Defense guidance, which changed requirements for certification necessary for expedited naturalization, was impermissibly retroactive as applied to service members who enlisted prior to the new guidance).

For many sponsors who provided sensitive personal information to ORR in reliance on the fact that they would have a fair opportunity to sponsor their child or relative, ORR’s new requirements “would result in serious inequities . . . that are not counterbalanced by any significant statutory interests.” *Kirwa*, 285 F. Supp. 3d at 272; *see also St. Cyr*, 533 U.S. at 324-25 (explaining that “the presumption against retroactivity applies far beyond the confines of the criminal law” and applies even to applications for discretionary relief where individuals relied on prior law). Sponsors took concrete steps to comply with ORR requirements in reliance on ORR’s prior policies, including providing personal information, submitting to fingerprinting, and in the case of Deisy S., purchasing prenatal vitamins, a crib, and other items for her sister’s baby. *See Deisy S. Decl.* ¶¶ 10, 15, 23; *see also Treasure State Resource Industry Ass’n v. EPA*, 805 F.3d 300, 305 (D.C. Cir. 2015).

The retroactive application of these requirements was also arbitrary and capricious because they were applied without regard to whether these requirements were actually necessary to adjudicate the potential sponsor’s ability to care for the well-being of the child. *See Smyers*

Decl. ¶¶ 9-14. For example, the new proof of identification requirements was applied retroactively to sponsors who were already thoroughly vetted, including having completed fingerprinting and home studies. Deisy S. Decl. ¶¶ 14-16; Ximena L. Decl. ¶¶ 6-7. J.E.D.M. Decl. ¶ 6. ORR even applied this requirement to disqualify Leo B.'s sister, despite having previously vetted her and released Leo to her care. Leo B. Decl. ¶¶ 3, 9.

II. Plaintiffs are Suffering Irreparable Injury

As a result of ORR's unlawful policies, child Plaintiffs and the putative class are suffering irreparable harm as they remain unnecessarily detained and separated from their families. Young children such as Eduardo M. and his 7-year old brother have been deprived of the care and support of their mother for months. They "cry frequently at the program" and their mother explains that she is "desperate because I only want to be with my sons but I already provided all the documents I have." Rosa M. Decl. ¶ 11. Angelica S. lacks any viable sponsor because of ORR's changed identification and information collection and sharing policies and, absent an injunction, will have to raise her baby alone in a restrictive congregate care environment far from family support. Angelica S. Decl. ¶¶ 4-5, 12. She expresses that "being separated from my family during this time, with a new baby, has been really hard for me" and "[i]t's hard to explain how much I want to leave this place to live with my sister." *Id.* ¶ 5.

Liam W. has been detained since January despite having a mother ready and willing to care for him. Liam W. Decl. ¶ 2. He imagines that if he is finally released and arrives home to his mom, "the first thing I am going to do is hug her. I am going to hug her for a really long time. Then I just want to talk to her, about anything." *Id.* ¶ 10. Xavier L. and his 13-year-old sister have a history of trauma and are suffering from their prolonged separation from their mother and

the uncertainty about their release. Ximena L. ¶¶ 11-12. Leo B. was living with his sister and attending high school in Georgia, played on the school soccer team, and hoped to graduate next year, but is now making no educational progress and is separated from family, friends, and the liberty he enjoyed at home. Leo B. Decl. ¶¶ 6, 10-17. He notes that “[w]hen I start to think about what’s happening I get really sad and it affects me. All the effort I was putting into school was for nothing.” *Id.* ¶ 10.

Plaintiffs’ experiences are echoed in the experiences of other children in ORR custody and research on the devastating effects of family separation and detention on children. *See, e.g.*, Dorn-Lopez Decl. ¶ 6 (“I have met with children who were so negatively impacted by prolonged [ORR] detention, that they struggled with deciding whether to continue to remain in a facility or return to their home country knowing that their lives would be in danger if they were to return.”). Researchers have found that children in prolonged immigration custody are at increased risk of experiencing somatic symptoms of stress and trauma (e.g., headache, stomachache), as well as difficulties with sleeping and eating.⁵ Even outside the context of immigration detention, child welfare research highlights the distress children experience from family separation, especially when they are placed in foreign cultural environments.⁶

Unsurprisingly, courts have consistently found that family separation and unnecessarily prolonged ORR detention creates irreparable injury. *E.g.*, *Jacinto-Castanon de Nolasco v. U.S.*

⁵ M. von Werthern, *et al.*, *The Impact of Immigration Detention on Mental Health: A Systematic Review*, 18 BMC Psychiatry 382 (2018), <https://doi.org/10.1186/s12888-018-1945-y> (research not specific to detention in ORR facilities); Julie M. Linton, *et al.*, *Detention of Immigrant Children*, 139 Pediatrics no. 5 (2017), <https://doi.org/10.1542/peds.2017-0483>.

⁶ *See, e.g.*, Maurice Anderson & L. Oriana Linares, *The Role of Cultural Dissimilarity Factors on Child Adjustment Following Foster Placement*, 34 Child. and Youth Servs. Rev. 597, 597-601 (2012), <https://doi.org/10.1016/j.chilyouth.2011.11.016>.

Immigr. & Customs Enf't, 319 F. Supp. 3d 491, 502 (D.D.C. 2018) (family “[s]eparation irreparably harms plaintiffs every minute it persists.”); *L.V.M.*, 318 F. Supp. 3d at 618 (holding that delayed release from ORR custody “incidental to the challenged director review policy (more than 35 days) is clearly long enough to cause irreparable harm to Plaintiffs” and noting that “neither party questions that prolonged detention is deleterious to young children, and, obviously, the longer the detention, the greater the harm.”); *Lucas R.*, 2022 WL 2177454, at *33; *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1200 (N.D. Cal. 2017).

III. Balance of Harm and Public Interest Favor Plaintiffs

The remaining stay factors, “the harm to the opposing party and weighing the public interest . . . merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, the balance of equities and the public interest strongly favor Plaintiffs. “[T]here is a substantial public interest ‘in having governmental agencies abide by the federal laws that govern their existence and operations.’” *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (quoting *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994)). ORR’s IFR and new sponsor documentation requirements violate the Administrative Procedure Act in numerous ways and conflict with ORR’s statutory mandate under the HSA and the TVPRA.

The public also has a strong interest in the well-being of children and protecting the constitutional right to family integrity. *See Troxel v. Granville*, 530 U.S. 57, 64 (2000); *Moore*, 431 U.S. at 504-06; *see also M.G.U. v. Nielsen*, 325 F. Supp. 3d 111, 124 (D.D.C. 2018) (“[T]he public also has an interest in ensuring that its government respects the rights of immigrants to family integrity while their removal proceedings are pending.”). The IFR sets out no justification for denying sponsors based on immigration status and ORR’s new sponsor requirements

improperly presume sponsors unfit based on the lack of specific forms of documentation without conducting a holistic review. Although the government has an interest in caring for children, this interest “is de minimis” if their parent or other potential sponsor is in fact suitable. *Stanley v. Illinois*, 405 U.S. 645, 657-58 (1972). Because ORR’s present policy is based on presumption rather than actual evidence of unfitness and “needlessly risks running roughshod over the important interests of both parent and child,” it is not in the public interest. *Id.* at 657. ORR retains many tools to vet the safety of potential sponsors without unnecessarily preventing release of children to loving family members and other suitable sponsors.

IV. Relief Requested

Plaintiffs request that the Court provisionally certify the putative class and enter a preliminary injunction staying the IFR and prohibiting ORR from enforcing the new identification requirements contained in the March 7, 2025 revision of Policy Guide § 2.2.4 and the new proof of income requirements contained in the April 15, 2025 revision of Policy Guide § 2.2.4. Within 10 days of the Court’s order, ORR should further be required to inform all potential sponsors who were disqualified or denied based on the unlawful policies described here that they may now continue with their sponsorship applications.

Additionally, Plaintiffs and the putative class are entitled to adjudication of their sponsors’ applications as if the unlawful requirements had not been applied to their case. *See Public Utilities Comm’n of State of Cal. v. FERC*, 988 F.2d 154, 168 (D.C. Cir. 1993) (“We have held, in a similar context, that when the Commission commits legal error, the proper remedy is one that puts the parties in the position they would have been in had the error not been made.”); *Milliken v. Bradley*, 418 U.S. 717, 746 (1974) (“[T]he remedy is necessarily designed, as all

remedies are, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct.”). In cases where a complete sponsorship application was submitted and adjudication of the application was delayed because of ORR’s unlawful IFR and unlawful revisions to its proof of identification and/or proof of income requirements, ORR must therefore adjudicate the application according to the requirements in place at the time the application was submitted and should be enjoined from retroactively applying any later-imposed requirements. *See* 45 C.F.R § 410.1205(b) (setting timelines for adjudication of sponsor applications).

Such relief is especially important given ORR’s continued rollout of new sponsor requirements and ORR’s application of its multiple new requirements to already completed applications, which have led to significant delays and harm in Plaintiffs’ cases. *See, e.g.,* Rosa M. Decl. ¶¶ 4-8; Ximena L. Decl. ¶¶ 6-10. Significantly, ORR imposed new DNA testing requirements for all related sponsors on March 14, 2025, which have caused significant delays to children’s release. *See supra-Section II.E*, Expanded Collection of Biometric Data on Sponsors; Some families have waited over a month for a DNA testing appointment. *See* Sofia W. Decl. ¶ 8. Once a DNA test is done, families have then had to wait several weeks for DNA test results. *See* Rosa M. Decl. ¶ 7; *see also* Felix Decl. ¶ 8. Moreover, ORR has not taken any steps to schedule DNA tests for children such as Plaintiff Angelica S. and putative class member J.E.D.M., whose sponsors were disqualified altogether by the new identification requirements and have no exception available. *See* Deisy S. Decl. ¶¶ 25-26; J.E.D.M. Decl. ¶ 6. Permitting ORR to retroactively apply new DNA and other requirements to their cases—when those requirements

were not in effect at the time their sponsor completed their applications—would compound the unlawful delay caused by the ORR’s invalid proof of identification and proof of income policies.

CONCLUSION

Plaintiffs respectfully request that the Court provisionally certify the putative class and grant a preliminary injunction to remedy Plaintiffs’ significant and ongoing irreparable injuries.

May 9, 2025

/s/ David Hinojosa

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* Application for D.D.C. admission pending
** *Pro hac vice* pending
*** *Pro hac vice* forthcoming

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR A PRELIMINARY
INJUNCTION**

Upon consideration of Plaintiffs’ Motion for a Preliminary Injunction and Motion for Class Certification and the briefing, evidence, and arguments submitted by Plaintiffs and Defendants, the Court finds that entry of a preliminary injunction is warranted. Plaintiffs have established that they are “likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also* 5 U.S.C. § 705. Plaintiffs have also established that provisional class certification is warranted. *See Damus v. Nielsen*, 313 F.Supp.3d 317, 328 (D.D.C. 2018).

It is hereby ORDERED that the motions are GRANTED. The Court provisionally certifies the following class: all unaccompanied children who are or will be in the custody of the U.S. Department of Health and Human Services (“HHS”) and who (a) have or had a potential sponsor who has been identified; and (b) have not been released to a sponsor in whole or in part because they are missing documents newly required on or after March 7, 2025.

Further, Plaintiffs are GRANTED preliminary injunctive relief as follows:

- (1) The Interim Final Rule titled “Unaccompanied Children Program Foundational Rule; Update To Accord With Statutory Requirements,” promulgated by the Department of Health and Human Services on March 25, 2025, and published at 90 Fed. Reg. 13,554 is hereby STAYED and shall be given no legal force or effect;
- (2) The Office of Refugee Resettlement (“ORR”) is prohibited from enforcing the new proof of identification requirements and new proof of income requirements currently contained in the March 7, 2025, and April 15, 2025, revisions of its Unaccompanied Alien Children Bureau Policy Guide Section 2.2.4;
- (3) Within 10 days of this order, ORR shall inform all potential sponsors of unaccompanied children who were disqualified or denied based on ORR’s unlawful proof of identification and proof of income policies that they may now continue with their sponsorship applications;
- (4) In all cases where (a) a potential sponsor submitted a complete family reunification application and (b) the application was denied or closed or adjudication of the application was delayed in whole or in part because of ORR’s IFR described in section (1) above and/or ORR's revised proof of identification and/or proof of income requirements described in section (2) above, ORR is ORDERED to adjudicate the application without regard to the IFR and the revised requirements and in accordance with the policies and requirements otherwise in place when the application was submitted.

SO ORDERED this _____ day of _____, 2025.

