UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

ANGELICA S., *et al.*, Plaintiffs, v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*, Defendants.	No. 1:25-cv-01405 ORAL ARGUMENT REQUESTED

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs Angelica S., Eduardo M., Liam W., Leo B., Xavier L., Mateo N., Yair G., David D., and Immigrant Defenders Law Center hereby move the Court, pursuant to 5 U.S.C. §§ 705-706, Federal Rule of Civil Procedure 56, and Local Civil Rule 7(h) for summary judgment 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, or were at the time the Complaint was filed, unaccompanied immigrant children in ORR custody and a nonprofit legal organization representing unaccompanied immigrant children. Plaintiffs challenge an HHS Interim Final Rule ("IFR") and ORR policies that unnecessarily separate children from their parents or other caring potential sponsors because of the sponsor or household member's immigration status and inability to access specific forms of proof of identification and/or proof of income. Plaintiffs filed a motion for class certification on May 9, 2025. (ECF 9). The Court granted provisional class certification on June 9, 2025. (ECF 34). Plaintiffs filed a supplemental brief in support of class certification on September 8, 2025. (ECF 56).

As Plaintiffs discuss in greater detail in their accompanying memorandum of law and Separate Statement of Undisputed Material Facts, 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. Detained Plaintiff children and putative class members are suffering institutional detention, family separation, emotional distress, and other irreparable harm because of their unnecessary and ongoing separation from their parents and other close family members.

Plaintiffs request the Court grant Plaintiffs' motions for class certification and summary judgment, certify the proposed class, and enter an order (1) vacating the Interim Final Rule ("IFR") promulgated by HHS on March 25, 2025 and published at 90 Fed. Reg. 13,554; and (2) vacating the proof of identification requirements and proof of income requirements currently contained in the March 7, 2025, and April 15, 2025, revisions of ORR's Unaccompanied Alien Children Bureau Policy Guide Section 2.2.4. Plaintiffs further request the Court declare the afore-mentioned policies unlawful and enjoin ORR as follows: (1) requiring ORR and its grantees and contractors to cease applying the vacated proof of identification and proof of income requirements to applications to sponsor a member of the certified class; (2) requiring ORR to, within one day of the Court's order, inform its care providers of the Court's order and direct its care providers, contractors, and grantees to immediately cease applying the vacated policies to sponsorship applications; (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 report its compliance to the Court; 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 without regard to the vacated policies and in accordance with regulatory timelines, and report its compliance to the Court.

The Parties have met and conferred regarding this motion and Defendants indicated they plan to oppose this motion. The Parties agreed to the briefing schedule subsequently ordered by the Court. *See* Joint Status Report, ECF 54.

WHEREFORE, Plaintiffs respectfully request that this motion be granted.

Date: September 12, 2025

Respectfully submitted,

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MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

The Office of Refugee Resettlement ("ORR") has made drastic and unreasoned changes to its sponsorship process in violation of its legal obligation to "promptly place[]" each unaccompanied child "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. §§ 1232(c)(2)(A). The Trafficking Victims Protection Reauthorization Act ("TVPRA") mandates that ORR establish policies to vet potential sponsors of unaccompanied children based on an individualized determination of that sponsor's ability to care for the individual child's safety and well-being. 8 U.S.C. § 1232(c)(3)(A). The TVPRA envisions long-term government custody only "if a suitable family member is not available to provide care," *id.* § 1232(c)(2)(A), because Congress has long agreed that children should live with family rather than in federal custody.

Under the TVPRA, ORR's release policies must advance twin goals—ensuring that release is safe *and* that it is free from unnecessary delay. *Id.* § 1232(c). Although the precise contours of sponsor vetting are open to reasonable debate, the TVPRA and the Administrative Procedure Act ("APA") require ORR to weigh the harms and benefits of any significant new obstacle to sponsorship, consider alternative options, and conform its conduct to legally required procedures. ORR and the Department of Health and Human Services ("HHS") have repeatedly failed to do so.

HHS 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 Children Program Foundational Rule; Update to Accord with Statutory Requirements, 90 Fed. Reg. 13554 (Mar. 25, 2025). Despite representing a significant change in policy with far-reaching consequences for unaccompanied children, ORR made the IFR effective *immediately* without first providing notice or an opportunity to comment, without considering the impacts on the children in its care, and without any reasoned justification for permitting sponsorship denials based on immigration status or collecting sponsor information for enforcement purposes.

In March and April 2025, ORR also abruptly and unilaterally changed its proof of identification and proof of income requirements for sponsors—categorically denying sponsors if they or their household members or alternative caregiver lack certain specific documents, regardless of other evidence of suitability. The newly required documents are generally available only to individuals with stable lawful immigration status. ORR thus began disqualifying sponsors based solely on immigration status in violation of ORR's pre-IFR regulations. The administrative record includes no reasoned justification for the specific documents chosen, no consideration of alternative documents or vetting mechanisms, and no weighing of the benefits of requiring these documents against the harms to children from blocking release to their families.

The child Plaintiffs and the putative class have suffered, and will continue to suffer, unnecessarily prolonged detention and family separation because of ORR's unlawful policies. Yair G.'s older sister Milagro, for example, is eager to care for him and completed a sponsorship application, provided her passport to ORR, and completed a fingerprint-based background check. Plaintiffs' Separate Statement of Undisputed Material Facts ("PSSUMF") ¶ 180. Because Milagro cannot obtain newly required identification, however, Yair currently has no prospects for release to family. PSSUMF ¶¶ 182, 184. Similarly, Mateo N.'s U.S. citizen brother is fully vetted and has completed fingerprinting, DNA testing, and a home study. PSSUMF ¶¶ 167, 170-171. But ORR refuses to release Mateo simply because his brother's wife only has a foreign passport and does not have a state ID. PSSUMF ¶¶ 169, 172-175. David D. has still not been reunified with his mother Isabel D. after four months in ORR custody because ORR took *five weeks* to approve a parental exception to the identification requirements, even after Isabel passed a fingerprint-based background check and DNA testing, moved apartments to satisfy ORR, had a positive home study, and presented her identification to an ORR official in person. PSSUMF ¶¶ 186, 189-193, 195-197.

ORR's IFR and concurrent policy changes are procedurally defective, arbitrary and capricious, and contrary to law. These policies must be vacated and declared unlawful, and the Court should issue an injunction to ensure ORR promptly resumes adjudication of sponsorship applications based on individualized consideration of sponsor suitability.

BACKGROUND

I. ORR's Statutory Mandate and Regulations

In the Homeland Security Act ("HSA") of 2002, Congress transferred responsibility for the placement, care, custody, and release of unaccompanied children who arrive in the United States without a parent or legal guardian from the former Immigration and Nationality Service ("INS") to ORR, which is not an immigration enforcement agency. 6 U.S.C. § 279; 8 U.S.C. § 1232. The TVPRA reinforced the purposeful separation between the immigration enforcement system and ORR's child welfare mandate, requiring federal agencies to transfer unaccompanied children to HHS custody within 72 hours and requiring HHS to make prompt placements "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. §§ 1232(b)(3), (c)(2)(A).

In April 2024, ORR codified its policies related to the custody and release of unaccompanied children in its Foundational Rule. Unaccompanied Children Program Foundational Rule, 89 Fed. Reg. 34384 (Apr. 30, 2024) ("Foundational Rule"). The Rule's Preamble repeatedly emphasizes that ORR is a child welfare agency, not an immigration enforcement agency. *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. "ORR shall 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 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 stable immigration status. PSSUMF ¶ 12. Barring undocumented individuals from sponsorship necessarily restricts release.

On March 25, 2025, HHS rescinded 45 C.F.R. § 410.1201(b), without notice and comment and effective immediately. 90 Fed. Reg. 13554. The sole justification for the rescission 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. PSSUMF ¶ 1.

II. Sponsor Application Process

When a child enters ORR custody, ORR interviews the child and close family members to identify potential sponsors. PSSUMF ¶ 9. ORR then sends the child's potential sponsor a sponsor application packet with an application form. PSSUMF ¶ 10. Pursuant to the Paperwork Reduction Act, ORR's application form must be approved by the Office of Management and Budget ("OMB"). 44 U.S.C. § 3507(a). The last OMB-approved Family Reunification Application ("FRA") lists acceptable identification documents for sponsors and other individuals required to participate in the sponsorship process in the "Supporting Documents" section and permits these individuals to establish their identity through a primary document such as a foreign passport or two or more secondary documents such as a birth certificate, foreign national identification card, or similar documentation. PSSUMF ¶¶ 11, 18. The OMB-approved FRA also asks sponsors about their income and how they will financially support the child but does not require specific supporting documentation. PSSUMF ¶¶ 60, 64.

Starting in February 2025, ORR increased biometric requirements for sponsorship applications. As of February 14, 2025, ORR requires that all sponsors, adult household members, and alternate caregivers submit to fingerprint-based background checks prior to release.[1] PSSUMF ¶ 15. As of March 14, 2025, ORR also requires DNA testing of the child and sponsor in every case where a sponsor claims a biological relationship with the child. PSSUMF ¶ 17.

[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. PSSUMF ¶ 14.

A. Changes to Proof of Identity Requirements

On March 7, 2025, ORR unilaterally 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 caregivers that differs from the requirements in the OMB-approved application. PSSUMF ¶ 19. 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 U.S. work authorization or permanent residence. PSSUMF ¶ 21. ORR imported its new requirements from the U.S. Citizenship and Immigration Services ("USCIS") Form I-9 requirements for employees to establish identity and work authorization. PSSUMF ¶¶ 22-23. In making these changes, ORR did not explain why it chose the I-9 documents, did not consider alternative options to satisfy its goals, and did not examine the likely impact on children's release options. PSSUMF ¶¶ 24-26, 28.

ORR applied this new policy to all pending sponsorship applications, including to completed applications ready for approval. PSSUMF ¶ 36. 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. PSSUMF ¶¶ 37, 105, 108. Many other children who entered ORR custody after April 22, 2025, like Yair G., currently have no options for release to family because their relatives presented foreign passports but cannot obtain newly required documents. PSSUMF ¶ 184. Even if a sponsor has qualifying identification, ORR requires that *all* adult household members and the alternate caregiver also have newly required identification. PSSUMF ¶ 38.

The new identification 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." PSSUMF ¶ 40. To the extent such an exception is possible, it is available only to the parent themselves and not to their household members. PSSUMF ¶ 41. Even for parents, there is no timeline or decision criteria for ORR's approval of exception requests and children can be forced to wait weeks for approval without information or updates. PSSUMF

¶¶ 47-48; *see also* PSSUMF ¶ 197 (Isabel D.'s identification exception request was pending for five weeks); PSSUMF ¶ 129 (Rosa M.'s sponsorship exception request took three weeks).

B. New Sponsor Proof of Income Requirements

On April 15, 2025, ORR again unilaterally and retroactively amended Policy Guide § 2.2.4 to require specific proof of income documents from all sponsors that differs from the Family Reunification Application. PSSUMF ¶¶ 61, 64-65. 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. PSSUMF ¶ 62. In making this change, ORR noted that these particular documents would be very difficult for many sponsors to provide, especially if they are undocumented, and that denying a parent on this basis does not align with U.S. child welfare practices. PSSUMF ¶¶ 68-69, 76. Yet the policy does not provide an exception for parents and does not provide any alternative mechanism to prove financial stability and ability to care for the child. PSSUMF ¶¶ 66-67, 70.