Angelica S. et al. v. Kennedy et al.
Case No. 1:25-cv-01405

Exhibit Index to Plaintiffs' Motion for a Preliminary Injunction

Exhibit	Exhibit Description
1	Declaration of Diane de Gramont, May 9, 2025
1-A	Form FRP-3, Family Reunification Application
1-B	Form FRP-2, Authorization for Release of Information
1-C	Proposed Form SAP-3, Family Reunification Application, Information Collection
1-D	Proposed Form SA-2, Authorization for Release of Information
1-E	ORR Policy Guide Sec. 2.2.4 (last revised 8/1/24)
1-F	ORR Policy Guide Sec. 2.2.4 (last revised 3/7/25)
1-G	ORR Policy Guide Sec. 2.2.4 (last revised (4/15/25)
1-H	ORR Average Monthly Data, current as of April 7, 2025
2	Declaration of Mari Dorn-Lopez, May 4, 2025
3	Declaration of Jenifer Smyers, May 6, 2025
4	Declaration of Cynthia Felix, May 6, 2025
5	Declaration of J.E.D.M., April 16, 2025

Previously Filed Declarations

ECF No.	Name
09-07	Declaration of Angelica S., April 16, 2025
09-08	Declaration of Eduardo M., April 16, 2025
09-09	Declaration of Liam W., May 6, 2025
09-10	Declaration of Leo B., May 8, 2025
09-11	Declaration of Xavier L., May 6, 2025

09-12	Declaration of Deisy S., May 7, 2025
09-13	Declaration of Rosa M., April 29, 2025
09-14	Declaration of Sofia W., May 7, 2025
09-15	Declaration of Ximena L., May 7, 2025

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGELICA S., <i>et al.</i>)	
)	
Plaintiffs,)	
)	No. 1:25-cv-01405
v.)	
)	
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i>)	
)	
Defendants.)	

DECLARATION OF DIANE DE GRAMONT

I, Diane de Gramont, declare as follows:

1. I am counsel for Plaintiffs in the above-captioned case and a member in good standing of the California State Bar. My application for admission *pro hac vice* is currently pending.
2. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
3. On May 8, 2025, I downloaded the “Family Reunification Packet – English” from the page titled “Key Documents for the Unaccompanied Alien Children Bureau” on the Office of Refugee Resettlement (“ORR”) website, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program>. This packet includes a number of documents.
 - a. Attached as **Exhibit 1-A** is a true and correct copy of form FRP-3, Family Reunification Application.
 - b. Attached as **Exhibit 1-B** is a true and correct copy of form FRP-2, Authorization for Release of Information.
4. On April 24, 2025, ORR posted in the Federal Register a pre-publication notice of “Proposed Information Collection Activity: Unaccompanied Alien Children Sponsor Application Packet,” at 90 Fed. Reg. 17438, <https://www.federalregister.gov/documents/2025/04/25/2025->

07075/proposed-information-collection-activity-unaccompanied-alien-children-sponsor-application-packet. The notice was formally published on April 25, 2025. The notice proposes renaming the “Family Reunification Packet” the “Sponsor Application Packet.” *Id.* The notice directs the public to email infocollection@acf.hhs.gov to receive copies of the proposed collection of information. *Id.* Consistent with this instruction, I emailed infocollection@acf.hhs.gov to request copies of the new proposed Sponsor Application Packet. On April 24, 2025, I received an email response from an ORR employee attaching the proposed forms.

- a. Attached as **Exhibit 1-C** is a true and correct copy of proposed form SAP-3, Sponsor Application.
- b. Attached as **Exhibit 1-D** is a true and correct copy of proposed form SAP-2, Authorization for Release of Information.

5. ORR publishes its Unaccompanied Alien Children Bureau Policy Guide (“Policy Guide”) on its website at <https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide>. At the end of each section of the Policy Guide, ORR lists the date of its last revision as its effective date.

- a. On February 27, 2025, I downloaded Section 2 of the Policy Guide to PDF format. Attached as **Exhibit 1-E** is a true and correct copy of Section 2.2.4 of the Policy Guide as it existed on that date, with an effective date of 08/01/2024.
 - b. On March 26, 2025, I downloaded Section 2 of the Policy Guide to PDF format. Attached as **Exhibit 1-F** is a true and correct copy of Section 2.2.4 of the Policy Guide as it existed on that date, with an effective date of 03/07/2025.
 - c. On May 8, 2025, I downloaded Section 2 of the Policy Guide to PDF format. Attached as **Exhibit 1-G** is a true and correct copy of Section 2.2.4 of the Policy Guide as it existed on that date, with an effective date of 04/15/2025.
6. ORR publishes data and other information about unaccompanied children on its website at Fact Sheets and Data, <https://acf.gov/orr/about/ucs/facts-and-data>. On May 8, 2025, I downloaded the “Average Monthly Data” tab of the Fact Sheets and Data website to PDF

format. Attached as **Exhibit 1-H** is a true and correct copy of the posted data as it existed on that date, with a “Current as of” date of April 7, 2025.

I declare under penalty of perjury that the foregoing is true and correct.

Executed May 9, 2025, in Santa Barbara, California

A handwritten signature in black ink, appearing to read "Diane de Gramont", is written over a horizontal line.

Diane de Gramont

EXHIBIT 1-A



Administration for Children & Families Office of Refugee Resettlement

Family Reunification Application

How to complete this application

IMPORTANT: If you cannot complete these steps within seven (7) days, please tell your Case Manager. Additionally, in certain instances a Case Manager may assist you (or may have already assisted you) in completing this application.



Step 1

If you have not already done so, you must immediately sign and return the **Authorization for Release of Information** form and a copy of your government issued photo ID to your Case Manager.

If you are required to submit fingerprints, your Case Manager will assist you to schedule an appointment to submit your fingerprints. Contact your Case Manager if you have questions.



Step 2

Read the **Sponsor Handbook**, **Sponsor Care Agreement**, and **Privacy Notice**, which includes other important information you need to know about sponsoring a child in our program.



Step 3

Complete and sign the **Family Reunification Application** (pages 3-7 in this packet).



Step 4

Gather the required documents listed on the **Supporting Documents** section (pages 8-10 in this packet).



Step 5

Submit the **Family Reunification Application** (this application) and the required supporting documents to your Case Manager.

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 1.0 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information. If you have any comments on this collection of information please contact UCPolicy@acf.hhs.gov.

Family Reunification Application

Office of Refugee Resettlement

Frequently Asked Questions

Can I sponsor my child if I am undocumented?

Yes. ORR prefers to release a child to a parent or legal guardian, regardless of your immigration status. ORR is not an immigration enforcement agency.

Is there a cost to sponsor a child?

No. There is no fee to complete the requirements to sponsor a child, however you may be responsible for costs associated with the child's travel and escort. If you are asked for fees related to the release of a child you may be the target of a potential fraud scheme and should report the matter to law enforcement please see the *Fraud Warning* document for more information.

Do I need an attorney to sponsor a child?

No. You do not need an attorney to complete the requirements to sponsor a child. If you need help completing the requirements, your Case Manager can assist you. If you seek additional assistance, note that there is no fee to complete the requirements to sponsor a child.

Why do I have to submit my fingerprints?

ORR requires background checks to ensure the safety of the child. If you are required to submit fingerprints, your Case Manager will assist you to schedule an appointment to submit your fingerprints. Contact your Case Manager if you have questions.

What information do I have to provide?

You must complete the Family Reunification Application and supporting documentation. You must also answer questions from your Case Manager about your household, your relationship with the child, and your ability to care for the physical and mental well-being of the child. You must provide proof of your identity.

When do I need to give these documents to my Case Manager?

You should submit all required information within seven (7) days or earlier, if possible. The sooner you submit all required documents, the sooner ORR will make a decision on releasing the child to your custody. ORR will promptly inform you of a decision on releasing the child to your custody or will notify you if additional information or assessment is required.

Need Help? Contact your Case Manager.

Family Reunification Application
Office of Refugee Resettlement

About you - the sponsor - and the child(ren)

1) Name(s) of the child(ren)

List the names of all children you are applying to sponsor

2) Your relationship to the child(ren)

e.g., mother, uncle, family friend

3) Your Name

--

4) Other names you have used

List other names you have used, such as your name before you were married or maternal last names (separate with commas)

--

5) Your country of origin

Where you were born

--

6) Your date of birth

month/day/year (e.g., 12/31/1979)

--

7) Phone numbers

e.g., 210-555-1234

Primary Phone

--

Secondary Phone

--

8) Your email address or fax number

--

9) Language(s) you speak

--

Need Help? Contact your Case Manager.

Family Reunification Application
Office of Refugee Resettlement

Where will you and the child(ren) live?

10) Address

Street Address
(+ apartment number, if applicable)

City

State

Zip code

11) Who currently lives at this address?

Household Member Name	Date of Birth	Relationship to you (the sponsor)	Relationship to the child
(EXAMPLE) Miguel Perez	12/31/1985	Brother	Uncle

Need Help? Contact your Case Manager.

Family Reunification Application
Office of Refugee Resettlement

Adult Who Will Care for the Child(ren) if You Cannot

If you become unable to care for the child(ren), who will care for the child(ren)?

12a) Name of potential adult caregiver

12b) Date of birth of potential adult caregiver

12c) Contact information of potential adult caregiver

Phone Number

Street Address

(+ apartment number, if applicable)

City

State

Zip code

12d) What is their relationship to the child(ren)?

(grandparent, aunt, sibling over 18 years old, etc.)

12e) What is their relationship to you, the sponsor?

12f) How will the child(ren) be cared for if you become unable to care for them?

Need Help? Contact your Case Manager.

Family Reunification Application
Office of Refugee Resettlement

Financial Information

13) How will you financially support the child(ren)?

Include all sources and amounts of your income (for example, the amount you are paid each week) as well as explaining any financial support from others who will help financially support the child(ren).

Health Information

14a) Does any person in your household have any serious contagious diseases (TB, AIDS, hepatitis, etc.)?

If so, please explain:

14b) Are you aware of any health conditions the child(ren) may have (disabilities, allergies, diseases, etc.)? If so, please explain:

Need Help? Contact your Case Manager.

Family Reunification Application
Office of Refugee Resettlement

Criminal History

If you answer "YES" to either of these questions, you will need to provide more information. See the Supporting Documentation page (page 9 of this packet) for more information.

15a) Have you or any person in your household ever been charged with or convicted of a crime (other than a minor traffic violation; e.g. speeding, parking ticket, etc.)?

☐ Yes ☐ No

15b) Have you or any person in your household ever been investigated for the physical abuse, sexual abuse, neglect, or abandonment of a child?

☐ Yes ☐ No

Sign & Date Your Application

I declare and affirm under penalty of perjury that the information contained in this application is true and accurate to the best of my knowledge.

I attest that all documents I am submitting or copies of those documents are free of error and fraud.

I further attest that I will abide by the care instructions contained in the *Sponsor Care Agreement*.

I will provide for the physical and mental well-being of the child(ren). I will also comply with my state's laws regarding the care of this child including:

- Enrolling the child(ren) in school;
- Providing medical care when needed;
- Protecting the child(ren) from abuse, neglect, and abandonment; and
- Any other requirement not herein contained.

YOUR SIGNATURE

DATE

Need Help? Contact your Case Manager.

Family Reunification Application

Office of Refugee Resettlement

Supporting Documents

Please provide copies of the following documents. If you are unable to provide the documents we ask for, please explain why. We may reject your application if any of the required information is missing, incomplete, or inaccurate.

1) Proof of Child's Identity

A copy of the child's birth certificate

2) Proof of Identity for you and, as applicable, any household members

A copy of a government issued ID. You may present one selection from List A or two or more selections from List B. If you present selections from List B, at least one selection must contain a photograph. Expired documents are acceptable.

List A
U.S. Passport or U.S. Passport Card
Foreign Passport that contains a photograph
Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
Employment Authorization Document that contains a photograph (Form I-766)
U.S. Driver's License or Identification Card

List B
U.S. Certificate of Naturalization
U.S. Military Identification Card
Birth Certificate
Marriage certificate
Court order for name change
Foreign national identification card
Consular passport renewal receipt that contains a photograph
Mexican consular identification card
Foreign driver's license that contains a photograph
Foreign voter registration card that contains a photograph
Canadian border crossing card that contains a photograph
Mexican border crossing card that contains a photograph with valid Form I-94
Refugee travel documents that contains a photograph
Other similar government documents (includes ORR <i>Verification of Release</i> form with a photograph for individuals under the age of 21)

Need Help? Contact your Case Manager.

Family Reunification Application

Office of Refugee Resettlement

3) Legal Records (if applicable)

If you answered "YES" to either question 15(a) or 15(b) on this form, please provide us with the following information for each charge/conviction:

- Name of person involved
- Place and date of the incident
- Explanation of the incident
- Disposition of the incident (e.g., charges dropped, fined, imprisoned, probation)
- Copy of court record(s), police record(s), and/or governmental social service agency record(s) related to the incident(s)

4) Proof of Address

A copy of at least one form of documentation verifying your current address. Acceptable forms of documentation include:

- Your current lease with your name
- Your current mortgage statement with your name, dated within the last two months
- Your bank statement dated within the last two months
- An official payroll check stub issued by your employer, dated within the last two months
- Your valid unexpired State ID with your photograph and your current address
- Mail, preferably a utility bill or insurance statement, addressed to you at your current address, dated within the last two months
- A notarized letter from your landlord confirming your address and containing your name, the date you moved in, the number of bedrooms, and the expiration date of the lease
- Other similar documents reliably indicating that you live at your current address, dated within the last two months

If you are unable to provide this documentation, please contact your case manager.