This new policy has delayed and prevented release of unaccompanied children to their families. PSSUMF ¶¶ 128-129 (Eduardo M. and his 7-year-old brother were held for weeks after Rosa M. provided bank statements and a letter about her income while she waited for a response from ORR to her *sua sponte* request for an exception); PSSUMF ¶¶ 158-160 (Xavier L.'s mother had to abandon her attempts to sponsor her son because she lacked acceptable proof of income).

C. Proposed Revisions to Application for Sponsorship

On April 25, 2025, after it had already begun to apply the new identification and income documentation requirements, ORR published a notice of information collection under the Paperwork Reduction Act to revise the FRA (to be renamed the "Sponsor Application"), with a 60-day comment period. PSSUMF ¶ 87. On August 14, 2025, ORR published a Notice of Submission for OMB Review of the Sponsor Application Packet, with a comment period ending on September 15, 2025. PSSUMF ¶ 88. The proposed changes to the sponsorship application include changes to the required "Supporting Documents" related to proof of identification and proof of income and

changes to the Authorization for Release of Information signed by sponsors. PSSUMF ¶ 89. As of the date of this motion, the comment period is not yet complete, and ORR has not yet obtained OMB approval for these changes to its information collection requirements. PSSUMF ¶¶ 88, 90.

D. Prolonged and Indefinite Detention of Children

Named plaintiffs' prolonged detention resulting from ORR's new documentation policies are not unique. Plaintiff Immigrant Defenders ("ImmDef") reports that children they represent are routinely remaining in custody far longer because of ORR's new identification and proof of income requirements. PSSUMF ¶ 206; *see also* PSSUMF ¶ 82. ORR's data indicates it is now detaining children for dramatically longer periods since enacting these policies. The average length of custody for children discharged from ORR custody climbed precipitously from 37 days in January 2025 to 49 days in February 2025 to 112 days in March 2025 to a peak of 217 days in April before falling slightly to 182 days in August 2025. PSSUMF ¶ 84. The average length of care for children who remain in ORR custody was 179 days in August 2025. PSSUMF ¶ 85. Between fiscal year 2015 and fiscal year 2024, the average length of ORR custody ranged between 27 days and 69 days. PSSUMF ¶ 86.

III. Information Sharing with the Department of Homeland Security

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 was used for enforcement purposes. PSSUMF ¶ 91. This policy change led to a reduction in sponsors willing to come forward to sponsor children, dramatically increased length of stays in detention, and led to serious harm to children's mental health and wellbeing. PSSUMF ¶¶ 91-94. A 2019 HHS Inspector General ("OIG") report found that increased lengths of stay in ORR custody led to serious mental health impacts for children, including "higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation." PSSUMF ¶ 55. ORR itself

acknowledged that information-sharing was leading to unnecessary delays in release without producing any additional information that helped make children safer, and as result, in 2019, it suspended reconciliation of sponsor background checks with ICE. PSSUMF ¶ 95.

B. Restrictions on Using ORR Data for Immigration Enforcement

In response to the serious harm caused by ORR's prior DHS 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. PSSUMF ¶ 96. With narrow exceptions for specific crimes, Congress 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))." Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. 2317, 2513 (2019); PSSUMF ¶ 97.

In December 2024, ORR published a notice of a new system of records in the Federal Register as required by the Privacy Act of 1974. *See* Privacy Act of 1974; System of Records, 89 Fed. Reg. 96250 (Dec. 4, 2024) ("Privacy Act"). 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.

Consistent with Congressional restrictions, the authorization for release of information included in the OMB-approved sponsor application packet 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." PSSUMF ¶ 99. ORR has proposed to remove this language from the sponsorship application packet but has not yet received OMB approval for this change. PSSUMF ¶ 100.

IV. Procedural History

On May 8, 2025, Plaintiffs filed their Complaint for Declaratory and Injunctive Relief. Compl. (ECF 1). On May 9, 2025, Plaintiffs moved for a preliminary injunction and to certify the Plaintiff class. Pl. Mot. for Class Certification. (ECF 9); Mem. Supp. Class Certification (ECF 9-1); Pl. Mot. for Prelim. Inj. (ECF 10); Mem. Supp. Prelim. Inj. (ECF 10-1). On June 9, 2025, the Court granted in part and denied in part Plaintiffs' Motion for Preliminary Injunction and certified a provisional class for purposes of the preliminary injunction. *See* Order on Prelim. Inj. (ECF 34); Mem. Op. on Prelim. Inj. (ECF 35). The Court's provisionally certified class consists of "all unaccompanied children (1) who were in or transferred to the custody of HHS on or before April 22, 2025; (2) who have identified a potential sponsor; and (3) whose sponsor's family reunification application has been denied, closed, withdrawn, delayed, or cannot be completed because the sponsor is missing documents newly required on or after March 7, 2025." Mem. Op., at 19. The Court's preliminary injunction prohibits ORR from enforcing its new proof of identification requirements and proof of income requirements contained in the March 7, 2025 and April 15, 2025 revisions to Policy Guide Section 2.2.4 as to the provisional class. Order at 2.

Pursuant to Fed. R. of Civ. P. 15, Plaintiffs filed their first Amended Complaint on August 15, 2025, adding three named child plaintiffs to the Complaint, updating information about the original child plaintiffs, and removing two claims. *See* Am. Compl. (ECF 48). On September 8, 2025, Plaintiffs filed a supplemental brief in support of class certification to request that newly

added named Plaintiffs, Mateo N., Yair G., and David D. be appointed class representatives along with the existing named Plaintiffs Angelica S., Eduardo M., Liam W., Leo B., and Xavier L. *See* Suppl. Br. (ECF 51). Plaintiffs seek summary judgment on all claims in the Amended Complaint.

LEGAL STANDARD

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "In an APA case like this one, summary judgment 'serves as the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the APA standard of review.'" *Friends of Animals v. Ross*, 396 F.Supp.3d 1, 7 (D.D.C. 2019) (quoting *Sierra Club v. Mainella*, 459 F. Supp. 2d 76, 90 (D.D.C. 2006)). "The 'entire case' on review is a question of law." *Am. Bioscience, Inc. v. Thompson*, 269 F.3d 1077, 1083 (D.C. Cir. 2001). "[A] court must limit its review to the 'administrative record' and the facts and reasons contained therein in order to determine whether the agency's action was 'consistent with the relevant APA standard of review.'" *HealthAlliance Hospitals, Inc. v. Azar*, 346 F.Supp.3d 43, 55 (D.D.C. 2018).

ARGUMENT

The IFR is procedurally invalid because it was enacted without notice and comment and without good cause. It is also arbitrary and capricious because it offers no reasoned explanation for significant changes in policy, and its issuance exceeds HHS's statutory authority. Because the IFR is unlawful and must be vacated, ORR remains bound by its regulations prohibiting sponsor disqualification based solely on immigration status. ORR's new proof of identification and proof of income policies violate this regulation. They also violate the TVPRA and ORR's other regulations related to release without unnecessary delay. Further, the administrative record makes plain that these policies are arbitrary and capricious because they fail to consider critical factors such as the impact on children's prospects for release, mental health, and rights to family integrity. The new documentation policies were also imposed in violation of the Paperwork Reduction Act and the APA's procedural requirements. The IFR and these policies must be vacated and the Court

should issue additional injunctive relief to ensure children's sponsorship applications are promptly adjudicated in accordance with ORR's statutory and regulatory obligations.

I. Plaintiffs Have Standing

Child plaintiffs and the organizational plaintiff, ImmDef, have standing to challenge the IFR as well as ORR's new proof of identification and proof of income policies. When there are multiple plaintiffs, only one plaintiff with standing is necessary to proceed. *J.D. v. Azar*, 925 F.3d 1291, 1324 (D.C. Cir. 2019). The same rule applies "with equal force to a Rule 23(b)(2) class action advancing a uniform claim and seeking uniform injunctive and declaratory relief." *Id.* Here, the child Plaintiffs and ImmDef have standing with respect to the IFR and documentation policies.

A. Child Plaintiffs Have Standing to Challenge the ORR Documentation Requirements

As the Court correctly determined in its preliminary injunction order, PI Order at 8-9 (ECF No. 35), the child Plaintiffs have suffered and continue to suffer injury in fact traceable to ORR's conduct because their release processes were blocked or significantly delayed by ORR's new documentation requirements. *See, e.g.,* PSSUMF ¶¶ 175 (Mateo N.), 181-184 (Yair G.), 194, 197 (David D); 108 (Angelica S.); 146-147 (Leo B.); 122, 128-129 (Eduardo M.); 160 (Xavier L.).[2] These obstacles to release caused or are causing family separation, emotional distress, a disruption in educational progress, and an inability to enjoy an ordinary childhood with friends and family. *Id.*; *see also, e.g.,* David D. Decl. ¶¶ 4, 9 (ECF 56-6); Yair G. Decl. ¶¶ 10-11 (ECF 56-4); Mateo N. Decl. ¶¶ 8-11 (ECF 56-2); Leo B. Decl. ¶¶ 5-7, 11-15 (ECF 9-10). Family separation and institutional custody are injuries sufficient to establish standing. *See, e.g.*, *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 579 (E.D. Va. 2018); *Jacinto-Castamon de Nolasco v. ICE*, 319 F. Supp. 3d 491, 502 (D.D.C. 2018). These harms are immediate, concrete, and traceable to Defendants' actions. *Centro de Trabajadores Unidos v. Bessent*, 2025 WL 1380420, at *4 (D.D.C. May 12,2025).

[2] Although Angelica S., Leo B., Eduardo M., Xavier L., and Liam W., have now been released from ORR custody, they continue to have standing as class representatives. *See* Reply in Supp. of Class Certification at 13-15, ECF 37; *J.D.,* 925 F.3d at 1308, 1311.

Plaintiffs need not show they would be guaranteed release to establish standing, or even that release is likely. *Gutierrez v. Saenz*, 145 S. Ct. 2258, 2268-69 (2025); *Pietersen v. Dep't of State*, 138 F.4th 552, 559 (D.C. Cir. 2025). Plaintiffs have lost the opportunity for timely release to their closest relatives and in some cases the opportunity for any release at all. *See CC Distributors, Inc. v. United States*, 883 F.2d 146, 150 (D.C. Cir. 1989) ("the loss of an opportunity to pursue a benefit" is "a constitutionally cognizable injury"). As to the Paperwork Reduction Act claim in particular, child Plaintiffs cannot be released until their sponsors submit the required information and thus, they are directly and predictably injured by the unlawful requirements. *See FDA v. All. For Hippocratic Med.*, 602 U.S. 367, 384-85 (2024) ("*AHM*") (collecting cases "where government regulation of a third-party individual or business may be likely to cause injury in fact to an unregulated plaintiff"); *Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, 603 U.S. 799, 826 (2024) (Kavanaugh, J., concurring) (characterizing this type of downstream injury to unregulated parties as "a typical APA suit.").

Because ORR's new policies are the cause of Plaintiffs' lost opportunity for release and family reunification, Plaintiffs' injuries are redressable by an order vacating the new policies. *Ctr. for Biological Diversity v. EPA*, 861 F.3d 174, 183 (D.C. Cir. 2017). Indeed, Angelica S. and Liam W. were finally released to their sister and mother, respectively, only after the Court's preliminary injunction required ORR to reopen and adjudicate their applications. PSSUMF ¶¶ 114-115, 140. While Plaintiffs and putative class members remain detained, their injuries are "ongoing" and establish standing for injunctive relief. *Centro de Trabajadores*, 2025 WL 1380420, at *4.

B. Child Plaintiffs Have Standing to Challenge the IFR

Child plaintiffs also have standing to challenge the IFR. Although the Court preliminarily determined Plaintiffs lack standing as to this claim, Mem. Op. at 11-12, Plaintiffs respectfully request the Court reconsider this question with the benefit of a fuller record and recent Supreme Court authority. *See Gutierrez*, 145 S. Ct. at 2266-68.