5) Proof of Relationship

Copies of documents to provide proof of a relationship between you and the child. Expired documents are acceptable.

Your Relationship to the Child	Acceptable Documents
Parent	<ul style="list-style-type: none"> • Birth certificates • Court records • Parent's government issued photo ID

Need Help? Contact your Case Manager.

Family Reunification Application

Office of Refugee Resettlement

Your Relationship to the Child	Acceptable Documents
Step-Parent You have legally adopted the child	<ul style="list-style-type: none"> • Birth certificates • Parent's government issued photo ID • Step-Parent's government issued photo ID • Marriage certificate • Court order documents confirming adoption or legal guardianship has been established
Legal Guardian	<ul style="list-style-type: none"> • Court order documents confirming adoption or legal guardianship has been established • Birth certificates • Legal guardian's government issued photo ID • Guardianship records • Death Certificates • Hospital records
Family Member	<p>All family members:</p> <ul style="list-style-type: none"> • Birth certificates • Trail of familial birth and/or death certificates showing that you and the child are related • Marriage certificates • Hospital records • Court records • Baptismal certificate <p>Close family members, such as an aunt, uncle, or first cousin, who are or were the child's primary caregiver (these documents are not required if you are the child's grandparent, sibling, half-sibling, or step-sibling through legal marriage):</p> <ul style="list-style-type: none"> • Guardianship records • Other similar documents from a state or foreign government • A sworn affidavit from you (your case manager will corroborate your affidavit by interviewing you, the child, and other family members)
You are not related to the child	Please contact your Case Manager

Need Help? Contact your Case Manager.

EXHIBIT 1-B



Administration for Children & Families Office of Refugee Resettlement

Authorization for Release of Information

Carefully read this authorization and the accompanying Privacy Notice, then sign and date it in black ink.

I Authorize any investigator, special agent, employee, contractor, grantee or other duly accredited representative working on behalf of the Office of Refugee Resettlement (ORR) conducting my background investigation or sponsorship assessment to obtain information for the purposes of assessing my ability to provide appropriate care and placement of a child and for providing post release services, as needed, or my background as a member of the household or caregiver for a child, as applicable. I authorize any federal, state, or local criminal justice agency; federal, state, local, or private child welfare agency; federal immigration agency; or any other sources of information, such as schools, courts, treatment providers, probation/parole officers, mental health professionals, or other references, to release information about any criminal history, child abuse and neglect charges or concerns, mental health issues, substance abuse, domestic violence, or any other psychosocial information gathered about me either verbally or in writing.

I Authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, employee, contractor, grantee, or other duly accredited representative of the Office of Refugee Resettlement.

I Understand that my biometric and biographical information, including my fingerprints, is shared with Federal, state or local law enforcement agencies and may be used consistent with their authorities, including with the U.S. Department of Homeland Security (DHS) and with the U.S. Department of Justice (DOJ) to investigate my criminal history through the National Criminal Information Center. I also understand that DHS cannot use my information for immigration enforcement actions, including placement in detention, removal, referral for a decision whether to initiate removal proceedings, or initiation of removal proceedings, unless I have been convicted of a serious felony, am pending charges for a serious felony, or I have been directly involved in or associated with any organization involved in human trafficking.¹

I Understand that the information released by any custodian of my records and any other sources of information about me is for official use by the U.S. Government, its employees, grantees, contractors, and other delegated personnel, for the purposes stated above, and may be disclosed by the U.S. Government only as authorized by law.

¹ See Consolidated Appropriations Act, 2023, Pub. L. 117-328, Division F, Title II, § 217. Please note that DHS is restricted from using this information through September 31, 2023.

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 0.25 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information. If you have any comments on this collection of information please contact UCPolicy@acf.hhs.gov.

Authorization for Release of Information**Office of Refugee Resettlement**

I Understand that this information will become the property of the ORR and may be reviewed by its employees, grantees, contractors, and delegates. I also understand that the ORR may share this information with the employees and contractors of other Federal agencies.

I Understand that, if applicable, ORR will offer me a fingerprint appointment within seven (7) business days of receipt of a signed copy of this document and a valid form of identification, unless circumstances beyond ORR's control prevent ORR from offering an appointment within that timeframe. I further understand that ORR will make reasonable efforts to process my fingerprints within ten (10) business days of receipt of a set of legible prints, unless circumstances beyond ORR's control prevent fingerprints from being processed within that timeframe.

I Hereby Relinquish any claim or right under the laws of the United States against the federal government, its employees, grantees, contractors, or delegates, for the legally authorized use of any information gathered during a search of my criminal history, child welfare information, any information contained in my sponsorship application and supporting documentation, and any information gathered from any verbal or written sources regarding this sponsorship application. I hereby relinquish any claim or previous agreement with any federal, state, local, or private agency that would bar the ORR or the agency's official delegate from obtaining the requested information.

I declare and affirm under penalty of perjury that the information contained in this authorization is true and accurate to the best of my knowledge.

YOUR SIGNATURE

DATE

YOUR FULL NAME (PRINT CLEARLY)

STAFF USE ONLY

UC NAME(S)	
UC A#(S)	
CARE PROVIDER	
DIGITAL SITE LOCATION (IF ANY)	

Need Help? Contact your Case Manager.

Authorization for Release of Information

Office of Refugee Resettlement

Information required for background check**1) About the child(ren)**

List the names and dates of birth of all children you are applying to sponsor.

Child's Name	Child's Date of Birth month/day/year (e.g., 12/31/1979)

2) Your full name

Include first name, middle name, and last name.

3) Other names you have used

List other names you have used, such as your name before you were married or maternal last names and when you stopped using them.

Previous Name	When you stopped using this name month/year (e.g., 12/2010)

4) Your date of birth

month/day/year (e.g., 12/31/1979)

5) Your place of birth

Where were you born?

City

County

State

Country

6) Your country of citizenship

Need Help? Contact your Case Manager.

Authorization for Release of Information**Office of Refugee Resettlement****7) Addresses**

Where have you lived in the last five (5) years?

Street address (+ apartment number, if applicable)	City (Country)	State	Zip code	From date (month/year)	To date (month/year)
(EXAMPLE) 2539 Lowndes Hill Park Road	San Antonio	TX	78201	12/2014	11/2015
					Current

Need Help? Contact your Case Manager.

EXHIBIT 1-C



Administration for Children & Families

Office of Refugee Resettlement

Sponsor Application

About you - the sponsor - and the child(ren)

1) Name(s) of the child(ren)

List the names of all children you are applying to sponsor

2) Your relationship to the child(ren)

e.g., mother, uncle, family friend

3) Your Name

--

4) Other names you have used

List other names you have used, such as your name before you were married or maternal last names (separate with commas)

--

5) Your country of origin

Where you were born

--

6) Your date of birth

month/day/year (e.g., 12/31/1979)

--

7) Phone numbers

e.g., 210-555-1234

Primary Phone

--

Secondary Phone

--

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 1.0 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information. If you have any comments on this collection of information please contact UACPolicy@acf.hhs.gov.

Sponsor Application

Office of Refugee Resettlement

8) Your email address or fax number

9) Language(s) you speak

Where will you and the child(ren) live?

10) Address

Street Address

(+ apartment number, if applicable)

City

State

Zip code

11) Who currently lives at this address (include yourself)?

Household Member Name	Date of Birth	Relationship to you (the sponsor)	Relationship to the child
<i>(EXAMPLE) Miguel Perez</i>	<i>12/31/1985</i>	<i>Brother</i>	<i>Uncle</i>

Need Help? Contact your Case Manager.

Sponsor Application
Office of Refugee Resettlement

Adult Who Will Care for the Child(ren) if You Cannot

If you become unable to care for the child(ren), who will care for the child(ren)?

12a) Name of potential adult caregiver

12b) Date of birth of potential adult caregiver

12c) Contact information of potential adult caregiver

Phone Number

Street Address
(+ apartment number, if applicable)

City

State

Zip code

12d) What is their relationship to the child(ren)?
(grandparent, aunt, sibling over 18 years old, etc.)

12e) What is their relationship to you, the sponsor?

12f) How will the child(ren) be cared for if you become unable to care for them?

Need Help? Contact your Case Manager.

Sponsor Application
Office of Refugee Resettlement

Financial Information

13) How will you financially support the child(ren)?

Include all sources and amounts of your income (for example, the amount you are paid each week) as well as explaining any financial support from others who will help financially support the child(ren).

Health Information

14a) Does any person in your household have any serious contagious diseases (TB, AIDS, hepatitis, etc.)? If so, please explain:

14b) Are you aware of any health conditions the child(ren) may have (disabilities, allergies, diseases, etc.)? If so, please explain:

Need Help? Contact your Case Manager.

Sponsor Application

Office of Refugee Resettlement

Criminal History

If you answer "YES" to either of these questions, you will need to provide more information. See the Supporting Documentation page (page 6 of this packet) for more information.

15a) Have you or any person in your household ever been charged with or convicted of a crime (other than a minor traffic violation; e.g. speeding, parking ticket, etc.)?

☐ Yes ☐ No

15b) Have you or any person in your household ever been investigated for the physical abuse, sexual abuse, neglect, or abandonment of a child?

☐ Yes ☐ No

Sign & Date Your Application

I declare and affirm under penalty of perjury that the information contained in this application is true and accurate to the best of my knowledge.

I attest that all documents I am submitting or copies of those documents are free of error and fraud.

I will provide for the physical and mental well-being of the child(ren). I will also comply with my state's laws regarding the care of this child including:

- Enrolling the child(ren) in school;
- Providing medical care when needed;
- Protecting the child(ren) from abuse, neglect, and abandonment; and
- Any other requirement not herein contained.

YOUR SIGNATURE

DATE

Need Help? Contact your Case Manager.

Sponsor Application Office of Refugee Resettlement

Supporting Documents

Please provide copies of the following documents. If you are unable to provide the documents we ask for, please explain why. We may reject your application if any of the required information is missing, incomplete, or inaccurate.

1) Proof of Child's Identity

An original or legible full color photocopy of the child's birth certificate

2) Proof of Identity for you and, as applicable, any household members

Original versions or legible photocopies, digital scans, or high-resolution digital photos of government-issued identification documents. You must present at least one selection from the list below. Expired documents will not be accepted.

Acceptable Proof of Identity Documents
U.S. Passport or U.S. Passport Card
Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
Employment Authorization Document that contains a photograph (Form I-766)
Foreign passport with Form I-94 or Form I-94A with Arrival-Departure Record, and containing an endorsement to work
Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI
Driver's license or ID card issued by a U.S. state or outlying possession of the United States provided it contains a photograph or information such as a name, date of birth, sex, height, eye color, and address
ID card issued by U.S. federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
U.S. Military card or draft record
U.S. Military dependent's ID card
U.S. Coast Guard Merchant Mariner Card
Native American tribal document
Driver's license issued by a Canadian government authority

Need Help? Contact your Case Manager.

Sponsor Application
Office of Refugee Resettlement

3) Legal Records (if applicable)

If you answered "YES" to either question 15(a) or 15(b) on this form, please provide us with the following information for each charge/conviction:

- Name of person involved
- Place and date of the incident
- Explanation of the incident
- Disposition of the incident (e.g., charges dropped, fined, imprisoned, probation, mandated or voluntary classes, counseling, or other required actions that were part of a plea agreement or court agreement)
- Copy of court record(s), police record(s), and/or governmental social service agency record(s) related to the incident(s)

4) Proof of Address

An original version of at least one form of documentation verifying your current address. Acceptable forms of documentation include:

- Your current lease with your name
- Your current mortgage statement with your name, dated within the last two months
- A valid, unexpired state ID with your current address and photo
- A utility bill, addressed to you at your current address, dated within the last two months
- Your bank statement dated within the last two months
- A payroll check stub issued by your employer, dated within the last month

5) Proof of Income

A copy of at least one form of documentation verifying your income. Acceptable forms of documentation include:

- Your tax return from the previous year (if in the United States during prior year)
- Copies of your paystubs for at least the past 60 days continuously
- An original letter from your employer verifying your employment and salary information, signed within the past 60 days. The letter must be on company letterhead and contain verifiable contact information for your employer and supervisor. An ORR representative must speak with the supervisor or company human resources division to verify the information in the letter.

Need Help? Contact your Case Manager.

Sponsor Application

Office of Refugee Resettlement

6) Proof of Relationship

An original or full color photocopy of at least one document to provide proof of a relationship between you and the child.

Your Relationship to the Child	Acceptable Documents
Parent	<ul style="list-style-type: none"> • Birth certificates • Court records • Parent's government issued photo ID
Step-Parent You have legally adopted the child	<ul style="list-style-type: none"> • Birth certificates • Parent's government issued photo ID • Step-Parent's government issued photo ID • Marriage certificate • Court order documents confirming adoption or legal guardianship has been established
Legal Guardian	<ul style="list-style-type: none"> • Court order documents confirming adoption or legal guardianship has been established • Birth certificates • Legal guardian's government issued photo ID • Guardianship records • Death Certificates
Family Member	<ul style="list-style-type: none"> • Birth certificates • Trail of familial birth and/or death certificates showing that you and the child are related • Marriage certificates • Court records • Written affirmation of relationship from your Consulate
You are not related to the child	Please contact your Case Manager

Need Help? Contact your Case Manager.

EXHIBIT 1-D



Administration for Children & Families Office of Refugee Resettlement

Authorization for Release of Information

Carefully read this authorization and the accompanying Privacy Notice, then sign and date it.

I Authorize any investigator, special agent, employee, contractor, grantee or other duly accredited representative working on behalf of the Office of Refugee Resettlement (ORR) conducting my background investigation or sponsorship assessment to obtain information for the purposes of assessing my ability to provide appropriate care and placement of a child and for providing post release services, as needed, or my background as a member of the household or caregiver for a child, as applicable. I authorize any federal, state, or local criminal justice agency; federal, state, local, or private child welfare agency; federal immigration agency; or any other sources of information, such as schools, courts, treatment providers, probation/parole officers, mental health professionals, or other references, to release information about any criminal history, child abuse and neglect charges or concerns, mental health issues, substance abuse, domestic violence, or any other psychosocial information gathered about me either verbally or in writing.

I Authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, employee, contractor, grantee, or other duly accredited representative of the Office of Refugee Resettlement.

I Understand that my biometric and biographical information, including my fingerprints and my photograph, is shared with Federal, state or local law enforcement agencies and may be used consistent with their authorities, including with the U.S. Department of Homeland Security (DHS) and with the U.S. Department of Justice (DOJ) to investigate my criminal history through the National Criminal Information Center.

I Understand that the information released by any custodian of my records and any other sources of information about me is for official use by the U.S. Government, its employees, grantees, contractors, and other delegated personnel, for the purposes stated above, and may be disclosed by the U.S. Government only as authorized by law.

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13) Public reporting burden for this collection of information is estimated to average 0.25 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Please see the accompanying privacy notice / Privacy Act statement for a discussion of (1) the authority for solicitation of information, and whether disclosure is mandatory or voluntary, (2) the principal purposes for which the information is intended to be used, (3) other routine uses which may be made of the information, and (4) the effects, if any, of not providing all or any part of the requested information. If you have any comments on this collection of information please contact UACPolicy@acf.hhs.gov.

Authorization for Release of Information**Office of Refugee Resettlement**

I Understand that this information will become the property of the ORR and may be reviewed by its employees, grantees, contractors, and delegates. I also understand that the ORR may share this information with the employees and contractors of other Federal agencies.

I Understand that, if applicable, ORR will offer me a fingerprint appointment within seven (7) business days of receipt of a signed copy of this document and a valid form of identification, unless circumstances beyond ORR's control prevent ORR from offering an appointment within that timeframe. I further understand that ORR will make reasonable efforts to process my fingerprints within ten (10) business days of receipt of a set of legible prints, unless circumstances beyond ORR's control prevent fingerprints from being processed within that timeframe.

I Hereby Relinquish any claim or right under the laws of the United States against the federal government, its employees, grantees, contractors, or delegates, for the legally authorized use of any information gathered during a search of my criminal history, child welfare information, any information contained in my sponsorship application and supporting documentation, and any information gathered from any verbal or written sources regarding this sponsorship application. I hereby relinquish any claim or previous agreement with any federal, state, local, or private agency that would bar the ORR or the agency's official delegate from obtaining the requested information.

I declare and affirm under penalty of perjury that the information contained in this authorization is true and accurate to the best of my knowledge.

YOUR SIGNATURE

DATE

YOUR FULL NAME (PRINT CLEARLY)

STAFF USE ONLY

UAC NAME(S)	
UAC A#(S)	
CARE PROVIDER	
DIGITAL SITE LOCATION (IF ANY)	

Need Help? Contact your Case Manager.

Authorization for Release of Information

Office of Refugee Resettlement

Information required for background check

1) About the child(ren)

List the names and dates of birth of all children you are applying to sponsor.

Child's Name	Child's Date of Birth month/day/year (e.g., 12/31/1979)

2) Your full name

Include first name, middle name, and last name.

3) Other names you have used

List other names you have used, such as your name before you were married or maternal last names and when you stopped using them.

Previous Name	When you stopped using this name month/year (e.g., 12/2010)

4) Your date of birth

month/day/year (e.g., 12/31/1979)

5) Your place of birth

Where were you born?

City

County

State

Country

6) Your country of citizenship

Need Help? Contact your Case Manager.

Authorization for Release of Information

Office of Refugee Resettlement

7) Addresses

Where have you lived in the last five (5) years?

Street address (+ apartment number, if applicable)	City (Country)	State	Zip code	From date (month/year)	To date (month/year)
(EXAMPLE) 2539 Lowndes Hill Park Road	San Antonio	TX	78201	12/2014	11/2015
					Current

Need Help? Contact your Case Manager.

EXHIBIT 1-E

2/27/25, 5:10 PM

ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2 | The Administration for Children and Families

- A flyer with contact information on organizations offering a Legal Orientation Program for Custodians (LOPC)
- A flyer with contact information for the UAC Sexual Abuse Hotline
- Fingerprint instructions
- Sponsor Handbook
- Letter of Designation for Care of a Minor (If parent or legal guardian wishes to specify)
- A flyer warning sponsors of potential fraud schemes

The care provider is available to help the potential sponsor complete the application. ORR may require certain sponsors to fill out the FRA and other documents based on concerns related to safety, including sponsor motivation. ORR may in its discretion require the sponsor to submit their own FRA if there has been a safety concern identified that indicates that the sponsor should file the FRA without the **case manager's** assistance OR if the sponsor indicates that they prefer to submit the FRA by themselves.

The care provider case manager or other care provider staff or volunteer may assist the sponsor by filling out the FRA with a sponsor over the phone.

The case manager or other care provider staff or volunteer must read the attestation of perjury that is found in the FRA to the sponsor. The completed FRA is sent to the sponsor for verification. Sponsors must verify and sign the FRA and submit back to the case manager with any corrections. Copies, including photographs, and/or electronic signatures are accepted.

Revised 08/01/2024

2.2.4 Required Documents for Submission with the Application for Release

In addition to completing and signing the Family Reunification Application (FRA) and the Authorization for Release of Information (ARI), potential sponsors must provide documentation of identity, address, and relationship to the child they seek to sponsor.³ Potential sponsors must also submit documentation verifying the identity of the children they seek to sponsor, and evidence verifying the identity of all adults residing with the sponsor and all adult caregivers identified in a sponsor care plan. In addition to their use as evidence of the foregoing, all documentation submitted under this section is used as part of the overall sponsor assessment process. See **Section 2.4 Sponsor Assessment Criteria and Home Studies**. As a result, ORR may in its discretion require potential sponsors to submit additional documentation beyond the minimums specified below.

Proof of Sponsor Identity

To verify their identity, all potential sponsors must submit original versions or legible copies of

government-issued identification documents. They may present either one (1) selection from List A or two (2) or more documents from List B. If a potential sponsor presents selections from list B, at least one (1) selection must contain a legible photograph. Expired documents are acceptable for the purpose of establishing identity.

LIST OF ACCEPTABLE DOCUMENTS

LIST A

U.S. Passport or U.S. Passport Card

Permanent Resident Card or Alien Registration Receipt Card (Form I-551)

Foreign Passport that contains a photograph

Employment Authorization Document that contains a photograph (Form I-766)

U.S. Driver's License or Identification Card

OR

LIST B

U.S. Certificate of Naturalization

U.S. Military Identification Card

Birth Certificate

Marriage Certificate

Court order for name change

Foreign national identification card

Consular passport renewal receipt that contains a photograph

Mexican consular identification card

Foreign driver's license that contains a photograph

Foreign voter registration card that contains a photograph

Canadian border crossing card that contains a photograph

Mexican border crossing card that contains a photograph with valid Form I-94

LIST B


Refugee travel document that contains a photograph

Foreign driver's license that contains a photograph

Other similar documents (includes ORR Verification of Release form with a photograph for individuals under the age of 21⁴)

Proof of identify of adult household members and adult caregivers identified in a sponsor care plan

As a general matter, ORR prioritizes the **placement** of unaccompanied alien children with parents and legal guardians available to provide care and custody in the United States (i.e., Category 1 sponsors). Where there are no safety concerns, ORR does not require proof of identify for household members and adult caregivers of Category 1 sponsors, so long as:

- The child is not determined to be especially vulnerable through ORR's screening and assessment process;
- The child is not subject to a mandatory **Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)**  (PDF) **home study** (See **Section 2.4.2 Home Study Requirement**); and
- There are no other safety concerns present in the case, including relating to abuse or **neglect**.

When an individual is simultaneously sponsoring multiple closely related children for whom they would be a Category 1 and Category 2A or Category 2B sponsor, the proof of identity for Household Member(s) (HHM) and adult caregiver is not required so long as there are no safety concerns as described above. All other potential sponsors that do not meet the criteria above must submit documentation verifying the identity of non-sponsor adults in their household and adult caregivers named in the sponsor care plan. Potential sponsors must submit at least one (1) identification document that contains a photograph for all such adults. The document may be from either List A or List B above and may be an original version or a legible copy of the document. Expired documents are acceptable for the purpose of establishing identity.

Proof of Address

All potential sponsors must submit at least one (1) form of documentation verifying their current address. Acceptable forms of documentation include original versions or legible copies of:

- A current lease or mortgage statement dated within the last two (2) months before submission of the FRA;
- A valid, unexpired state ID with current address and photo;

- A utility bill, addressed in the sponsor's name and dated within the last two (2) months before submission of the FRA;
- A bank statement dated within the last two (2) months before submission of the FRA;
- A payroll check stub issued by an employer, dated within the last two (2) months before submission of the FRA;
- A piece of mail from a county, state, or federal agency (with the exception of ORR) with the sponsor's name and residential address and dated within the last two (2) months before submission of the FRA;
- A notarized letter from a landlord on the business stationary of the real property owner confirming the sponsor's address; and
- Other similar documents reliably indicating that the sponsor resides at the claimed address, dated within the last two (2) months before submission of the FRA.

ORR may use alternative methods to verify address. For example, ORR may send a letter containing specific instructions to the address given by the sponsor and provide a timeline by which the sponsor must comply with the instructions.

Proof of Child's Identity

The potential sponsor or child's family must provide the unaccompanied alien child's birth certificate or a legible copy of the child's birth certificate.

Proof of Sponsor-Child Relationship

The potential sponsor must provide at least one (1) form of evidence verifying the relationship claimed with the child.⁵ Acceptable documents include original versions or legible copies of:

- Birth certificates;
- Marriage certificates;
- Death certificates;
- Court records;
- Guardianship records;
- Hospital records;
- School records;
- Written affirmation of relationship from Consulate; and/or
- Other similar documents.

Category 2A potential sponsors providing evidence of "primary caregiver"

Category 2A sponsors who are not grandparents or adult siblings must prove they are or were the child's primary caregiver. A primary caregiver is defined as any person who is primarily entrusted with the child's

care and who lives with the child.

If the potential sponsor has any guardianship documents or other documents from a state or foreign government, they must submit this with the Family Reunification Application. ORR also accepts sworn affidavits from potential sponsors in addition to corroborating interviews the case manager has with the child, potential sponsor, and other family members to establish whether the potential sponsor was a primary caregiver to the child.

Category 3 potential sponsors without a bona fide pre-existing relationship

Category 3 potential sponsors who are unable to provide verifiable documentation of a familial relationship with the unaccompanied alien child must submit evidence that reliably and sufficiently demonstrates a bona fide social relationship with the child and/or the child's family that existed before the child migrated to the United States. Care providers must attain sufficient corroboration to be confident that they have received needed verification of the relationship between the potential sponsor and the child or child's family.

If a Category 3 potential sponsor does not submit evidence that reliably and sufficiently demonstrates a bona fide preexisting social relationship between the potential Category 3 sponsor and the child and/or the child's family, ORR may take this into account when determining the suitability of the case for release. In such cases ORR may require that the potential Category 3 sponsor, the child, and the child's family, establish ongoing regular contact while the child is in ORR care, prior to a release recommendation.

Criminal History

If a potential sponsor has been charged with or convicted of any crime or investigated for the **physical abuse, sexual abuse, neglect, or abandonment** of a child, they must provide related court records and police records, as well as governmental social service records or proof of rehabilitation related to the incident where there has been a substantiated finding or a conviction.

Fraud

If a sponsor, household member, or adult caregiver provides any false information in the application of release and/or accompanying documents or submits fraudulent documents for the purposes of obtaining sponsorship of the child, ORR will report the incident to the U.S. Department of Health and Human Services (**HHS**)/Office of the Inspector General (OIG). Fraudulent documents include documents on which the address, identity, or other relevant information is false or documents that have been manufactured or altered without lawful authorization. ORR may deny release if it is determined that fraudulent documents were submitted during the application of release process.