Plaintiffs' complaint alleges that ORR's new proof of identification and proof of income policies violate the pre-IFR Foundational Rule by unlawfully disqualifying sponsors based solely on their immigration status. *See* Am. Compl. ¶ 162 (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). If Plaintiffs are correct on the merits that the documentation policies violate ORR's pre-IFR regulations—as must be assumed for purposes of analyzing standing—then the IFR is the only obstacle to relief on this claim. *See Tanner-Brown v. Haaland*, 105 F.4th 437, 445 (D.C. Cir. 2024); *Parker v. District of Columbia*, 478 F.3d 370, 377 (D.C. Cir. 2007). The IFR is thus one "of the roadblocks" between plaintiffs and vacatur of the documentation policies. *Gutierrez*, 145 S. Ct. at 2267; *see also Int'l Primate Prot. League v. Admins. of Tulane Educ. Fund*, 500 U.S. 72, 77 (1991) (holding that plaintiffs' "injury is likely to be redressed if petitioners prevail on their claim because, if removal is found to have been improper under § 1442(a)(1), the federal courts will lose subject matter jurisdiction and the 'case shall be remanded.' 28 U.S.C. § 1447(c)") (internal quotation omitted). By contrast, if Plaintiffs cannot challenge the IFR, they cannot pursue their claim based on the pre-IFR Disqualification provision.

That Plaintiffs may be able to vacate the documentation policies through alternative claims does not undermine standing. Standing is determined based on the allegations in the complaint, not the relief granted. *Gutierrez*, 145 S.Ct. at 2267; *see also Cath. Soc. Serv. v. Shalala*, 12 F.3d 1123, 1125 (D.C. Cir. 1994) ("[A] plaintiff's standing must be analyzed with reference to the particular claim made."). Because Plaintiffs have a concrete interest in vacatur of the IFR, they have standing as to all their claims challenging the IFR. *Sierra Club v. FERC*, 867 F.3d 1357, 1366 (D.C. Cir. 2017); *Ascendium Educ. Solutions, Inc. v. Cardona*, 78 F.4th 470, 478 (D.C. Cir. 2023); *Mozilla Corp. v. FCC*, 940 F.3d 1, 46-47 (D.C. Cir. 2019). Nor should it matter that ORR began their unlawful conduct before the IFR was issued; ORR cannot excuse the illegality of its conduct simply by jumping the gun in such a manner. It must conform its conduct to its own regulations.

The individual named plaintiffs have also suffered direct harm from ORR's sharing of sponsor immigration status with DHS. In the cases of Angelica S. and Xavier L., potential sponsors or other adults required to participate in the sponsorship process did not provide required

information to ORR for fear of immigration enforcement, depriving them of an opportunity for release. PSSUMF ¶¶ 112, 158. Released plaintiffs also now face the very real risk that their families and placements will be disrupted by immigration enforcement against their sponsors because sponsors provided sensitive information to ORR for the purposes of family reunification. Vacatur of the IFR would redress these harms under the "relaxed" redressability standard for procedural injuries. *Ctr. for Biological Diversity*, 861 F.3d at 183.

C. Plaintiff ImmDef has Organizational Standing

ImmDef has organizational standing because it has alleged concrete and demonstrable injuries that impact its ability to perform its fundamental purpose. To have organizational standing, a plaintiff must establish (1) that it "suffer[ed] 'a concrete and demonstrable injury to its activities, distinct from a mere setback to the organization's abstract social interests" and (2) "the presence of a direct conflict between the defendant's conduct and the organization's mission." *Immigrant Advoc. Ctr. v. U.S. Dep't of Homeland Sec.*, 783 F.Supp. 3d 200, 216 (D.D.C. 2025). Both requirements are met here.

To demonstrate a "concrete and demonstrable injury to its activities," ImmDef need only show that its "'activities have been impeded' in some way." *Cap. Area Immigrants' Rts. Coal. v. Trump*, 471 F. Supp. 3d 25, 40–41 (D.D.C. 2020) (collecting cases); *AFL-CIO v. DOL*, 778 F. Supp. 3d 56, 75-76 (D.D.C. 2025) (acknowledging that organizations need only be "perceptibly impaired" to have standing); *O.A. v. Trump*, 404 F. Supp. 3d 109, 143 (D.D.C. 2019) ("Courts have never required an organization to prove that it is entirely hamstrung by challenged actions.").

One of ImmDef's primary activities, and work that is central to its mission—providing zealous, competent counsel to unaccompanied children in their immigration cases—has been impeded by the IFR and the changes to Policy Guide § 2.2.4. PSSUMF ¶¶ 198-199, 202-205. ImmDef is the largest provider of legal services to unaccompanied children in California and currently provides legal services to children housed in seventeen ORR facilities throughout Southern California. PSSUMF ¶¶ 200-201. Because the IFR and new documentation requirements

have led to prolonged detention, ImmDef must expend a significantly higher portion of its limited resources to advocate on behalf of *detained* unaccompanied child clients and can no longer accept new released clients. PSSUMF ¶¶ 206, 214-215, 218, 221-222, 239.

The IFR and the changes to the Policy Guide have significantly increased children's time in ORR custody because it is increasingly difficult for children to be released to sponsors. PSSUMF ¶ 214-215. First, the IFR and, in particular, ORR's decision to collect sponsor immigration status information for enforcement purposes and share that information with immigration enforcement, have led some sponsors to be detained during the sponsorship process. PSSUMF ¶¶ 207-209. Some sponsors have been detained by ICE at in-person identification checks newly required by ORR, which can take place at ICE and HSI offices. PSSUMF ¶¶ 208-209. This is an additional concrete obstacle to release directly traceable to the IFR. Additionally, sponsors have withdrawn their applications because of fear of information sharing and enforcement. PSSUMF ¶¶ 211-212. When sponsors are detained or withdraw their applications, children are necessarily detained for longer periods of time.

Further, the new documentation requirements are very difficult, if not impossible for many sponsors to meet, leading many children ImmDef serves to be left without a sponsor. PSSUMF ¶ 215. Even when sponsors are potentially able to meet ORR's new documentation requirements, their household members or alternate caregivers are often unable or unwilling to do so and the new requirements create significant additional delays. PSSUMF ¶¶ 216-217.

ImmDef's organizational standing is analogous to that in *Capital Area Immigrants 'Rights Coalition v. Trump*, where the organizational plaintiffs showed that a new rule would hinder their ability to provide legal services to asylum applicants, a key part of their mission. 471 F. Supp. 3d 25, 38-41 (D.D.C. 2020). The organizational plaintiffs alleged the rule required more resource-intensive preparations and required them to allocate more staff time to individual cases, limiting their capacity to serve clients by an estimated 50% and thereby reducing the number of clients they could support. *Id.* at 39.

As a result of children's increasingly prolonged detention, ImmDef has similarly had to expend significantly more resources on the cases of each of their detained clients. PSSUMF ¶ 218, 239. ImmDef had to significantly increase the proportion of detained cases added to their docket, from 44% in February through September 2024 to 84% over the same period in 2025. PSSUMF ¶ 219. Detained cases are more time and resource-intensive than non-detained cases, limiting the number of children ImmDef can serve. PSSUMF ¶¶ 220-222, 229, 240. For example, because more children lack available sponsors, the proportion of ImmDef clients seeking Voluntary Departure ("VD") or Long-Term Foster Care (LTFC) has multiplied. PSSUMF ¶¶ 226-228, 231-232. Under the terms of ImmDef's contract, ImmDef attorneys are required to spend significant additional time on a child's case if they are considering VD or LTFC, including offering full scale representation in all VD cases. PSSUMF ¶¶ 230, 234; *see also id.* ¶¶ 229, 233; *Nw. Immigrant Rts. Project v. U.S. Citizenship & Immigr. Servs.*, 496 F. Supp. 3d 31, 46-48 (D.D.C. 2020) (where a challenged rule caused organizations to spend more time and direct more resources to helping clients than usual, the injuries identified were the type of "substantial, tangible costs that are cognizable for purposes of organizational standing"). ImmDef is further hampered from effectively representing its detained clients in their immigration cases because children are experiencing severe stress about their release cases that impede the child's participation in their cases and require additional time and support from ImmDef attorneys. PSSUMF ¶¶ 236-239. ImmDef has also had to spend more time responding to inquiries from sponsors and ORR facility staff regarding sponsorship requirements and revising its know-your-rights presentations to counteract the diminished immigration relief available to detained children. PSSUMF ¶¶ 223-224.

As a result of the increased resources it must expend on detained children, ImmDef has unfortunately had to close intake to released children they otherwise would have represented. PSSUMF ¶ 221. This leaves many children who would otherwise qualify for ImmDef's services unserved, frustrating ImmDef's mission to ensure that no immigrant facing removal should have to go to court alone. PSSUMF ¶ 240; *see also Cap. Area. Immigrants' Rts. Coal*, 471 F. Supp. 3d at 41 (finding defendant's argument, that similar allegations were not cognizable injuries, to be

"unsupported by D.C. Circuit precedent."); *AFL-CIO v. DOL*, 778 F. Supp. 3d at 75-76. 3d at 75-76; *Refugee & Immigrant Ctr. for Educ. & Legal Servs. v. Noem*, 2025 WL 1825431 at *24 (D.D.C. July 2, 2025) ("A defendants actions need only cause a "perceptibl[e] impair[ment], and some attendant expenditure or loss of resources.") (internal citations omitted).

Unlike in *Alliance for Hippocratic Medicine,* ImmDef's injuries directly impede its ability to ethically and zealously represent its clients in immigration matters, not "abstract social interests" or the need to expend resources on outside advocacy. *AHM*, 602 U.S. at 394-95. In previously determining that ImmDef lacked organizational standing, this Court concluded that ImmDef's only injury was that it must spend additional time with each client and on an expedited basis, with no other impact on ImmDef's ability to perform its fundamental purpose of representing unaccompanied children in immigration proceedings. *See* Mem. Op. at 12. Plaintiffs respectfully disagree, and as clarified by the First Amended Complaint and herein, ImmDef's injuries go beyond mere redirection of organizational resources or a claim that its work is simply more time-consuming or difficult.

Moreover, the cases cited in support of the Court's conclusion are distinguishable from ImmDef's organizational standing in that each of those cases focused on alleged injuries to an organization's issue advocacy efforts.[3] ImmDef does not base its standing on an injury to any advocacy-related activity, nor due to funds spent on litigation or advocacy to oppose the challenged policies. *Cap. Area. Immigrants' Rts. Coal*, 471 F. Supp. 3d at 41. The only education-related injury

[3] *See ASPCA v. Feld Entm't, Inc.*, 659 F.3d 13, 24-28 (D.C. Cir. 2011) (injury to advocacy efforts was insufficient for standing but ultimately finding no standing because the organization failed to prove causation after trial); *Elec. Privacy Info. Ctr. v. U.S. Dep't. of Educ.*, 48 F. Supp. 3d 1, 24 (D.D.C. 2014) (no standing because an organization "cannot convert an ordinary program cost — advocating for and educating about its interests — into an injury in fact"); *New Eng. Anti-Vivisection Soc'y v. U.S. Fish & Wildlife Serv.*, 208 F. Supp. 3d 142, 167 (D.D.C. 2016) (no standing where an advocacy organization's alleged injury "merely reflect[ed] shifting priorities regarding 'the expenditure of resources on advocacy'"); *Nat'l Taxpayers Union, Inc. v. United States*, 68 F.3d at 1434 (distinguishing between alleged harm based on an impact to "educational and legislative initiatives" from organizational plaintiff being "forced . . . to expend resources in a manner that keeps [the plaintiff] from pursuing its true purpose," and ultimately concluding organizational plaintiff lacked standing).

alleged by ImmDef involves the diversion of funds to know-your-rights presentations, which are part of ImmDef's core responsibilities and distinct from mere advocacy. *Id*. at 41-42.