Effective 08/01/2024

2.2.5 Legal Orientation Program for Custodians

All potential **sponsors** of children under the care of ORR should attend a presentation provided by the Legal Orientation Program for Custodians (LOPC). The purpose of this program is to inform potential sponsors of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008. The program also provides information about possible free legal counsel (pro bono legal services) for the child during the immigration court process.

The Office of Legal Access Programs (OLAP), within the Executive Office for Immigration Review (EOIR) at the U.S. Department of Justice, manages the LOPC and contracts with legal service organizations around the country to provide LOPC services to potential sponsors in their local communities or in metropolitan areas served by the program. EOIR is the entity in the federal government that is also responsible for adjudicating immigration cases by fairly, expeditiously, and uniformly interpreting and administering the nation's immigration laws.

The unaccompanied alien child's case manager is responsible for informing potential sponsors about all procedures related to the child's case—including attendance at an LOPC presentation. The Family Reunification Packet (FRP) that goes to each potential sponsor includes an *Authorization for Release of Information* that the sponsor must sign before the case manager may schedule an appointment for LOPC services. All potential sponsors should submit the *Authorization for Release of Information* immediately and prior to submitting the complete FRP to ensure timely scheduling of their LOPC session.

Upon receipt of the *Authorization*, the case manager schedules an appointment for a potential sponsor to attend a presentation with one (1) of the LOPC providers around the country. Alternatively, the case manager contacts the **LOPC National Call Center at (888) 996-3848** and arranges for the Call Center to schedule an LOPC appointment for the potential sponsor or mail an LOPC Information Packet to the sponsor.

When evaluating family members and other potential sponsors, ORR considers whether they have attended an LOPC presentation. Attendance at an LOPC presentation is a factor in the release assessment.

Revised 12/4/2017

EXHIBIT 1-F

- Sponsor Handbook
- Letter of Designation for Care of a Minor (If parent or legal guardian wishes to specify)
- A flyer warning sponsors of potential fraud schemes

The care provider is available to help the potential sponsor complete the application. ORR may require certain sponsors to fill out the FRA and other documents based on concerns related to safety, including sponsor motivation. ORR may in its discretion require the sponsor to submit their own FRA if there has been a safety concern identified that indicates that the sponsor should file the FRA without the **case manager's** assistance OR if the sponsor indicates that they prefer to submit the FRA by themselves.

The care provider case manager or other care provider staff or volunteer may assist the sponsor by filling out the FRA with a sponsor over the phone.

The case manager or other care provider staff or volunteer must read the attestation of perjury that is found in the FRA to the sponsor. The completed FRA is sent to the sponsor for verification. Sponsors must verify and sign the FRA and submit back to the case manager with any corrections. Copies, including photographs, and/or electronic signatures are accepted.

Revised 08/01/2024

2.2.4 Required Documents for Submission with the Application for Release

In addition to completing and signing the Family Reunification Application (FRA) and the Authorization for Release of Information (ARI), potential sponsors must provide documentation of identity, address, and relationship to the child they seek to sponsor.³ Potential sponsors must also submit documentation verifying the identity of the children they seek to sponsor, and evidence verifying the identity of all adults residing with the sponsor and all adult caregivers identified in a sponsor care plan. In addition to their use as evidence of the foregoing, all documentation submitted under this section are used as part of the overall sponsor assessment process. See **Section 2.4 Sponsor Assessment Criteria and Home Studies**. As a result, ORR may in its discretion require potential sponsors to submit additional documentation beyond the minimums specified below.

Proof of Sponsor Identity

To verify their identity, all potential sponsors must submit original, unexpired versions or legible full color photocopies, digital scans, or high-resolution digital photos of government-issued identification documents. They must present at least one (1) selection from list of acceptable identification documents below.⁴

LIST OF ACCEPTABLE DOCUMENTS

- U.S. Passport or U.S. Passport Card
- Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
- Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
- Employment Authorization Document that contains a photograph (Form I-766)
- Foreign passport with Form I-94 or Form I-94A with Arrival-Departure Record, and containing an endorsement to work
- Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI
- Driver's license or ID card issued by a U.S. state or outlying possession of the United States provided it contains a photograph or information such as a name, date of birth, gender, height, eye color, and address
- ID card issued by U.S. federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address
- U.S. Military card or draft record
- U.S. Military dependent's ID card
- U.S. Coast Guard Merchant Mariner Card
- Native American tribal document
- Driver's license issued by a Canadian government authority

For Category 1 Sponsors Only: Any deviation from this requirement must be supported by clear justification and exceptions may be made on a case-by case basis by HHS ORR Headquarters.

Proof of Identification of Adult Household Members and Adult Caregivers Identified in a Sponsor Care Plan

As a general matter, ORR prioritizes the **placement** of unaccompanied children with parents and legal guardians available to provide care and custody in the United States (i.e., Category 1 sponsors). All potential sponsors must submit at least one (1) identification document that contains a photograph for all such adults. The document must be from the list of acceptable documents above and must be an unexpired original version or a legible full color photocopy, digital scan, or digital photo of a government-issued photo ID.

Proof of Address

All potential sponsors must submit at least one 1) form of documentation verifying their current address.

Acceptable forms of documentation include original versions of:

- A current lease or mortgage statement dated within the last month before submission of the *Sponsor Application*;
- A valid, unexpired state ID with current address and photo;
- A utility bill, addressed in the sponsor's name and dated within the last month before submission of the *Sponsor Application*;
- A bank statement dated within the last month before submission of the *Sponsor Application*; or
- A payroll check stub issued by an employer, dated within the last month before submission of the *Sponsor Application*.

Proof of Child's Identity

The potential sponsor or child's family must provide the unaccompanied alien child's original birth certificate or a legible full color copy of the child's birth certificate. Federal staff must exhaust all available avenues to verify the authenticity of birth certificates. All efforts and results should be documented in ORR's case management system.

Proof of Sponsor-Child Relationship

The potential sponsor must provide at least one (1) form of evidence verifying the relationship claimed with the child.⁵ Acceptable documents include original versions or legible full color copies of:

- Birth certificates;
- Marriage certificates;
- Death certificates;
- Court records;
- Official government or court ordered guardianship records; and/or,
- Written affirmation of relationship from Consulate.

Category 3 Potential Sponsors Without a Bona Fide Pre-Existing Relationship

Category 3 potential sponsors who are unable to provide verifiable documentation of a social relationship with the unaccompanied alien child must submit evidence that reliably and sufficiently demonstrates a bona fide social relationship with the child and/or the child's family that existed before the child migrated to the United States. Care providers must attain sufficient corroboration to be confident that they have received needed verification of the relationship between the potential sponsor and the child or child's family.

If a Category 3 potential sponsor does not submit evidence that convincingly demonstrates a bona fide preexisting social relationship between the potential Category 3 sponsor and the child and/or the child's family, the sponsor will be treated as having no relationship with the child. The sponsor application will be subject to enhanced vetting procedures including a mandatory home study as the inability to furnish such evidence raises significant indicia of fraud and trafficking.

Criminal History

If a potential sponsor has been charged with or convicted of any crime or investigated for the **physical abuse, sexual abuse, neglect, or abandonment** of a child, they must provide related court records and police records, as well as documentation of completed court-mandated or voluntary classes, counseling, or other required actions that were part of a plea agreement or court agreement related to an alternative to conviction or incarceration.

Fraud

If a potential sponsor, household member, or adult caregiver provides any false information in the application of release and/or accompanying documents or submits fraudulent documents for the purposes of obtaining sponsorship of the child, ORR will report the incident to the U.S. Department of Health and Human Services (**HHS**)/Office of the Inspector General (OIG).

Providing false information includes:

- Presenting fraudulent documents including documents in which the address, identity, likeness, issuing authority, expiration date, or other relevant information is false;
- Presenting another person's legitimate, unaltered documents as one's own; or
- Presenting documents that have been manufactured or altered without lawful authorization.

ORR will deny release if it is determined that fraudulent documents were submitted during the Sponsor Application process, regardless of sponsor category. Exceptions will only be made on a case-by-case basis and must be supported by clear justification and thorough documentation. Such justification must be documented and uploaded to ORR's case management system. Case-by-case exceptions must be adjudicated by the Director or their designee.

Effective 03/07/2025

2.2.5 Legal Orientation Program for Custodians

All potential **sponsors** of children under the care of ORR should attend a presentation provided by the Legal Orientation Program for Custodians (LOPC). The purpose of this program is to inform potential

EXHIBIT 1-G

- Sponsor Handbook
- Letter of Designation for Care of a Minor (If parent or legal guardian wishes to specify)
- A flyer warning sponsors of potential fraud schemes

The care provider is available to help the potential sponsor complete the application. ORR may require certain sponsors to fill out the FRA and other documents based on concerns related to safety, including sponsor motivation. ORR may in its discretion require the sponsor to submit their own FRA if there has been a safety concern identified that indicates that the sponsor should file the FRA without the **case manager's** assistance OR if the sponsor indicates that they prefer to submit the FRA by themselves.

The care provider case manager or other care provider staff or volunteer may assist the sponsor by filling out the FRA with a sponsor over the phone.

The case manager or other care provider staff or volunteer must read the attestation of perjury that is found in the FRA to the sponsor. The completed FRA is sent to the sponsor for verification. Sponsors must verify and sign the FRA and submit back to the case manager with any corrections. Copies, including photographs, and/or electronic signatures are accepted.

Revised 08/01/2024

2.2.4 Required Documents for Submission with the Sponsor Application

In addition to completing and signing the Sponsor Application and the Authorization for Release of Information (ARI), potential sponsors must provide documentation of identity, address, and relationship to the child they seek to sponsor.³ Potential sponsors must also submit documentation verifying the identity of the children they seek to sponsor, proof of income, and evidence verifying the identity of all adults residing with the potential sponsor and all adult caregivers identified in a sponsor care plan. In addition to their use as evidence of the foregoing, all documentation submitted under this section are used as part of the overall sponsor assessment process. See **Section 2.4 Sponsor Assessment Criteria and Home Studies**. As a result, ORR may in its discretion require potential sponsors to submit additional documentation beyond the minimums specified below.

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- ID card issued by U.S. federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address
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- A utility bill, addressed in the sponsor's name and dated within the last month before submission of the *Sponsor Application*;
- A bank statement dated within the last month before submission of the *Sponsor Application*; or
- A payroll check stub issued by an employer, dated within the last month before submission of the *Sponsor Application*.

Proof of Income

ORR considers the following supporting documents for proof of income, to be submitted with the Sponsor Application:

- Previous year's tax return if in the United States during prior year
- Copy of paystubs for at least the past 60 days continuously; **or**
- An original letter from the sponsor's employer verifying their employment and salary information, signed within the past 60 days. The letter must be on company letterhead and contain verifiable contact information for the employer and supervisor. An ORR representative must speak with the supervisor or company Human Resources division to verify the information in the letter.

Proof of Child's Identity

The potential sponsor or child's family must provide the unaccompanied alien child's original birth certificate or a legible full color copy of the child's birth certificate. Federal staff must exhaust all available avenues to verify the authenticity of birth certificates. All efforts and results should be documented in ORR's case management system.

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If a Category 3 potential sponsor does not submit evidence that convincingly demonstrates a bona fide preexisting social relationship between the potential Category 3 sponsor and the child and/or the child's family, the sponsor will be treated as having no relationship with the child. The sponsor application will be subject to enhanced vetting procedures including a mandatory home study as the inability to furnish such evidence raises significant indicia of fraud and trafficking.

Criminal History

If a potential sponsor has been charged with or convicted of any crime or investigated for the **physical abuse, sexual abuse, neglect, or abandonment** of a child, they must provide related court records and police records, as well as documentation of completed court-mandated or voluntary classes, counseling, or other required actions that were part of a plea agreement or court agreement related to an alternative to conviction or incarceration.

Fraud

If a potential sponsor, household member, or adult caregiver provides any false information in the application of release and/or accompanying documents or submits fraudulent documents for the purposes of obtaining sponsorship of the child, ORR will report the incident to the U.S. Department of Health and Human Services (**HHS**)/Office of the Inspector General (OIG).

Providing false information includes:

- Presenting fraudulent documents including documents in which the address, identity, likeness, issuing authority, expiration date, or other relevant information is false;
- Presenting another person's legitimate, unaltered documents as one's own; or
- Presenting documents that have been manufactured or altered without lawful authorization.

ORR will deny release if it is determined that fraudulent documents were submitted during the Sponsor Application process, regardless of sponsor category. Exceptions will only be made on a case-by-case basis and must be supported by clear justification and thorough documentation. Such justification must be documented and uploaded to ORR's case management system. Case-by-case exceptions must be adjudicated by the Director or their designee.

Effective 04/15/2025

2.2.5 Legal Orientation Program for Custodians

All potential **sponsors** of children under the care of ORR should attend a presentation provided by the Legal Orientation Program for Custodians (LOPC). The purpose of this program is to inform potential sponsors of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking, as provided under the Trafficking Victims Protection Reauthorization Act of 2008. The program also provides information about possible free legal counsel (pro bono legal services) for the child during the immigration court process.

The Office of Legal Access Programs (OLAP), within the Executive Office for Immigration Review (EOIR) at the U.S. Department of Justice, manages the LOPC and contracts with legal service organizations around the country to provide LOPC services to potential sponsors in their local communities or in metropolitan areas served by the program. EOIR is the entity in the federal government that is also responsible for adjudicating immigration cases by fairly, expeditiously, and uniformly interpreting and administering the nation's immigration laws.

The unaccompanied alien child's case manager is responsible for informing potential sponsors about all procedures related to the child's case--including attendance at an LOPC presentation. The Family Reunification Packet (FRP) that goes to each potential sponsor includes an *Authorization for Release of Information* that the sponsor must sign before the case manager may schedule an appointment for LOPC services. All potential sponsors should submit the *Authorization for Release of Information* immediately and prior to submitting the complete FRP to ensure timely scheduling of their LOPC session.

Upon receipt of the *Authorization*, the case manager schedules an appointment for a potential sponsor to attend a presentation with one (1) of the LOPC providers around the country. Alternatively, the case manager contacts the **LOPC National Call Center at (888) 996-3848** and arranges for the Call Center to schedule an LOPC appointment for the potential sponsor or mail an LOPC Information Packet to the sponsor.

EXHIBIT 1-H

5/8/25, 8:50 PM

Fact Sheets and Data | The Administration for Children and Families



An official website of the United States government [Here's how you know](#)

Fact Sheets and Data

Listen

Current as of: April 7, 2025

Fact Sheets

- [ORR Influx Care Facilities for Unaccompanied Alien Children Fact Sheet](#)
- [Unaccompanied Alien Children Bureau Fact Sheet](#)

Data

Note: A fiscal year begins October 1 and ends on September 30.

REFERRALS

AVERAGE MONTHLY DATA

AVERAGE LENGTH OF CARE

SEX

AGE

TENDER AGE (0-12) CHILDREN BY SHELTER TYPE

COUNTRY OF ORIGIN

PRIMARY LANGUAGE

HOME STUDIES

RELEASED TO SPONSORS

POST-RELEASE SERVICES

Average Monthly Data

General statistics related to unaccompanied alien children, as of the last day of the month, in FY2025.

STATISTIC	OCT	NOV	DEC	JAN	FEB	MAR
Average Number of Children in Care	6,212	6,090	6,643	5,051	2,778	2,173
Maximum Number of Operational Beds*	16,475	16,410	15,282	15,289	15,382	15,441
Average Occupancy Rate**	38%	39%	44%	33%	18%	14%
Average Length of Care (for those discharged)***	35	35	35	37	49	112
Average Length of Care (for those in care)***	67	65	67	109	161	175
30-Day Average Number of UAC Referrals	178	180	194	84	20	11
30-Day Average UAC Discharge Rate	2.8	3.1	2.7	3.4	2.6	0.7

**Includes Influx shelters.*

***Includes all discharge types and all program types.*

****Length of Care calculated as of the last day of the corresponding month showing above.*

[< Referrals](#)

[Average Length of Care >](#)

PLEASE NOTE THAT ALL FY2025 UAC DATA REPRESENTED HERE IS UNRECONCILED AND SUBJECT TO CHANGE.

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF MARI DORN-LOPEZ

Declaration of Mari Dorn-Lopez

I, Mari Dorn Lopez, declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I live in Alexandria, VA. I have represented and advocated for unaccompanied immigrant children since 2012, and prior to that I worked in general litigation with a focus on family law. I am an attorney barred in the Commonwealth of Virginia. I graduated from the Washington College of Law at American University in 2008.
3. Most recently, I was Senior Advisor in the Immediate Office of the Assistance Secretary at the Administration for Children and Families at the U.S. Department of Health and Human Services. In this role, I oversaw the Office of Refugee Resettlement (ORR) portfolio including the Unaccompanied Children Division and the Refugee Program Division from November 2023 until January 20, 2025. Previously, I worked in ORR's Division of Unaccompanied Children. On that team, I served as a Senior Advisor in the Office of the ORR Director. Before joining the Federal Government, I worked for non-profits, dedicating over a decade of work to improving the lives of immigrant children through legal representation and advocacy. These roles included the Deputy Program Director at the Young Center for Immigrant Children's Rights, a national organization that provides federally appointed Child Advocates to Unaccompanied Immigrant Children, and, before that, Managing Attorney at Capital Area Immigrant's Rights (CAIR) Coalition (now known as Amica), a legal service provider representing unaccompanied immigrant children in the Washington DC Area.
4. While at CAIR Coalition and the Young Center, I represented and/or advocated for children who were in the reunification (sometimes referred to as the "unification") process. Children were eager to get out of ORR care and be with loved ones or trusted adults. ORR followed a process to approve sponsors including doing background checks and child abuse and neglect checks. They would also verify addresses and confirm identities through a variety of approved documents. It is my belief that, if followed properly, these processes are sufficient to ensure a sponsor can safely care for an unaccompanied child.
5. In 2018, when ORR implemented new fingerprinting requirements and entered into an info-sharing agreement with the Department of Homeland Security, there was a chilling effect on sponsors and ultimately these changes led to an increase in the amount of time that children were spending in ORR care. Some of these sponsors were parents (also known as CAT 1 per ORR policy) who were afraid of their information being shared with

DHS for immigration enforcement. This well-founded fear led to sponsors, including parents, pulling out of the reunification process. Even when sponsors were willing, many lived with other family members or household members who were too afraid to provide the documentation ORR required from them throughout the sponsorship process. In some cases, sponsors had to move homes or ask people who lived in their homes to move out, in order to proceed with the sponsorship process. If they could not find a way to meet the requirements, children either had to find a more distant relative to act as their sponsor, such as a family friend, or face prolonged detention and possibly foster care.

6. Being in prolonged ORR care—whether it is in congregate care or foster care—takes a toll on children’s wellbeing. I personally observed the impact that prolonged care took on children’s mental health and physical health. I have met with children who were so negatively impacted by prolonged detention, that they struggled with deciding whether to continue to remain in a facility or return to their home country knowing that their lives would be in danger if they were to return. The physical and mental health toll of prolonged detention is so severe that these are the types of decisions that children struggle with. I have seen children show the impact of prolonged detention through variety of ways including, becoming sad and isolated, acting out, becoming depressed, or even engaging in self-harm, all because they were waiting for months and sometimes even years to live with a loved one.
7. Congress, through the Trafficking Victims Protections Reauthorization Act of 2008, envisioned children being in a supportive setting separate from immigration enforcement. As such, Congress decided not to place children in the custody of the Department of Homeland Security but instead placed them with the Administration for Children and Families in the Department of Health and Human Services. At ORR, I was honored to work alongside child welfare experts who focused on incorporating child welfare principles into ORR policies, including working to expand community-based care and implementing new techniques that used technology to bolster the sponsor verification process, while also ensuring reunification happened expeditiously. It is a primary objective of ORR to safely and quickly reunify children with their family members. In the Immediate Office of the Assistant Secretary, we worked with the ORR team to finalize the Foundational Rule, which codified many of the requirements that had been established through the *Flores* and *Lucas R.* litigation and, in some instances, to go beyond what the *Flores* Settlement required. This regulation codified many of the practices that ORR already had in place but also included additional protections such as more oversight through the creation of an Unaccompanied Children Office of the Ombuds located at the Assistant Secretary level at ACF. Children, their sponsors, or other interested parties can reach out to the Ombuds office with concerns.

8. In my experience most children in ORR care are trying to reunite with a parent or a close relative. Most of these parents, relatives and trusted adults are undocumented. With the immigration court backlog in the United States, many of these sponsors may also be seeking counsel while navigating the immigration process themselves. However, much like in any child welfare setting, a person's immigration status is not indicative of whether they will love and care for a child. ORR has not historically considered immigration status to be a determining factor with respect to release decisions. It is in children's best interests to be with family. In ORR Policy Guide section 2.6 ORR stopped collecting immigration status information directly from sponsors precisely because that information was not necessary to determine whether a sponsor is a suitable caregiver. While family is the first choice for reunification, some children are not able to reunify with family, in which case a close family friend is a great option. Shared language, cultural beliefs, religious beliefs, and a connection to a child's customs eases the transition for children and sets them up for success. This practice was not unique to ORR but is also something that the child welfare agencies across the United States practice.
9. While sponsors work tirelessly to support their families, they do not always have the formal means to prove their income through tax returns, paystubs, or letters of employment verification on letterhead. Again, the focus for ORR in making release determinations, is on the child's wellbeing and if sponsors can prove they have financial stability, then that weighs in their favor regardless of whether they have formal documentation of employment. ORR is not an immigration enforcement agency and proof of employment should align with child welfare best practices. Making a requirement that sponsors show proof of legal employment is overly burdensome and harmful in that it causes delays in reunification and in some cases permanent separation. This means prolong separations which negatively impacts children.
10. ORR has a historical practice of working with sponsors to verify sponsor's identity by using a broad range of acceptable ID documents. In more recent years, ORR used updated technology to verify identities including using face identification such as ID Me and address verification tools. The potential sponsors must fill out responses to an extensive questionnaire. If anything does not line up, or if there are questions or concerns, ORR case managers are instructed to request additional forms of identification. Case managers also work with embassies to speed up verifying international forms of identification including birth certificates, passports, and other forms of identification. Through this process, ORR can maintain a safe and efficient means of engaging in sponsor identification.
11. ORR's sponsor assessment is very extensive, and career staff are engaged throughout the process screening the applications for inconsistencies and/or concerns. When done

properly, it can ensure safe placement. Case managers work with the families as they engage in the reunification process. If there are any questions or concerns raised, especially when using identity verification tools and address verification, then ORR uses additional steps to ensure accuracy. However, using multiple forms of verification is not always necessary. In fact, in some places the additional checks could cause significant delays in the process without improving accuracy or safety, while having a direct negative impact on the child's health and well-being. Requiring U.S. issued IDs, DNA tests, background checks, and proof of income while perhaps well-intentioned, may in fact harm children by causing prolonged stays in care and family separation without a concomitant child safety benefit.

12. For example, the additional requirements that were implemented in 2018 delayed reunification and put unnecessary burdens on sponsors without creating increased safety for children. The new Policy Guide Section 2.2.4, which has further restricted the documents that can be used as identification, will almost certainly do the same. For example, a valid passport will no longer suffice if it does not contain "Form I-94 or Form I-94A with Arrival-Departure Record, and containing an endorsement to work." Having an I-94 in a passport also has no bearing on the validity of the passport as a means of identification and similarly is not indicative of the suitability of a sponsor to care for a child. When needed, families make care plans to submit to their case managers. This would be the same whether an I-94 is a sponsor's passport. Similarly, the "Proof of Income" requirement is excessively burdensome, and many parents and other sponsors are likely to be unable to meet any of the three acceptable forms of "proof of income." This means even sponsors who would have been CAT 1 (parents or legal guardians) may not be able to meet these stringent requirements and therefore, under the current guidance, would not be able to sponsor their own child. This will very likely mean permanent separation of some children from their parents. Similarly other categories of sponsors are likely to meet the same obstacles and either refrain from sponsoring children or fail to meet the requirements. I have no doubt that children will suffer on account of these policies.
13. ORR is tasked with the care and custody of children who are identified by other federal agencies as unaccompanied children. This allows ORR to focus on the children's wellbeing rather than immigration enforcement. If additional measures are implemented, such as heightened information collection and sharing of reunification-related information for immigration enforcement purposes, the enforcement consequences will have a chilling effect and cause sponsors who can provide safe and loving homes to be ineligible or not come forward at all. ORR has historically not shared sponsor information with law enforcement or immigration enforcement because it is outside the scope of ORR's purpose to care for unaccompanied children and reunite them with their

family or another caregiver in the United States. It can also undermine the stability of the placements ORR approves, making such information sharing counter to ORR's mandate.

14. Families trust ORR and therefore voluntarily provide sensitive information to reunify children with trusted family and adults as quickly as possible. Prior to and during my tenure at ORR, sponsors and anyone providing information to ORR authorized release of that information in exchange for a written commitment by ORR not to share information with the Department of Homeland Security for enforcement purposes, documented in the Authorization for Release of Information form signed by sponsors, household members, and alternate caregivers. Generally, families and sponsors provide information about themselves, others in the household, and the children. This information can include personal identifying information and records, health records including mental health disclosures, bank/financial information, and personal narratives that may have sensitive information. The information may also have personal information and details about other children and people in the household, including US citizens and non-citizens.
15. This information is stored with all other information related to reunification by the ORR in a database called the UC Portal. If ORR shares this information with DHS, it will breach the agreement ORR made with sponsors and undermine any trust in ORR of sponsors and families who volunteered the information and have potentially harmful impacts. Knowing that this information could be shared would very likely also have a chilling effect on sponsor reunification, again causing prolong detention and family separation.

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is correct and complete and I understand the legal consequences of testifying falsely to the authorities.

Executed on this 4 day of May 2025



Mari Dorn-Lopez

EXHIBIT 3

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF JENIFER SMYERS

Declaration of Jenifer Smyers

I, Jenifer Smyers declare as follows:

1. I live in Virginia. I received a Masters of Public Policy from American University in 2008 and I have dedicated my career to advancing the rights of refugee families in the United States.