Finally, ImmDef also meets the second requirement for organizational standing because there is a direct conflict between the Defendants' conduct and ImmDef's "core business activity" to provide legal services to unaccompanied children. *Id*. at 38. The challenged policies create a "direct conflict" by limiting ImmDef's ability to take on new clients and effectively represent current ones. *See Las Ams. Immigrant Advoc. Ctr.*, 783 F.Supp.3d at 217 (where a challenged policy "'directly affect[ed]' the organizations' 'core business activities' of providing counseling and legal services," finding a "'direct conflict' between the organizations' mission to provide legal counseling . . . and the [challenged rule]"); *Nw. Immigrant Rights Project*, 496 F. Supp. 3d at 46 (disputed "Rule directly conflicts with its mission of providing a broad array of legal services to low-income immigrants and will impose new burdens and costs on the organization"). ImmDef thus has organizational standing to challenge both the IFR and ORR's new document requirements.

II. The Interim Final Rule is Unlawful and Must Be Set Aside

A. ORR Bypassed Notice and Comment and Made the IFR Effective Immediately Without Good Cause

The IFR is procedurally invalid and must be vacated. Under the APA, 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 only if the agency 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 has not demonstrated that bypassing notice and comment was impracticable, unnecessary, or contrary to the public interest. Indeed, ORR has made no effort to argue that notice and comment would be "impracticable." *See* 90 Fed. Reg. at 13555. In the IFR, ORR claimed that notice and comment was unnecessary and contrary to the public interest 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. But 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 significantly impacts children's liberty interests and their right to family unity. Because most potential sponsors of children in ORR custody lack stable lawful immigration status, PSSUMF ¶ 12, allowing ORR to deny sponsors' applications based solely on immigration status

necessarily cuts off many children's ability to be released to their close family members. Allowing ORR to collect and share information for immigration enforcement purposes also has significant negative impacts to detained children's welfare, as it deters sponsors rather than facilitating family reunification. PSSUMF ¶¶ 91-93, 210-212.

Furthermore, the IFR is not a "routine determination" or a "minor rule in which the public is not particularly interested." The public submitted nearly 400 comments on the IFR, PSSUMF ¶ 7, raising serious questions as to both the legality and wisdom of ORR's new approach. *See, e.g.*, Comment, Letter from Rob Bonta, Cal. Att'y Gen., et al., to Robert F. Kennedy, Jr., et al., https://www.regulations.gov/comment/ACF-2025-0004-0206. The Foundational Rule, which the IFR partially rescinded, received over 73,000 comments. PSSUMF ¶ 8.

Nor has ORR satisfied the public interest prong. Notice and comment procedures are "generally presumed to serve the public interest." *Mack Trucks, Inc.*, 682 F.3d at 95. The public interest prong "is met only in the rare circumstance when ordinary procedures . . . would in fact harm that interest," 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 WasteActivities Grp*., 236 F.3d at 755). No such risk exists here.

ORR's key claim that 45 C.F.R. § 410.1201(b) contravenes 8 U.S.C. § 1373 is overbroad and incorrect. First, 45 C.F.R. § 410.1201(b) places three distinct restrictions on ORR. The first two provisions related to sponsor disqualification and information collection for enforcement purposes clearly do not contravene Section 1373. And ORR's claims that these Disqualification and Information Collection provisions are "inextricably linked" to the Information Sharing provision is unsupported. 90 Fed. Reg. at 13555 n.1. Section 1373 does not address sponsorship of children in ORR custody and does not require ORR to collect any information from private persons. Section 1373 addresses only information that agencies "send[] to, or receiv[e] from" DHS that is already in their possession. Because there is no conflict between the Disqualification and Information Collection provisions and Section 1373, Section 1373 does not constitute "good cause" for rescinding those provisions without 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").

With respect to the rescission of Information Sharing provision, ORR's sudden belief that the Information Sharing provision is legally flawed is insufficient to justify skipping notice and comment rulemaking. Even if ORR believed the Information Sharing provision contravened Section 1373, ORR should still have considered—and allowed public comment on—"data, views, or arguments," 5 U.S.C. § 553(c) about the perceived legal discrepancy. "[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, 447 n. 79 (D.C. Cir. 1982); *see also Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 928 (D.C. Cir. 2017); 8 U.S.C. § 1373; *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). As discussed in Section II.C below, the IFR is not mandated by statute and to the contrary exceeds ORR's statutory authority and conflicts with its obligation under the TVPRA to ensure that minors are "promptly placed in the least restrictive setting that is in the best interest of the child," 8 U.S.C. § 1232(c)(2)(A). Commenters could also have reminded the agency of the appropriations riders in place since 2019 that prohibit the use of sponsor information shared with DHS for immigration enforcement, but which are absent from the administrative record. *See* PSSUMF ¶¶ 6, 96.

The public should also have had the opportunity to comment on alternative regulatory actions, and/or whether ORR had discretion to wind it down in a way that accounted for children's and sponsors' reliance interests before ORR made abrupt changes. *See DHS v. Regents of the Univ. of California*, 591 U.S. 1, 32 (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).

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). Rather than allowing public

comment and considering different legal interpretations of its obligations under section 1373 and the TVPRA, ORR abruptly repealed § 410.1201(b) with no notice to the many parties involved. Its statement of good cause simply does not pass muster. Thus, the IFR should be set aside.[4]

B. The IFR is Arbitrary and Capricious Because ORR Offered No Reasoned Explanation for Significant Changes in Policy.

In addition to failing to follow legally required procedure, the IFR must be set aside because it is "arbitrary, capricious, [and] an abuse of discretion." 5 U.S.C. § 706(2)(A). The APA sets forth minimum standards for an agency's "reasoned decisionmaking." *Regents*, 591 U.S. 1, 16 (2020). For example, "an agency cannot simply ignore an important aspect of the problem." *Ohio v. EPA*, 603 U.S. 279, 293 (2024) (citation omitted). Nor may it rely "on factors which Congress had not intended it to consider." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (citation omitted). It must consider "alternatives that are within the ambit of the existing policy" before rescinding a rule entirely. *Regents*, 591 U.S. at 30 (cleaned up) (quoting *Motor Vehicle Mfrs. Ass'n of United States, Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 51 (1983)).

Here, ORR 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. The decisional memos in the administrative record contain no rationale at all for adopting either the Disqualification or the Information Collection provisions. PSSUMF ¶¶ 2, 3. Importantly, severability applies to a *court's* remedial powers, not to an agency's amendment of its own regulations. Courts presume that policymakers would prefer that the

[4] ORR similarly lacked good cause to make the rule effective immediately. 5 U.S.C. § 553(d)(3); *see also AFGE*, 655 F.2d at 1156 (good cause exception for immediate effect is also "narrowly construed and only reluctantly countenanced" and is reserved for emergency situations). As discussed, ORR's assertion that the IFR is necessary to bring the agency "into compliance with a federal statute" is incorrect and at a minimum should have been subject to public comment. 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 had in the protections guaranteed them by the Foundational Rule, which had been in effect since the spring of 2024, and which reflected longstanding policy.

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 plainly inapposite when the agency, a policymaker, amends its own regulations.[5]

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 considered alternatives to minimize harms. *See Regents*, 591 U.S. at 30.

With specific regard to the rescission of 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 lack stable lawful immigration status and ORR has historically accepted such sponsors for vetting and release. PSSUMF ¶¶ 12-13; *see also* 89 Fed. Reg. at 34440 (noting that the Disqualification provision was "consistent with existing policy"). 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. 89 Fed. Reg. at 34441-42.

Disqualifying sponsors without stable lawful immigration status is 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, instead of parents or close relatives, merely because those distant or unrelated sponsors have stable immigration status. Despite these probable consequences, all of

[5] 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, "[t]o the extent any subpart or portion of a subpart is declared invalid *by a court*, ORR intends for all other subparts to remain in effect." *See* Unaccompanied Program Foundational Rule, 89 Fed. Reg. 34,389 (emphasis added).

which undermine ORR's mandate to protect children from trafficking and smuggling and to release children to sponsors with a preference for parents and close family members, 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; PSSUMF ¶¶ 3-4.

ORR similarly failed to acknowledge or explain its change of position on the Information Collection provision. PSSUMF ¶¶ 2-5. Many comments to the Foundational Rule strongly supported this provision and urged ORR to go further to protect undocumented sponsors from immigration enforcement. 89 Fed. Reg. at 34441. In response, ORR stated in the Foundational Rule Preamble 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)." 89 Fed. Reg. at 34442.

The IFR further failed 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." 89 Fed. Reg. at 96251; PSSUMF ¶ 6. 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. PSSUMF ¶¶ 91-92; *see also J.E.C.M.*, 352 F. Supp. 3d at 583 ("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."). Potential sponsors or household members are once again afraid to share required information with ORR for fear of immigration consequences. PSSUMF ¶¶ 112, 158, 210-212, 216-217. Nonetheless, consideration of this important aspect is conspicuously absent from the administrative record. PSSUMF ¶¶ 3-4.

With regard to the Information Sharing provision, ORR acknowledged in an internal memorandum regarding its sponsor vetting process that Congressional riders restrict information-sharing, PSSUMF ¶ 98, yet the IFR administrative record and the published IFR was silent as to their existence and as to the interaction between § 1373 and the TVPRA discussed above, PSSUMF ¶ 6. Nor did the government acknowledge the Office of Legal Counsel's reading of § 1373 as simply limiting 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) ("1999 OLC Memo"). ORR acted arbitrarily and capriciously by "entirely fail[ing] to consider [these] important aspect[s] of the problem." *State Farm*, 463 U.S. at 43.

Finally, the IFR fails to consider the reliance interests of sponsors such as Deisy S. and Ximena L. who already submitted sensitive information based on ORR's promises that their applications would receive fair consideration and that their information was not being collected for enforcement purposes. PSSUMF ¶¶ 5, 56, 80, 105-106, 154-156; *see also Regents*, 591 U.S. at 31-33 (agency must consider reliance interests); *FCC v. Fox Television Stations, Inc*., 556 U.S. 502, 515 (2009); *Kirwa v. U.S. Dep't of Defense*, 285 F. Supp. 3d 257, 271 (D.D.C. 2018) (policy change impermissibly retroactive when Department of Defense changed application requirements for expedited citizenship after plaintiffs enlisted). Sponsors who trusted ORR's promises are now at high risk for immigration enforcement as a result of their disclosures. PSSUMF ¶ 207-209. Breaking the agency's commitment to sponsors discourages sponsors from coming forward, which prolongs detention. Declaration of Mari Dorn-Lopez ¶ 15 (ECF 10-13).

C. The IFR Exceeds ORR's Statutory Authority

ORR claimed that it was compelled by 8 U.S.C. § 1373 to adopt the Information Sharing provision. The agency, however, incorrectly read § 1373 as an affirmative grant of authority, and as a requirement, to share immigration-related information with DHS when in fact that statute does

not affirmatively grant that authority and does not override other Congressional statutes that restrict the sharing of immigration-related information.[6] Rather, 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* 1999 OLC Memo; *Bragdon v Abbott*, 524 U.S. 624, 645 (1998) (Congress is presumed to be "well aware of the position taken by OLC" and to legislate against that background).