2. I served as the Chief of Staff and Deputy Director of the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS) from February 1, 2021, until January 20, 2025. Prior to government service, I worked at Church World Service (CWS) for more than 13 years, ultimately serving as the Director of Policy and Advocacy for the CWS Immigration and Refugee Program. I am well versed in refugee rights, programs serving refugee needs, and child welfare best practices. I have advised organizations and the U.S. government on best practices regarding vulnerable populations and child welfare for many years.

3. While working at ORR I had a number of responsibilities including supporting the executive leadership team and 30 inter-related divisions to shift the Refugee Program and Unaccompanied Children Bureaus to be more client-centered; advising and regularly briefing HHS and White House leadership; and translating complex immigration and child welfare issues into informed decision points. I also served as chief spokesperson with litigators, congressional offices, oversight bodies, media, and stakeholders. I directed policy and resource changes and shepherded regulations and sub-regulatory guidance to completion, including the Unaccompanied Children Program Foundational Rule.

4. Working at ORR deepened my understanding of well-documented child welfare best practices that children should not be raised in congregate care, and that children benefit from growing up with family and community members who share their language and culture.¹ This is particularly true for children who have endured trauma, which is the case for many unaccompanied children.

5. For these reasons, as well as the requirements of the Trafficking Victims Protection Reauthorization Act (TVPRA), the Homeland Security Act (HSA), and the *Flores* Settlement Agreement, ORR policy preferences placing children with sponsors rather than holding children in ORR custody. In fact, once a suitable sponsor is found, ORR cannot continue to hold a child given the TVPRA's requirement that children be promptly placed in the least restrictive setting that is in the best interest of the child. This is also why the Foundational Rule requires ORR to release a child from its custody without unnecessary delay after it has determined that detention of the child is not required either to secure the child's timely appearance for immigration proceedings or to ensure the child's safety or that of others.

6. In 2002, the HSA intentionally moved the Unaccompanied Children program out of the U.S. Immigration and Naturalization Service to ORR, rather than the U.S. Department of Homeland Security, so that children would not be cared for by the same agency seeking to deport them. ORR's Congressional authorization does not include any immigration enforcement role, and Congressional appropriations language explicitly prohibits ORR from engaging in

¹ Anderson M, Linares LO. The Role of Cultural Dissimilarity Factors on Child Adjustment Following Foster Placement. *Child Youth Serv Rev.* 2012 Apr;34(4):597-601. doi: 10.1016/j.childyouth.2011.11.016. PMID: 26166923; PMCID: PMC4498390.

immigration enforcement. In order to meet its goals and Congressional mandate, ORR needs sponsors to come forward to care for unaccompanied children.

7. ORR's work cannot be done, and ORR cannot meet its obligations, if sponsors are afraid to come forward. Many sponsors are undocumented or live in mixed-immigration status households. I am aware of estimates that have ranged from 50-90 percent of sponsors being undocumented or living in mixed-immigration status households. Collecting immigration status serves no child welfare purpose, but may deter sponsors from coming forward, even if they are fully willing and capable of providing a safe and loving home to a child. ORR's work is already hard enough since many sponsors are understandably afraid of deportation and do not trust the government. Such chilling effects increased in 2018 when the first Trump administration put in place similar—even less potent—policies. A sponsor's immigration status is not relevant in considering whether they can provide for a child's safety and wellbeing. This is foundational to child welfare best practices, since a child should not grow up in congregate care, they should grow up with a family²

8. When ORR previously collected information about sponsors' immigration status, it did not deny sponsorship solely on the basis on immigration status. My understanding is that prior collection of immigration status information was done only to ensure that an alternative adult caregiver (AAC) could be identified for undocumented sponsors so that, if they were detained and/or deported, there was someone else identified to care for the child. However, immigration status is not the only reason that a caregiver may become unavailable. Caregivers of children become sick, pass away, have accidents, etc. That is why, during the Biden administration, ORR began requiring all sponsors to identify AAC, and as a result, no longer needed to ask about immigration status.

9. Given that many sponsors are undocumented, they also frequently lack work authorization. It is child welfare best practice to not penalize parents or caregivers living in poverty by denying them care and custody of their children and family members. Many people living below the poverty line love their children and care for them just as well as people with more resources.

10. While ORR has, of course, considered a sponsor's ability to care for the child, it has not historically required proof of employment or income, given that many sponsors may be working in informal sectors and/or "under the table" such as day labor, agricultural work, housecleaning, and service industry professions that are primarily tip-based such as restaurant work. Requesting specific forms of documentation to prove income can also cause a chilling effect on sponsors who may be fearful of the government contacting their employer. For example, caring for a child may not be looked upon as favorable by an employer and is a personal matter that is not really any of the employer's business to know. ORR's recent policy changes that require proof of income through specific documentation appear to treat this as a mandatory requirement, rather than ORR's typical policy—and child welfare best practices—to take into account the totality of circumstances when making sponsorship decisions.

² Reducing the Use of Congregate Care, Child Welfare Immigration Gateway, <https://www.childwelfare.gov/topics/permanency/reducing-use-congregate-care/?top=125>, https://acf.gov/sites/default/files/documents/cb/cbcongregatecare_brief.pdf (last accessed May 2, 2025).

11. ORR has traditionally accepted a broad range of identification documents to prove someone's identity. This is important given that many potential sponsors have identification documents from their countries of origin but may not have U.S. government issued identification documents because they are undocumented or face other barriers to obtaining an ID in their state of residence.

12. Many sponsors live in states where they cannot access a U.S. issued identification without legal status. Only 19 states and Washington, DC allow undocumented people to get drivers licenses, and the other 31 states make up a sizable portion of where sponsors are living. Even in states that allow undocumented people to obtain drivers licenses, many are still afraid to apply for one because there are legal and personal risks involved. Applying for a driver's license could expose undocumented immigrants to scrutiny from law enforcement and immigration authorities, potentially leading to deportation proceedings. The fear of being deported or detained can deter many from even attempting the application process. In addition, the documentation requirements can be difficult to meet, especially for those who lack access to official identification or proof of residency.

13. ORR already has policies in place that require document verification when needed. The agency has built relationships with a number of consulates and embassies from the countries many children in ORR custody are from so that ORR can verify identification documents as needed, without requiring sponsors to provide U.S. issued identification documents.

14. ORR has a number of documentation, assessment, identification, verification, and background check requirements, as well as a system of quality control – with case managers making a recommendation regarding discharge, case coordinators reviewing those recommendations for any steps missed, and finally federal field specialists approving or denying those recommendations and making a decision regarding sponsorship. Rather than requiring sponsors to provide U.S. issued forms of identification, ORR could strengthen its verification policies and the use of available technology to verify that potential sponsors match their identification documents, including those issued by other governments.

15. Additionally, requiring all sponsors who attest to having a familial relationship with a child in ORR custody to provide DNA before discharge is approved is not in line with child welfare best practices. Familial relationship can be verified in a number of ways and ORR has traditionally taken a "totality of circumstances" approach including conducting background checks and home studies as necessary. DNA requirements are an unnecessary privacy violation when proof of identity and parentage can be established through documents. Additionally, DNA testing may place women at risk of gender-based violence, including survivors of rape or incest, who may fear a man learning that he is not the genetic father of a child.

16. When I worked at ORR and we went through notice and comment rulemaking regarding the Unaccompanied Children Program Foundational Rule, some commenters asked that ORR explain how it will verify familial relationships without DNA testing. In response, ORR explained that the TVPRA requires ORR to "at a minimum" verify a sponsor's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child, but that ORR does not agree that it should implement a regulation barring any sponsor who claims a familial

relationship with a child that cannot be proven through analysis of DNA, since ORR accepts other evidence of a familial or pre-existing relationship. For example, ORR has accepted a child's birth certificate and sponsor identity documentation to verify familial relationship.

17. In addition to fulfilling its statutory obligations, ORR has historically sought to reunite children with their families as safely and quickly as possible, because children experience trauma when they are separated from their family. Prior administrations have attempted to increase sponsor vetting by requiring fingerprints for all sponsors and household members, but these policies were not successful in increasing the safety of children. Under the first Trump administration, Congress demanded a rescission of those policies, and they were undone a few months after implementation. The new ORR policies, as of 2025, go even further than prior policies and will have an even more pronounced chilling effect on sponsors.

18. When I was working at ORR and we were responding to the comments we received prior to finalizing the Unaccompanied Children Program Foundational Rule, we received many comments expressing support for § 410.1201(b). Many commenters agreed with ORR that disclosing a sponsor's immigration status to immigration authorities or other law enforcement agencies, including to the Department of Homeland Security, could have a chilling effect on a qualified sponsor and may lead to an unnecessary prolonged stay in ORR custody because qualified sponsors would be discouraged from coming forward to care for the child. One commenter stated that the proposed regulation, which became final, would encourage more suitable individuals, including relatives, with cultural competency to sponsor a child without fear of adverse immigration action.

I declare under my duty to tell the truth and penalty of perjury that all the information I have here given is correct and complete and I understand the legal consequences of testifying falsely to the authorities.

Executed on this 6th day of May, 2025

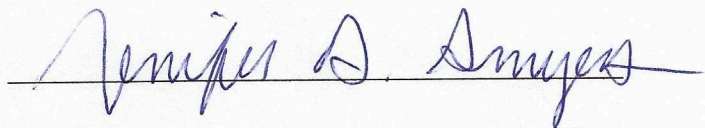
A handwritten signature in blue ink, reading "Jennifer D. Smyers", written over a horizontal line.

EXHIBIT 4

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF CYNTHIA FELIX

Declaration of Cynthia Isabel Felix

1. I, Cynthia Isabel Felix, make the following statements on behalf of myself and Immigrant Defenders Law Center. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

2. I am an attorney licensed to practice law in California, and I am a Directing Attorney on the Children's Representation Project ("CRP") at Immigrant Defenders Law Center ("ImmDef"), where I have been employed for seven and a half years. I directly oversee our provision of legal services to minors detained in ORR ("Office of Refugee Resettlement") custody.

3. ImmDef is a non-profit organization headquartered in Los Angeles, California, with additional offices in Santa Ana, Riverside, and San Diego. ImmDef believes in providing universal representation so that no immigrant is forced to face removal proceedings without an attorney or accredited representative at their side. ImmDef is the largest provider of legal services to unaccompanied children in California and currently provides legal services to children detained in seventeen ORR facilities throughout Southern California. ImmDef also represents thousands of unaccompanied children who have been released from ORR and are residing with sponsors in the Greater Los Angeles Area.

4. ImmDef's mission and vision is that no immigrant should have to face deportation proceedings alone. We believe that every person facing removal deserves to have zealous, competent counsel at their side. Our CRP program is the largest of our departments and has primary responsibility for carrying out this mission and vision as it relates to unaccompanied children.

5. In order to carry out its mission, ImmDef's CRP program has several main work components: (1) Providing legal education "know your rights" ("KYR") presentations, conducting individual consultations (legal screenings), and making referrals to legal service

providers for detained children who will not remain in our service area, as well as Child Advocate referrals and providing Court Preparation and appearing as Friend of Court for unrepresented detained children; (2) Representing unaccompanied minors who are not in ORR custody in immigration proceedings; and (3) Representing children in short-term ORR custody, as well as children who have been placed in long-term foster care, in immigration proceedings.

6. Providing legal services to unaccompanied children has always been at the core of ImmDef's work. The Detained Youth Empowerment Project ("DYEP") is ImmDef's team of highly skilled staff members and attorneys who deliver child-friendly, trauma informed services to children detained in ORR custody. In 2024 alone, DYEP provided KYRs and legal screenings to over 3,750 children and made over 4,200 referrals for legal services. ImmDef currently represents over 1,900 unaccompanied children in their removal proceedings.

7. ORR's changes to sponsor requirements have led to significant delays in release for many children in custody at the ORR facilities ImmDef serves. Depending on the reunification category, children who would normally be released in a couple of weeks are now spending months in custody. Many children who would have had viable potential sponsors prior to the changes to sponsorship requirements are now being listed as "Category 4" (no viable potential sponsor), because their potential sponsors are unable to comply with the new requirements based on their immigration status. Children are also being listed as Category 4 since potential sponsors are unwilling to come forward and begin the reunification process due to a fear that their information will be shared with the Department of Homeland Security ("DHS").