And the TVPRA, which was enacted after 8 U.S.C. § 1373 and after OLC's opinion construing § 1373, imposes obligations on ORR that the agency could not fulfill if it were to share immigration status information with DHS. ORR cannot fulfill Congress's instruction to promptly place unaccompanied children "in the least restrictive setting that is in the best interest of the child," 8 U.S.C. § 1232(c)(2)(A), if potential sponsors are unable to come forward out of fear that their information would be shared with immigration authorities. *See J.E.C.M.*, 352 F. Supp. 3d at 583 (finding that this information sharing with DHS "runs counter to ORR's mission to release the children in its custody into stable, nurturing environments"). For this reason, appropriations riders have been in place since 2019 that prohibit the use of sponsor information shared with DHS for immigration enforcement. PSSUMF ¶¶ 96, 98. With narrow exceptions, 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. 2317, 2513 (2019). ORR's new reading of Section 1373 cannot be reconciled with these restrictions.

[6] Notably, ORR guidance and regulations have always provided for sharing other types of information with DHS in circumstances that align with its statutory authority. *See, e.g.*, 89 Fed. Reg. 34404 ("DHS and ORR are continuing to work together to improve information sharing and will collaborate on improved procedures for making age determinations, as required by the TVPRA"); 89 Fed. Reg. 34442 ("ORR already has policies in place to refer [potential human trafficking] cases to the proper Federal agency.").

ORR's rescission of the Sponsor Disqualification and Information Collection provisions similarly exceed ORR's statutory authority and "rel[y] on factors which Congress has not intended it to consider." *State Farm*, 463 U.S. at 43. Indeed, ORR itself recognized in the Preamble to the Foundational Rule that it "does not have statutory authorization to investigate the immigration status of potential sponsors" and 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.

III. ORR's New Sponsor Documentation Requirements Are Unlawful

A. 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 related to proof of identification and proof of income, respectively, 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 or 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)). These policies are published in the Policy Guide as mandatory 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. v. Lloyd*, 318 F. Supp. 3d 601, 612 (S.D.N.Y. 2018); *see also J.E.C.M.*, 352 F. Supp. 3d at 582 n.12 (noting that ORR did not dispute that Policy Guide changes were final agency actions).

B. ORR's New Proof of Identity and Proof of Income Requirements Violate the TVPRA and ORR's Own Regulations

1. The new documentation requirements disqualify sponsors based on immigration status in violation of the pre-IFR Foundational Rule

Because the IFR is unlawful for the reasons discussed above, ORR remains bound by its prior regulation providing that "ORR shall not disqualify potential sponsors based solely on their immigration status . . .." 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); *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. ORR's proof of identification requirements are imported from the USCIS I-9 form requirements for employees to establish identity and work authorization. PSSUMF ¶ 22. The I-9 form is specifically designed to disqualify individuals who lack lawful work authorization. PSSUMF ¶ 23. For example, the I-9 requirements imported by ORR require that a foreign passport be accompanied by proof of work authorization. Sibling sponsors such as Milagro G. and Deisy S. who used their foreign passport as a form of identification were thus disqualified solely based on their lack of documented work authorization. PSSUMF ¶¶ 109, 180. These sponsors were unable to obtain other qualifying identification because of their immigration status. PSSUMF ¶¶ 110, 182.

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.[7] ORR's decision memo acknowledges—but does not rebut—a likely objection from advocates that the new identity

[7] Although some states like California and Massachusetts permit individuals to obtain a driver's license without proof of lawful status, they still require lawful presence to obtain a regular state identification card. PSSUMF ¶¶ 124, 173. This disqualifies sponsors such as Isabel D. and Rosa M. who cannot drive. PSSUMF ¶¶ 125, 194.

requirements will be "particularly burdensome on the ability of undocumented or out of status [individuals] to sponsor children." PSSUMF ¶ 24.

ORR's new proof of income requirements similarly disqualify sponsors based on their immigration status because the specific documents accepted all require that the sponsor themselves receive income in the United States. PSSUMF ¶ 62. This requirement serves to disqualify sponsors who lack U.S. work authorization, even if they can prove financial ability to support the child through other means. As with proof of identification, ORR's decision memo related to proof of income acknowledges, without rebutting, the likely argument "that the majority of potential sponsors engaging with UACB do not have work authorization and may not be able to provide documentation required under this update to ORR's sub-regulatory guidance." PSSUMF ¶ 68.

2. ORR's new documentation requirements unnecessarily delay children's release to sponsors in violation of the TVPRA and the Foundational Rule.

The TVPRA requires ORR to engage in an individualized sponsorship assessment to ensure that *every* unaccompanied child is "promptly placed 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." 8 U.S.C. § 1232(c)(2)(A). ORR shelters are more restrictive than living in the community, PSSUMF ¶ 83, and 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). Blocking a child's release merely because their sponsor or other adults required to participate in the application cannot access a specific type of document—without individualized consideration of sponsor suitability or the child's best interests—is thus contrary to law. 5 U.S.C. § 706.

The Foundational Rule further clarifies ORR's legal obligations, requiring 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). Contrary to this priority for close relatives, the new

documentation policies effectively prioritize distant relatives or even unrelated individuals with the requisite immigration status over closer relatives. In fact, 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 the correct type of identification. PSSUMF ¶¶ 51, 111. Children such as Yair G. have pursued sponsorship with unrelated individuals because their close family members are unable to obtain qualifying identification as a result of their immigration status. PSSUMF ¶¶ 52, 184.

Although ORR's new identification requirements include a possible exception for parents or legal guardians, this exception requires approval from ORR headquarters in every case and creates substantial and unnecessary delays in release. ORR is taking over a month in some cases to decide applications from parents even after a home study and all other vetting requirements are complete and the case manager has submitted the case to headquarters. PSSUMF ¶¶ 48, 50, 197 (David D. waited over five weeks for a decision on his mother's exception request), 129 (Eduardo M. and his 7-year-old brother waited over three weeks for ORR headquarters to grant their mother an exception). When ORR instituted a similar policy requiring approval from the ORR Director or his designee for certain releases, a federal district court found "a clear violation of the TVPRA's mandate to promptly place the UAC in the least restrictive setting that is in the best interests of the child." *L.V.M.*, 318 F. Supp. 3d at 614. As in *L.V.M.*, the identification exception policy challenged here "is not subject to any known decision criteria," is not within the expertise of the ORR Director, and permits "unchecked exercise of discretion, with no guidance nor limitation." *Id.* at 613. Indeed, the administrative record includes no explanation of why ORR requires headquarters approval to resolve a factual question about a sponsor's identity. PSSUMF ¶ 43.

ORR's weekslong delays in adjudicating parental exception requests and retroactive application of new requirements to completed applications also violate ORR's regulatory timelines, which require adjudication of completed sponsor applications within certain timelines: 10 or 14 days for parents, legal guardians, and close relatives, "absent an unexpected delay (such as a case that requires completion of a home study)." 45 C.F.R. § 410.1205(b). PSSUMF ¶ 49.

ORR cannot nullify its regulatory timelines—particularly those promulgated to comply with court orders on minimum procedural due process requirements[8]—by unilaterally declaring completed sponsor applications incomplete based on new documentation requirements that conflict with ORR's own application or by creating a new step in the process that gives ORR unlimited discretion over the timing and outcome of release decision.

C. ORR's New Documentation Requirements are Arbitrary and Capricious

ORR's new documentation requirements are arbitrary and capricious because they fail 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.'" *State Farm.*, 463 U.S. at 43 (internal citations omitted). ORR "entirely failed to consider [] important aspect[s] of the problem" such as the impact on children's length in custody and mental health, *id.*, and despite dramatically changing its prior policies failed to consider either "the 'alternative[s]' that are 'within the ambit of the existing [policy]'" or "whether there was 'legitimate reliance' on" prior policies. *Regents*, 591 U.S. at 30 (quoting *State Farm*, 463 U.S. at 51).

1. Failure to consider relevant factors

In creating its release policies, ORR is obligated to make decisions "based on a consideration of the relevant factors." *State Farm*, 463 U.S. at 43 (quoting *Bowman Transp. Inc. v. Arkansas-Best Freight System*, 419 U.S. 281, 286 (1974)). ORR must "balance the competing interests of avoiding unnecessary delay and effectively preventing fraud" and "[a]t a minimum . . . address the concerns *the agency itself identified* before changing the status quo." Mem. Op. at 15-16 (ECF 34); *see also* 8 U.S.C. § 1232(c)(1) (requiring ORR to both protect unaccompanied

[8] 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 declaratory judgment incorporating its summary judgment order. Judgment, ECF 449 (C.D. Cal. Sept. 16, 2024).

children "from traffickers and other persons seeking" to harm them and ensure that children are "promptly placed in the least restrictive setting that is in the best interest of the child.").

ORR's decision memos regarding its new proof of identification and proof of income policies noted likely concerns from stakeholders regarding increased length of custody and burdens on family unity but "did not explain how it weighted those impacts against other policy objectives and statutory obligations." Mem. Op. at 16. In contrast to agency memos related to fingerprinting and DNA testing, ORR's decision memos on proof of identification and proof of income do not analyze the impact on children's length of custody and release prospects associated with the new documentation requirement, much less weigh these impacts against the safety benefits of the new documents. *See* Mem. Op. at 16-17; PSSUMF ¶¶ 53-58, 73-75, 79-81. The proof of income decision memo includes a section on relevant legal authority but cites only the TVPRA and Foundational Rule provisions related to sponsor vetting and does not mention ORR's corresponding statutory duties and regulations to release children to the least restrictive setting without unnecessary delay. PSSUMF ¶ 72.

Because ORR failed to analyze the impacts of its new documentation requirements on length of custody, it also failed to "examine the relevant data" and "entirely failed to consider" the impact on children of blocking their release to their initial sponsor—usually their closest available relative—and potentially blocking all release options altogether. *State Farm*, 463 U.S. at 43. As a result, ORR ignored its obligations under the TVPRA and its own position in the Foundational Rule "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." 89 Fed. Reg. at 34440. For instance, although the administrative record includes an HHS OIG report on gaps in sponsor screening, Angelica-00000184, ORR did not consider the HHS OIG's 2019 report on the mental health impacts of prior policies that increased length of custody, including "higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation." PSSUMF ¶ 79. Nor did ORR consider that children are also vulnerable to abuse and mistreatment

in ORR custody, notwithstanding a 2024 Department of Justice lawsuit alleging persistent sexual abuse and harassment of unaccompanied children in facilities operated by Southwest Key Programs, the largest operator of ORR facilities at the time. PSSUMF ¶¶ 58-59, 81.

ORR's decision-making similarly disregarded children's rights to family integrity. As the Supreme Court has explained, "[t]he 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." *Moore v. City of E. Cleveland*, 431 U.S. 494, 504-06 (1977). Multiple courts have recognized that unaccompanied children in ORR custody and their close relative sponsors have a constitutional interest in family integrity. *Lucas R.*, 2022 WL 2177454, at *14, *25 (C.D. Cal. Mar. 11, 2022); *J.E.C.M. v. Marcos*, 689 F. Supp. 3d 180, 195 (E.D. Va. 2023); *see also D.B. v. Cardall*, 826 F.3d 721, 740-43 (4th Cir. 2016) (discussing rights of parent sponsors).

Despite these recent court decisions involving ORR, the agency's decision memos give no consideration at all to the burdens on family integrity of disqualifying close relative sponsors based on a lack of specific identification or proof of income documentation. PSSUMF ¶¶ 39, 46, 75. Even the rights of parental sponsors are almost entirely absent from ORR's decision-making. The proof of identification policy creates a *possible* exception for parent or legal guardian sponsors but, as discussed above, such exceptions can take over a month to receive a decision. PSSUMF ¶¶ 47-48, 129, 197. In practice, ORR has limited this exception to the parent or legal guardian themselves and not their household members. PSSUMF ¶ 41. This was a highly consequential decision, preventing sponsors such as Sofia W. from sponsoring their children because their household members could not obtain qualifying identification. PSSUMF ¶¶ 138-139. Yet ORR's decision memo does not explain or even acknowledge this limit on the parental exception. PSSUMF ¶ 45. ORR thus gave no consideration to the family integrity burdens of forcing parents such as Isabel D. and Sofia W. to choose between continuing to live with their close relatives or sponsoring their sons. PSSUMF ¶¶ 138, 190-191; *Moore*, 431 U.S. at 504-06.

Indeed, the decision memo includes no discussion at all of the additional impacts of requiring not just sponsors but also all household members and alternate caregivers to present one of the new forms of acceptable identification, nor does it consider whether the expansion of fingerprinting requirements to these adults sufficiently addressed prior safety concerns. PSSUMF ¶ 38, 53-54. For example, Mateo N. has not been released to his brother because although Steven is a U.S. citizen with acceptable identification, and Steven and his wife completed all background check requirements, Steven's wife has only a foreign passport. PSSUMF ¶¶ 167-175.

The proof of income decision memo includes some factual findings recognizing the relevance of family integrity but then disregards them in the final decision. Specifically, the memo notes that stricter financial screening is typically required for *non-related* foster parents and that denying a parent or legal guardian "solely based on financial hardship . . . does not align with standard child welfare practices in the United States." PSSUMF ¶ 76. Based on these facts, the memo notes that "a carve out for parents/ legal guardians [] ensures a balanced approach, protecting parental rights while maintaining child safety protections against trafficking and labor exploitation." PSSUMF ¶ 77. Despite these findings, ORR adopted the proof of income requirements without any parental exception. PSSUMF ¶ 66. ORR does not explain this disconnect "between the facts found and the choice made.'" *State Farm*, 463 U.S. at 43; PSSUMF ¶ 78.

Finally, neither decision memo includes any consideration of the reliance interests of children and sponsors who provided extensive sensitive personal information to ORR because they believed they were eligible to sponsor a child based on the requirements in the sponsorship application. PSSUMF ¶¶ 5, 56, 80; *Fox Television Stations*, 556 U.S. at 515; *Regents*, 591 U.S. at 30-31. Notably, the current OMB-approved sponsorship application still lists the old identification and income requirements. PSSUMF ¶¶ 18, 60. Some sponsors such as Milagro G. who began the application process after the new identification rules were in place were nonetheless instructed to complete the sponsorship application and submit to fingerprinting before they were informed they were ineligible based on a lack of qualifying identification. PSSUMF ¶¶ 18, 180-181. Finally, ORR

entirely failed 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. PSSUMF ¶ 57.

2. Lack of justification for specific document requirements

In addition to disregarding relevant statutory and constitutional factors, ORR failed to "articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made" to accept only certain specific documents to prove identity and financial stability. *State Farm*, 463 U.S. at 43. As a result, there are "material gaps in the agency's articulated rationale." *Solondz v. FAA*, 141 F.4th 268, 278 (D.C. Cir. 2025). Despite acknowledging that the documents selected would be inaccessible to many sponsors, the agency failed to consider alternatives that could achieve its policy goals of ensuring safe releases. *Regents,* 591 U.S. at 30.

No one disputes that ORR must verify the identity of a potential sponsor as part of its statutory duty to protect children from trafficking. 8 U.S.C.§ 1232(c)(3)(A). But ORR cannot arbitrarily limit the types of identification sponsors, or their household members, must possess without reasoned explanation. Notably, ORR's earlier February 7, 2025, memorandum regarding fraud concerns in the sponsorship process emphasized problems with ORR's internal procedures rather than the specific form of identification presented and called only for reassessing the use of certain *secondary* documents "that cannot reliably be verified." PSSUMF ¶ 29. Yet ORR's decision memo regarding its new proof of identification policy does not discuss or evaluate the reliability of different types of identity documents and instead refers vaguely to fraud concerns regarding foreign issued documents generally. PSSUMF ¶¶ 22-28. As a result, ORR did not consider whether nationally-issued documents such as foreign passports, national identification cards, or consular identification cards present the same verification challenges as secondary documents like baptismal certificates or marriage certificates. PSSUMF ¶ 30.

Rather than conducting a reasoned analysis of the risks and benefits of the different types of documentation ORR previously accepted, ORR simply imported the USCIS I-9 required documentation without explanation. PSSUMF ¶¶ 22-26. According to the administrative record, the I-9 list was the only option presented for consideration and ORR considered no alternatives.

PSSUMF ¶ 28. The sole rationale provided by the agency is ORR's unsupported "belief" that the I-9 list documents "provide a safer framework for proving and authenticating identity" and "[t]hese are documents that the federal government relies on to establish identity for both citizens and non-citizens." PSSUMF ¶ 25. The memo omits the critical fact that the I-9 list is specifically intended to establish work authorization and is used to establish identity only for non-citizens with work authorization, thus excluding the large number of key stakeholders—potential sponsors who lack work authorization and the children hoping to reunify with them. As a result, ORR did not even consider whether the I-9 list could be modified to focus on identity only and not work authorization—such as by accepting foreign passports regardless of work authorization. *See State Farm*, 463 U.S. at 49 ("Not having discussed the possibility, the agency submitted no reasons at all."). Notably, the federal government routinely accepts foreign passports as proof of identification in other contexts. PSSUMF ¶ 27. Without more in the record—and there is nothing more—the Court cannot determine whether ORR's decision is reasonable. *See Alpharma, Inc. v. Leavitt*, 460 F.3d 1, 11 (D.C. Cir. 2006).

Even ORR's more general justification for changing its proof of identity requirements—difficulties and delays in authenticating foreign issued documents—is not rationally tied to its policy choice. The memo fails to acknowledge that ORR continues to accept and authenticate foreign issued documents for other purposes and thus changing sponsor identification requirements does not eliminate the delays or potential difficulties associated with coordinating with foreign consulates. PSSUMF ¶ 35. For example, ORR requires a birth certificate or other similar foreign documents to establish the child's identity and the sponsor-child relationship. PSSUMF ¶ 32. On March 7, 2025—simultaneously with ORR's new sponsor identification requirements—ORR amended the Policy Guide to require that "Federal staff must exhaust all available avenues to verify the authenticity of birth certificates." PSSUMF ¶ 33. ORR does not explain why it can authenticate birth certificates but not foreign passports, consular identification cards, or other foreign issued identification documents. PSSUMF ¶ 34.

ORR also failed to consider whether other existing vetting mechanisms could adequately establish a sponsor's identity without requiring categorical disqualification based on a sponsor's inability to obtain specific forms of identification. *See Solondz*, 141 F.4th at 278 (finding FAA policy to categorically deny medical certification to pilots using a specific medication was arbitrary and capricious where the agency did not consider whether existing case-by-case monitoring process was sufficient to protect safety). At the time of the proof of identification policy change, ORR had already enacted universal fingerprinting for all sponsors, adult household members, and alternate caregivers, PSSUMF ¶ 15, and was actively considering expanded DNA testing for related sponsors. PSSUMF ¶ 16. Yet ORR did not consider whether these measures would adequately address concerns about identity fraud. PSSUMF ¶ 54. Nor did ORR consider an exception for sponsors whose identities could be easily verified with their home country consulate, or any other alternatives for sponsors who could not access certain documentation. PSSUMF ¶ 31.

ORR's choice of proof of income documentation was similarly unsupported. Although the agency produced multiple memos discussing the importance of verifying sponsor financial stability, *none* explained why the agency chose these specific documents. PSSUMF ¶ 63. The agency acknowledged that potential sponsors may not have these documents and "may not be able to complete their sponsorship application" or might even attempt to submit fraudulent documents in desperation. PSSUMF ¶¶ 68-69. Yet ORR did not consider whether alternative more accessible documents could equally serve its stated purposes—such as bank statements or a letter from a small employer who lacks company letterhead. PSSUMF ¶ 69. ORR also failed to consider that in some cases another individual—such as the sponsor's partner—may contribute financial support to the child. PSSUMF ¶ 70. Nor did ORR explain why ORR's existing tools—which included inquiries about a sponsor's sources of financial support, employment, and income—were insufficient to confirm financial stability, beyond vague references to minimizing variability in decision making. PSSUMF ¶ 71.

D. ORR's New Documentation Requirements Violate the Paperwork Reduction Act

ORR's new documentation requirements must also be set aside because ORR failed to follow the procedures required by the Paperwork Reduction Act (PRA). 5 U.S.C. § 706(2)(D). 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 obtaining a control number from OMB. 44 U.S.C. § 3507(a) (emphasis added); 5 C.F.R. § 1320.5(a). An agency must "inform[] the potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number." 5 C.F.R. § 1320.5(b)(2)(i). 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.*, 766 F. Supp. 3d 39, 51 (D.D.C. 2025); *Am. Fed'n of Tchrs. v. Dep't of Educ.*, No. CV SAG-25-628, 2025 WL 2374697, at *20 (D. Md. Aug. 14, 2025); *Orr v. Trump*, 778 F. Supp. 3d 394, 426 (D. Mass. 2025), *appeal filed* (1st Cir. June 13, 2025).

As discussed above, the Family Reunification Application last approved by OMB permits a wide range of identification documents and permits a narrative answer regarding proof of income rather than requiring specific documents. *See* PSSUMF ¶¶ 18, 60. In March and April 2025, without obtaining OMB approval, ORR began requiring potential sponsors to meet proof of identification and proof of income requirements different from those in the application. PSSUMF ¶¶ 19-20, 61, 90. ORR acknowledges these are information collection requirements and is in the process of seeking OMB approval to revise them, but it has been brazenly imposing those requirements before obtaining OMB approval. PSSUMF ¶¶ 20, 87-90, 100.

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 similarly permit sponsors to establish their proof of identification and financial ability to support the child through the reasonable means provided in the OMB-approved application operative at the time the sponsor first applied. *Saco River Cellular*, 133 F.3d at 32 ("[A]n agency may not, having belatedly gotten OMB approval of an information collection requirement, punish a respondent for its faulty compliance while the collection was still unauthorized."),

E. ORR was Required, but Failed to, Engage in Notice-and-Comment Rulemaking.

ORR's new documentation requirements are legislative rules that, under the APA, can only be promulgated through notice and comment procedures. Here, ORR did not give the public notice or the opportunity to comment before it imposed its new proof of identification and proof of income documentation requirements. Nor has ORR established that any of the notice-and-comment exceptions apply. *See* 5 U.S.C. § 553(b)-(d).

In determining whether an agency action is a legislative rule subject to notice and comment requirements, courts consider "whether the agency action (1) impose[s] any rights and obligations or (2) genuinely leaves the agency and its decisionmakers free to exercise discretion." *General Elec. Co. v. EPA*, 290 F.3d 377, 382 (D.C. Cir. 2002). "[A]n agency pronouncement will be considered binding as a practical matter if it either appears on its face to be binding or is applied by the agency in a way that indicates it is binding." *Id.* at 383 (internal citations omitted). The exception for "rules of agency organization, procedure, or practice" is a narrow "exception for internal house-keeping measures" and does not apply "[w]here a rule imposes substantive burdens… trenches on substantial private rights or interests, or otherwise alters the rights or

interests of parties." *AFL-CIO v. NLRB*, 57 F. 4th 1023, 1035 (D.C. Cir. 2023) (internal citations omitted).