8. Most of the children currently detained in facilities ImmDef serves are still detained because they are unable to be released to sponsors who would be approved but for their lack of photo identification or proof of income as required by the revised ORR Policy Guide § 2.2.4. In

4 of the ORR programs we serve, 100% of the detained children are awaiting reunification with their parents or grandparents. A sibling set aged 7 and 14 are struggling to cope as they await a decision on a request we submitted to ORR Headquarters asking that an exemption be made so that the children can reunify with their mother. Their case has been delayed since March 6, 2025, because their mother's proof of identification does not satisfy the new requirements. Another sibling set, aged 10 and 12, has been stuck in ORR custody since February 16th. And due to the cultural differences of their Armenian father we have simply been unable to build trust and rapport to support them as they navigate the difficulties of getting their children out of custody. As reported by the case manager, the children's reunification is still pending DNA results for both children and sponsor, as well as proof of income from the sponsor. One child in care is considering voluntary departure because he and his mom were not made aware of a possible exemption for some of the sponsorship requirements. This child was previously released to his mother last year in May of 2024, but was re-apprehended due to racial profiling and is now stuck in ORR custody because his mom only has a Venezuelan identification card; she is unable to get a valid California Driver's License since she does not know how to drive. Another child unable to reunify with her sister-sponsor is a parenting-teen and her 3-month-old child who were set to be released pending the newborn baby's medical clearance. But due to the requirements for reunification, the young mother is now being forced to consider long-term foster care even though her true desire is to reunify with her sister who lives in Texas; however, she is unable to obtain valid photo identification.

9. The increased time in custody is having a profoundly harmful effect on children's mental and physical health. Our team has observed that children generally report feeling isolated because of the low number of children in the ORR shelters overall, so they have little interaction

with other children. In some of the shelters, there is only one child in care, and each has been there over 60 days. Children also report feeling culturally isolated because the staff are unable to speak their native languages or provide them with the food they're accustomed to eating. In our conversations with the children, we have observed a shift in their personalities such that now they seem uneasy, withdrawn, and irritable. Children are also physically manifesting signs of stress such as insomnia, loss of appetite, inability to maintain basic hygiene, and in some cases self-harm.

10. As a result of the increased depression and anxiety among the children we work with, our staff has had to increase the number of visits to facilities and time spent on each visit to provide additional support to children as their lengths of stay in detention drag on. Before the policy changes went into effect in mid-February, our team conducted legal follow-ups with children only on an as needed basis to discuss specific questions related to their immigration cases. Our team has since increased the number of visits with children and sometimes meet with them on a weekly basis for legal follow ups because they not only have more questions about their legal cases but are desperately seeking clarification as to the delay in their reunification process. Our team also has been forced to expend more time and resources communicating with ORR facility staff to ask for updates on behalf of children and to ensure sponsors understand the increased and changed requirements. With the added layer of the Unification Specialists under a new ORR Field Guidance ("Field Guidance 24"), case managers are no longer directly handling the reunification processes and are unable to provide us with answers or timely updates. The Unification Specialists do not directly correspond with ImmDef so our team is having to spend additional time requesting the information directly from the facilities or get updates from the sponsors through what feels like a game of telephone. Thus, staff time that would be spent

advancing ImmDef's mission to provide zealous advocacy to immigrant children in their immigration proceedings has been diverted to provide additional legal support to children impacted by the new sponsorship requirements.

11. Additionally, ImmDef attorneys are now having to meet with many more children who are being forced to consider alternative plans for release including Long-Term Foster Care ("LTFC") because their potential sponsors are not able to complete the sponsorship requirements or unwilling to because of the fear of an information sharing policy with DHS. Children without sponsors typically remain detained in ORR custody until turning 18-years-old and are hopefully allowed release on their own recognizance to their parent or sponsor or transferred to the Unaccompanied Refugee Minor ("URM") program. The conversation regarding LTFC is harrowing and time consuming because the prospect of having to remain detained for years when the child knows they have loving family available in the United States is extremely distressing for a child.

12. Representing a child while they are detained requires our attorneys and staff to expend more time and resources in preparation for Immigration court, compared to when they are not detained. When children are detained, we must try to schedule client meetings around the ORR program schedules which include medical appointments, therapy appointments, educational time, off-campus field trips, etc. Often, we must push back with program staff to prioritize time for legal meetings so that we can prepare for Immigration court hearings and applications for legal relief. The longer a child is detained, the more time-intensive their cases are and the fewer new cases we can take on. The effect of representing children while detained in ORR custody is that we must prioritize their case over all the others on our dockets. We must postpone filing relief

applications for other clients to focus on advocacy on behalf of these detained children to ensure they are not ordered removed before having a chance to reunify with their parents or sponsors.

13. ImmDef offers representation to children who will be released within our Southern California service area (“continued representation”). Historically, it was the typical practice of ImmDef attorneys to wait for their clients to be released before beginning work on their cases thereby giving them time to get comfortable with their sponsors and in their new environment before pressing forward with attorney visits. This was also helpful because, particularly in the case of tender-aged clients, the sponsor is often a source of information integral to the child’s immigration case.

14. Released children are typically placed on a slower “released” immigration court docket. These cases constitute about 85% of the representation ImmDef offers to unaccompanied children. The remaining 15% of representation is to children in ORR custody. ImmDef attorneys will immediately meet with minors in the detained setting to pursue the legal relief or needs of the child immediately. If children are planning to be released from custody outside of the jurisdiction of ImmDef’s service area, their cases are transferred to an immigration court that has jurisdiction over their destination.

15. On the released docket, initial hearings often take place several months after the child is released. Based on a review of “released” cases in EOIR in which ImmDef has entered representation, immigration judges often grant attorneys continuances of three months or more to allow sufficient time to prepare applications for relief. This time is key because ImmDef runs a high-volume practice and because it takes a lot of time, patience and multiple client meetings to build the necessary trust and rapport with child clients to adequately prepare their cases. Under current immigration court practices, released children with applications for relief pending or

approved at U.S. Citizenship and Immigration Services (“USCIS”) are often granted long continuances in immigration court, or have their hearings taken off-calendar altogether, allowing sufficient time for attorneys to keep litigating their child client’s cases without being swiftly pushed to a final hearing on the merits, where an immigration judge will decide whether the child must be deported.

16. In contrast, on the detained docket, initial Master Calendar Hearings are being set about 10 days from the child’s arrival in ORR custody. The Immigration Judge (“IJ”) overseeing the dedicated Detained Juvenile Docket (“detained docket”) typically grants continuances of just 2 to 4 weeks for children’s attorneys to enter pleadings and designate the relief they will be pursuing on behalf of their child clients. The maximum continuance the IJ will grant thereafter is 90 days and is often much shorter. This expedited timeline forces ImmDef to rush preparing applications for relief for an increased number of detained children who have not yet reached a place of safety, who may not have access to all the information needed to prepare their cases, and who are suffering emotional distress at being separated, likely indefinitely, from their families. Despite these challenges, the IJ has already foreshadowed to ImmDef that he will not hesitate to issue a removal order if a child is unable to meet his expedited timelines.

17. As a result of ORR’s new sponsorship requirements children remain detained much longer than normal, and many more children are going through proceedings on the detained docket. Therefore, we have been forced to shift a large portion of our DYEP team’s resources to the preparation of children and relevant ORR program staff for children’s upcoming hearings even where we do not yet represent a child. Our DYEP team has always conducted “Court Prep” visits for unrepresented children with upcoming hearings but prior to the policy changes, often children were in and out of ORR custody before their cases were set with the Immigration Court

(and their initial immigration court hearing would take place in their release location). Given the rapid rate at which NTA's are being filed and hearings being set, and because children are languishing in detention due to the new sponsor requirements, every single detained child is being set for an initial hearing while detained and unrepresented.

18. Because of the nature of ImmDef's work, we simply do not have the funding or capacity to offer representation to every detained minor despite the vulnerable situation in which they are finding themselves. This has been exacerbated by recent decisions by the federal government to eliminate federal funding for unaccompanied children's representation. As a result of not being able to represent all detained children, during "Court Prep" meetings, our team of highly specialized, trauma informed staff uses child friendly practices in walking children, some as young as two-years-old, through the logistical and legal procedure that will transpire in court. Our team practices what an IJ will say to a child and pretends that an interpreter is interpreting all the information since very few of the children are fluent in English. Children who have never been in court (which is most children) are often unfamiliar with the roles of court staff such as judges, interpreters and Department of Homeland Security attorneys and these practice sessions are essential to minimize the distress and confusion they will feel in court, and to maximize their understanding of the proceedings. ImmDef's DYEP team is having to conduct these Court Prep sessions with every single detained child in ORR custody now. As the children remain detained, without representation, they will have to sit through these sessions every time there is a hearing for their case.

19. We also help the children practice telling the IJ that they're awaiting reunification with their sponsor, and that they would like to request more time so they can find an attorney. We also help them practice phrases they can say if the IJ asks questions they do not understand or are not

comfortable answering. Additionally, our team spends additional time answering an increasing number of questions from confused ORR program staff asking about Immigration proceedings and what information needs to be provided to the IJ in support of an unrepresented minor's request for a continuance, in light of the fact that children are being detained longer and are required to attend additional hearings as a result.

20. Our specialized team of attorneys are not able to take additional cases for full representation because they must use their capacity to meet the deadlines and trial preparation requirements of the increased number of children, we now must represent in detained matters who would otherwise have been released and transferred to the "released" docket in this or other jurisdictions.

21. Children remaining detained for longer periods in light of the changed sponsorship requirements has also forced us to expend resources revising know-your-rights presentations and screening materials to explain to children the impacts on their legal cases of remaining detained for long periods of time in "short term" ORR custody. For example, one form of relief, Special Immigrant Juvenile Status ("SIJS"), a protection for abused, abandoned or neglected children, requires a state court judge to appoint a child a guardian or place him or her under the custody of an entity or individual as a prerequisite to relief. Locally, this option is not available to children in short-term ORR custody who would otherwise be eligible for SIJS.

22. Finally, the negative impacts of prolonged detention on children have made representation more difficult. Fact gathering and evidence gathering takes an average of three times longer per child because children spend time processing their experience in detention with their attorneys during times that had been allocated to preparing their immigration cases. The children also need referrals for mental health services as the prolonged detention has negative

impacts on their general well-being. And it takes significantly longer for attorneys to build rapport with a child because their experience causes them to be closed off and distrusting of adult figures.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of May 2025, in Santa Ana, California

A handwritten signature in black ink, appearing to read 'Cynthia Felix', written over a horizontal line.

Cynthia Isabel Felix
Immigrant Defenders Law Center
634 S. ~~Spring Street~~, 10th Floor Los Angeles, CA 90014
Tel: (213) 438-9014 Fax: (213) 282-3133
cynthia@immdef.org

EXHIBIT 5

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

ANGELICA S., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	No. 1:25-cv-01405
U.S. DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF J.E.D.M.

1 I, [REDACTED], declare as follows:

2
3 1. This declaration is based on my personal knowledge and the following facts are
4 true to the best of my understanding and recollection.

5 2. I am 17 years old and I am from [REDACTED]. I arrived in the United States around
6 January 3, 2025. I arrived by myself. I speak Spanish and Mam.

7 3. I am currently at [REDACTED] waiting to be released. When I first arrived I
8 was put in a shelter in [REDACTED] called [REDACTED]. I arrived at [REDACTED] at the
9 beginning of March.

10
11 Sponsorship Process

12 4. I really want to live with my uncle but after they changed the laws I had to change
13 sponsors. Now I think I may have to live with someone else who is not a family member.
14 I would rather live with my uncle because he is my family and there is more comfort and
15 trust with family.

16 5. My uncle lives in [REDACTED]. I've known him since I was a little kid and that's why
17 I was planning to live with him. He's a very responsible person, he's a good person and I
18 know he would take good care of me. While I was living in [REDACTED], and my uncle
19 was living in the United States, we would speak about once a week. I was excited to live
20 with him so he could show me the places he likes and we would be able to live together.

21 6. My uncle did everything he could to be my sponsor, but they told him he had to
22 stop trying because he didn't have the right kind of identification. I know he did
23 fingerprinting and showed bills he paid for the house he lives in. When I was in [REDACTED]
24 [REDACTED], my case was pretty far along and then when I got to [REDACTED] they told me they
25 had to start over. Then, they told me my uncle needed a home study done but he did that,
26 and it was fine. They did all the checks to make sure it was safe for me to live with them
27 but then the rules changed and now he needs to be able to show he has legal status here to
28 be my sponsor.

1 7. The whole things feels really bad. It's hard to know how to explain what it feels
2 like. It feels like there is no way out. There are lots of other boys here who are in the
3 same situation. Sometimes we are encouraging of each other, but we know that this isn't
4 right, and we don't understand why the rules have changed like this.

5
6 [REDACTED]

7 8. I have been at [REDACTED] for about 45 days. It is a shelter with other boys
8 living here.

9 9. It's the same routine every day here. It's very boring. We go to school, we come
10 back to our room, we go outside, we come back to our room, we go outside, then we
11 come back in and shower. It's the same every day.

12 10. Before my uncle was told he had to withdraw his sponsor application, I was talking
13 to him every week. Now that he isn't able to be my sponsor, they won't let me call him
14 but I don't understand why. I call my parents still several times a week but I wish I could
15 also talk to my uncle.

16 11. I'm looking forward to leaving this place so that I can have more freedom. For
17 example, I don't want to have to go to sleep just because they tell me to and I'd like to
18 choose my own activities for the day.

19 12. When I leave here, I want to study medicine.
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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities.

4
5 Executed on this 16th day of April 2025, at [REDACTED]
6
7 [REDACTED]
8 [REDACTED]
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CERTIFICATE OF TRANSLATION

My name is Laura Alvarez and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: April 16, 2025

Laura Alvarez