Here, ORR's new documentation requirements are legislative rules because they impose new binding requirements on potential sponsors and effectively disqualify large numbers of sponsors based on immigration status rather than the individualized assessment of sponsor suitability contemplated by the TVPRA and ORR Foundational Rule. *See J.E.C.M.*, 352 F. Supp. 3d at 581-82; 8 U.S.C. 1232(c)(3). Potential sponsors are "required" to submit identification and income documents from the new, more restrictive lists of acceptable documents. PSSUMF ¶¶ 19, 21, 61-62; *see also General Elec. Co. v. EPA*, 290 F.3d 377, 382 (D.C. Cir. 2002) ("A document will have practical binding effect before it is actually applied if the affected private parties are reasonably led to believe that failure to conform will bring adverse consequences, such as . . . denial of an application." (quoting Robert A. Anthony, Interpretive Rules, 41 Duke L.J. 1311, 1328-29 (1992))). Those who are unable to provide the specific proof of identification and proof of income documents required by ORR are not permitted to serve as sponsors. PSSUMF ¶ 19, 21, 61-62. That ORR has retained the right to grant exceptions to the proof of identification requirement for parents or legal guardians (but not their household members) does not make the requirement any less of a legislative rule. *See Elec. Priv. Info. Ctr. v. DHS*, 653 F.3d 1, 7 (D.C. Cir. 2011) (TSA adoption of advanced imaging technology as primary screening tool at airports was a legislative rule even though passengers could opt for a patdown); *Guardian Fed. Sav. & Loan Ass'n v. Fed. Sav. & Loan Ins. Corp.*, 589 F.2d 658, 667 & n.33 (D.C. Cir. 1978) ("stringent substantive commands are not removed from section 553 because they have some provision for discretionary waiver").

IV. The IFR and New Documentation Requirements Should be Vacated

Because the IFR and new documentation requirements are contrary to law and arbitrary and capricious, they must be vacated. "When an agency's action is unlawful, vacatur is the normal remedy." *Bridgeport Hosp. v. Becerra*, 108 F.4th 882, 890 (D.C. Cir. 2024); *see also Am. Bioscience*, 269 F.3d at 1084 (if a plaintiff "prevails on its APA claim, it is entitled to relief under

that statute, which normally will be a vacatur of the agency's order."). This is not one of the "rare cases" where remand without vacatur is appropriate. *United Steel v. Mine Safety and Health Admin.*, 925 F.3d 1279, 1287 (D.C. Cir. 2019). Both the IFR and documentation requirements have serious legal deficiencies and vacating them would not lead to significant disruption given ORR's multiple other vetting tools. *Standing Rock Sioux Tribe v. U.S. Army Corps of Eng'rs*, 985 F.3d 1032, 1051 (D.C. Cir. 2021). In addition, "deficient notice is a 'fundamental flaw' that almost always requires vacatur." *Allina Health Servs. v. Sebelius*, 746 F.3d 1102, 1110 (D.C. Cir. 2014).

Consistent with ordinary APA practice, the IFR and new documentation requirements should be vacated as to all children in ORR custody. *See Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 539 F. Supp. 3d 29, 43 (D.D.C. 2021) ("This Circuit has instructed that when 'regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioner is proscribed.'") (quoting *Nat'l Mining Ass'n v. U.S. Army Corps of Eng'rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998)); *see also Corner Post*, 603 U.S. at 827 (Kavanaugh, J., concurring) (noting that the government's "far-reaching argument that the APA . . . permits a court only to enjoin an agency from enforcing a rule against the plaintiff" is wrong).

V. Plaintiffs are Also Entitled to a Permanent Injunction

The Court can vacate the IFR and new documentation requirements without issuing a permanent injunction or finding irreparable harm. *See American Bioscience*, 269 F.3d at 84. A permanent injunction, however, is necessary in this case to ensure prompt and effective relief to Plaintiffs and the putative class. Specifically, Plaintiffs request that ORR and its agents, Fed. R. Civ. P. 65(d)(2), (1) cease applying the vacated policies to sponsorship applications; (2) issue prompt guidance to ORR care providers regarding the changed requirements; (3) inform previously disqualified or denied sponsors of their right to continue their sponsorship applications; and (4) promptly adjudicate previously submitted applications without regard to the vacated policies and in accordance with ORR's regulatory timelines, 45 C.F.R. § 410.1205(b).

"The traditional four-factor test applies when a plaintiff seeks a permanent injunction" in an APA case. *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 157 (2010). "A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law . . . are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *Id.* (quoting *eBay Inc. v. MercExchange, L.L. C.,* 547 U.S. 388, 391 (2006); *see also CREW v. OMB*, No. 25-cv-1111, 2025 WL 2025114, at *17 (D.D.C. July 21, 2025). Plaintiffs satisfy this standard.

A. Plaintiffs Are Irreparably Harmed by a Delay in Release And Have No Other Adequate Remedy.

As a result of ORR's unlawful polices, child Plaintiffs who remain in custody and the putative class are suffering irreparable harm as they are unnecessarily detained and separated from their families. Each day children remain unnecessarily separated from their families, the greater the irreparable harm becomes. Plaintiffs therefore require injunctive relief to ensure that ORR promptly discontinues its unlawful policies.

Courts, including this one, have consistently found that family separation and unnecessarily prolonged ORR detention creates irreparable injury. *E.g.*, Mem. Op. at 17; *Jacinto-Castanon de Nolasco v. U.S. 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 (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); *Andreiu v. Ashcroft*, 253 F.3d 477, 484 (9th Cir. 2001) (en banc).

The irreparable injury is clear for Plaintiffs. Mateo N. describes that he "feel[s] sad all the time at the shelter. I even cry sometimes because I'm sad to be apart from my family. . . I just want to be with them and be together." Mateo N. Decl. ¶¶ 9-10. Yair G. explains, "I want to be with people who will help me and care for me. It's better to live with your family than in a shelter. It's

not right that so many kids are stuck in shelters when there are family members who want to help thema and take care of them." Yair G. Decl. ¶¶ 10-11. David D., only 14 years old, waited anxiously for five weeks with no news on whether ORR would grant his mother an exception to the identification requirements—after already waiting months for her to complete all of ORR's other requirements. PSSUMF ¶ 185-97; Isabel D. Decl. ¶ 8. David feels sad in the shelter and he wants to live with his mother instead of "with people I don't know," where he can study and "to go to the park and have a normal life." David D. Decl. ¶¶ 4, 6, 9. Plaintiffs Angelica S., Eduardo M, Liam W., Xavier L., and Leo B. experienced similar irreparable harm before they were finally released from ORR custody. *See* Angelica S. Decl. ¶¶ 4-5, 12 (ECF 9-7); Rosa M. Decl. ¶ 11 (ECF 9-13); Liam W. Decl. ¶¶ 2, 10 (ECF 9-9); Ximena L. Decl. ¶¶ 11-12 (ECF 9-15); Leo B. Decl. ¶¶ 6, 10-17 (ECF 9-10).

ORR's conduct after the preliminary injunction also illustrates the need for a permanent injunction. After the Court issued its preliminary injunction on June 9, 2025, ORR waited two weeks before issuing instructions to its care providers as to compliance with the injunction, despite repeated requests from Plaintiffs. Ex. 1, Supplemental Declaration of Cynthia Felix ("Felix Suppl. Decl.") ¶ 42, Sept. 11, 2025; Ex. 2, Declaration of Joel McElvain ¶ 5 & Ex. A, Sept. 12, 2025. During this two-week delay, children's release cases did not move forward and children experienced significant anxiety and confusion due to the lack of updates or progress on their release cases. Felix Suppl. Decl. ¶¶ 40-44. Specific injunctive relief is thus necessary to ensure a prompt remedy to children's irreparable harm. *See Ramirez v. ICE*, 568 F.Supp.3d 10, 26-27 (D.D.C. 2021) (finding that ICE's conduct in the litigation emphasized need for injunctive relief).

B. Balance of the Equities and Public Interest Support an Injunction.

The remaining factors—the balance of equities and 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 APA in numerous ways and conflict with ORR's statutory mandate under the HSA and the TVPRA. In addition, Plaintiffs proposed injunctive relief is limited to ensuring compliance with the Court's orders.

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."). 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. If the Court vacates the challenged policies, ORR has no legitimate interest in delaying reunification of children and their families.

Moreover, as this Court has already stated, "the government 'cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns.' . . . And the public interest is served when the government follows the APA's procedural requirements by offering a reasoned explanation for its decisions." Mem. Op. at 18 (ECF 35); *see also R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015); *N. Mariana Islands v. United States*, 686 F. Supp. 2d 7, 21 (D.D.C. 2009).

VI. Plaintiffs are Entitled to Declaratory Relief

Plaintiffs are also entitled to a declaration that holds unlawful and sets aside the IFR and the March 7 and April 15, 2025 revisions of the ORR Policy Guide Section 2.2.4. *See* 5 U.S.C. § 703 (authorizing claims for declaratory relief); 28 U.S.C. § 2201. A declaratory judgment may be granted when it "will serve a useful purpose in clarifying the legal relations in issue" or "terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to the proceeding." *Glenn v. Thomas Fortune Fay*, 222 F. Supp. 3d 31, 36 (D.D.C. 2016); *see also Tierney v. Schweiker*, 718 F.2d 449, 456 (D.C. Cir. 1983) (same). Here, declaratory relief would inform and clarify for Defendant the lawful process for reviewing sponsorship application of detained unaccompanied minors. Therefore, should the Court find the IFR and new documentation requirements to be unlawful, Plaintiffs request the Court also issue a declaratory judgment that the IFR and new requirements are unlawful, invalid, and may not be given effect. *Tierney*, 718 F.2d at 457 ("[D]eclaratory relief is alternative or cumulative and not exclusive or extraordinary. . . . The fact that another remedy would be equally effective affords no ground for declining declaratory relief."); *see also, e.g.*, *Eco Tour Adventures, Inc. v. Jewell*, 174 F. Supp. 3d 319, 332 (D.D.C. 2016) (finding plaintiff had standing to seek both injunctive and declarative relief for APA claims).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court vacate the IFR and ORR's new proof of identification and proof of income policies and issue declaratory relief and a permanent injunction requiring ORR to promptly adjudicate sponsorship applications without regard to these policies.

Date: September 12, 2025

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGELICA S., *et al.*, Plaintiffs, v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*, Defendants.	No. 1:25-cv-01405 (DLF)

Plaintiffs' Separate Statement of Undisputed Material Facts

I. Interim Final Rule

Undisputed Material Fact	Administrative Record and/or Evidentiary or Other Support
1. The sole justification for the IFR issued on March 25, 2025, was a purported conflict between the Information Sharing provision of 45 C.F.R. § 410.1201(b) and 8 U.S.C. § 1373.	UC Program Foundational Rule Update (IFR), Angelica-00000021-28 Informational Memo re: Interim Final Rule entitled "Unaccompanied Children Program Foundational Rule; Update to Accord with Statutory Requirements" ("IFR Informational Memo"), Angelica-00000099-101 Decision memo re: Approval of Interim Final Rule entitled "Unaccompanied Children Program Foundational Rule; Update to Accord with Statutory Requirements" ("IFR Decision Memo"), Angelica-00000102-106.
2. The administrative record does not provide any justification (other than an assertion that the Disqualification and Information Collection provisions of 45 C.F.R. § 410.1201(b) are inextricably linked) for the rescission of the Disqualification and Information Collection provisions in 45 C.F.R. § 410.1201(b).	Administrative Record Index ("Index"), ECF 47-1; IFR, Angelica-00000021-28, IFR Informational Memo, Angelica-00000099-101, IFR Decision Memo, Angelica-00000102-106.
3. The administrative record does not address the impact on unaccompanied children's length of custody of the rescission of 45 C.F.R. § 410.1201(b).	Index, ECF 47-1; Angelica-00000021-28, IFR Informational Memo, Angelica-00000099-101, IFR Decision Memo, Angelica-00000102-106.
4. The administrative record does not address potential conflicts between the IFR and ORR's statutory obligation to promptly place children in the least restrictive setting.	Index, ECF 47-1; Angelica-00000021-28, IFR Informational Memo, Angelica-00000099-101, IFR Decision Memo, Angelica-00000102-106.

5. The administrative record does not address the reliance interests of sponsors and other adults required to participate in the sponsorship process who already provided sensitive personal information to ORR based on ORR's prior policies.	Index, ECF 47-1; Angelica-00000021-28, IFR Informational Memo, Angelica-00000099-101, IFR Decision Memo, Angelica-00000102-106 Declaration of Deisy S. ("Deisy S. Decl.") ¶ 10, ECF 9-12 Declaration of Ximena L. ("Ximena L. Decl." ¶ 5, ECF 9-15.
6. The administrative record does not mention Congressional restrictions on the use of sponsor information by DHS or ORR's Privacy Act Notice.	Index, ECF 47-1; Angelica-00000021-28, IFR Informational Memo, Angelica-00000099-101, IFR Decision Memo, Angelica-00000102-106.
7. The public submitted nearly 400 comments on the IFR.	Comments, Unaccompanied Children Program Foundational Rule; Update, https://www.regulations.gov/document/ACF-2025-0004-0001/comment (last visited Sept. 9, 2025).
8. The Foundational Rule, part of which the IFR repealed, received over 73,000 comments.	Comments, Unaccompanied Children Program Foundational Rule, https://www.regulations.gov/document/ACF-2023-0009-0001/comment (last visited Sept. 9, 2025).

II. Sponsor Application Process

Undisputed Material Fact	Administrative Record and/or Evidentiary or Other Support
9. When a child enters ORR custody, the ORR care provider interviews the child and close family members to identify potential sponsors.	Office of Refugee Resettlement, Unaccompanied Alien Children Bureau Policy Guide ("Policy Guide") § 2.2.1,

	https://perma.cc/7XKY-LNHN (as of Sept. 9, 2025).
10. After an ORR care provider identifies a potential sponsor, the care provider or ORR National Call Center sends the child's potential sponsor a sponsor application packet with an application form.	Policy Guide § 2.2.3, https://perma.cc/7XKY-LNHN (as of Sept. 9, 2025).
11. The March 2024 version of ORR's "Family Reunification Application" was approved by the Office of Management and Budget ("OMB") pursuant to the Paperwork Reduction Act.	Plaintiffs' First Amended Complaint "Amended Complaint") ¶¶ 67, 70-71, ECF 48; Defs.' Answer to First Amended Complaint ("Defs.' Answer") ¶¶ 67, 70-71, ECF 53.
12. Most of the potential sponsors of children in ORR custody lack stable lawful immigration status.	Decision Memo re: Sub-Regulatory Guidance; Revisions to the Unaccompanied Children Bureau Policy Guide and Manual of Procedures Revisions to Require Sponsors to Provide Proof of Income ("Income Decision Memo), Angelica-00000115 ("Immigrant rights advocates are likely to note that the majority of potential sponsors engaging with UACB do not have work authorization and may not be able to provide documentation required under this update to ORR's sub-regulatory guidance") Decision Memo re: Revisions to ORR UACB Policy Guide Sections 2.2.4, 2.7.4, and 5.8.2, and accompanying procedures—Improving the Sponsor Vetting Process in Order to Mitigate Fraud and Enhance UAC Protections ("ID Decision Memo"), Angelica-00000084

	Declaration of Mari Dorn-Lopez ("Dorn-Lopez Decl.") ¶ 8, ECF 10-13 Declaration of Jenifer Smyers ("Smyers Decl.") ¶ 7, ECF 10-14 William Kandel, Cong. Rsch. Serv., R 43599 *Unaccompanied Alien Children: An Overview* 24 (updated Sept. 2024), https://www.congress.gov/crs-product/R43599 (In 2018, ICE data indicated that approximately 80 percent of sponsors and household members lacked lawful immigration status.).
13. ORR has historically accepted sponsors without stable lawful immigration status.	ID Decision Memo, Angelica-00000082-84; Proof of Income Decision Memo, Angelica-00000115; Preamble, ORR Foundational Rule, 89 Fed. Reg. at 34440.
14. 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.	Policy Guide §§ 2.6, 2.7.6, https://perma.cc/7XKY-LNHN (as of Sept. 9, 2025); Smyers Decl. ¶ 8, ECF 10-14.
15. As of February 14, 2025, ORR requires that all sponsors, all adult household members, and all alternate caregivers to submit to a fingerprint-based background check.	Amended Complaint ¶ 47; Defs.' Answer ¶¶ 46-47. Field Guidance #26 - Fingerprint Background Checks and Acceptable Supporting Documentation for a Family Reunification Application ("Fingerprinting Guidance"), Angelica-00000001-04 Informational Memo re: Office of Refugee Resettlement to publish Field Guidance 26,

	"Fingerprint Background Checks and Acceptable Supporting Documentation for a Family Reunification Application" ("Fingerprinting Informational Memo"), Angelica-00000077-79.
16. At the time of the proof of identification policy change, ORR was also actively considering expanded DNA testing for related sponsors.	Informational Memo re: Universal Biometric Screening for Sponsors of Unaccompanied Alien Children ("Biometric Informational Memo"), Angelica-00000048, 58-59.
17. As of March 14, 2025, ORR also requires DNA testing of the child and sponsor in every case where a sponsor claims a biological relationship with the child.	Amended Complaint ¶ 48; Defs.' Answer ¶ 48. Decision Memo re: Field Guidance #27: DNA Testing Expansion ("DNA Decision Memo"), Angelica-00000093-98.

III. Changes to Proof of Identity Requirements

Undisputed Material Fact	Administrative Record or Evidentiary Support
18. The current OMB-approved application form lists acceptable forms of identification for sponsors or other individuals required to participate in the sponsorship process in the "Supporting Documents" section and permits these individuals to establish their identity through a primary document such as a foreign passport or two or more secondary documents such as a birth certificate, foreign national identification card, or similar documentation.	Amended Complaint ¶¶ 50, 67; Defs.' Answer ¶¶ 50, 67 UAC MAP Section 2.2.4, 2.4.1, 2.7.4 - 2025 04 15, Angelica-00000029-30 (reflecting prior identification requirements) Ex. 1-A, Family Reunification Application at 8, Declaration of Diane de Gramont ("de Gramont Decl."), ECF 10-5.
19. On March 7, 2025, ORR unilaterally amended its Policy Guide § 2.2.4 to include a new, more restrictive list of acceptable forms of identification for sponsors,	Amended Complaint ¶ 67; Defs.' Answer ¶ 67

adult household members, and alternative adult caregivers that differs from the requirements in the OMB-approved application form.	Policy Guide § 2.2.4, Angelica-00000005-06. ID Decision Memo, Angelica-00000080-85.
20. ORR has not obtained OMB approval for its new identification information collection requirements.	Amended Complaint ¶ 167; Defs.' Answer ¶ 167.
21. The new list of permissible forms of identification 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.	Policy Guide § 2.2.4, Angelica-00000005-06; Amended Complaint ¶ 51; Defs.' Answer ¶ 51.
22. ORR's new proof of identification requirements are imported from the U.S. Citizenship and Immigration Services ("USCIS") Form I-9 requirements for employees to establish identity and work authorization.	ID Decision Memo, Angelica-00000082-83; U.S. Citizenship and Immigration Services, Form I-9 Acceptable Documents, https://www.uscis.gov/i-9-central/form-i-9-acceptable-documents (last accessed Sept. 8, 2025).
23. The Form I-9 is specifically designed to disqualify individuals who lack lawful work authorization.	U.S. Citizenship and Immigration Services, I-9, Employment Eligibility Verification, https://www.uscis.gov/i-9 (last accessed Sept. 10, 2025). U.S. Citizenship and Immigration Services, Form I-9 Acceptable Documents, https://www.uscis.gov/i-9-central/form-i-9-acceptable-documents (last accessed Sept. 10, 2025).
24. ORR's decision memo acknowledges—but does not rebut—a likely objection from advocates that the new identity requirements will be "particularly burdensome on the ability of undocumented or out of status [individuals] to sponsor children."	ID Decision Memo, Angelica-00000084.

25. The only justification for using the Form I-9 list in the administrative record is that "ORR believes" these documents "provide a safer framework for proving and authenticating identity" and "[t]hese are documents that the federal government relies on to establish identity for both citizens and non-citizens."	ID Decision Memo, Angelica-0000082.
26. ORR did not consider that the I-9 list is specifically intended to establish work authorization and is used to establish identity only for non-citizens with work authorization.	ID Decision Memo, Angelica-0000080-85.
27. The federal government routinely accepts foreign passports as proof of identification in other contexts, such as for visa applications or tax identification numbers.	U.S. Department of State, Bureau of Consular Affairs, Visitor Visa, https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visitor.html#documentation (last accessed Sept. 10, 2025) Internal Revenue Service, ITIN Supporting Documents, https://www.irs.gov/tin/itin/itin-supporting-documents (last accessed Sept. 10, 2025).
28. ORR did not consider alternatives to the Form I-9 list of acceptable identifications.	ID Decision Memo, Angelica-0000080-85.
29. ORR's earlier February 7, 2025, memorandum regarding fraud concerns in the sponsorship process emphasized problems with ORR's internal procedures rather than the specific form of identification presented and called only for reassessing the use of certain *secondary* documents "that cannot reliably be verified."	Memo re: Recommendations to Combat Trafficking and Fraud in the UAC Program ("Harper Memo"), Angelica-00000246-254.
30. ORR did not consider whether nationally-issued documents such as foreign passports, national identification cards, or consular identification cards present the same verification challenges as baptismal certificates or marriage certificates.	ID Decision Memo, Angelica-0000080-85; Harper Memo, Angelica-00000246-254.
31. ORR did not consider an exception for sponsors whose identities could be easily verified with their home country consulate.	ID Decision Memo, Angelica-0000080-85; Declaration of Isabel D. ("Isabel D. Decl.") ¶ 4, ECF 56-7 (noting that she used her consular identification card as a form of identification).

32. ORR requires a birth certificate to establish the child's identity and birth certificates or other similar foreign documents to establish the sponsor-child relationship.	Policy Guide § 2.2.4, Angelica-00000007.
33. On March 7, 2025—simultaneously with ORR's new sponsor identification requirements—ORR amended the Policy Guide to require that "Federal staff must exhaust all available avenues to verify the authenticity of birth certificates."	*Compare* Policy Guide § 2.2.4, Angelica-00000007 (as of March 10, 2025), *with* Ex. 1-E, ORR Policy Guide Sec. 2.2.4, de Gramont Decl., ECF 10-9 (as of February 27, 2025).
34. ORR has not explained why it can authenticate birth certificates but not foreign passports, consular identification cards, or other foreign issued identification documents.	Policy Guide § 2.2.4, Angelica-00000007; ID Decision Memo, Angelica-0000080-85.
35. ORR did not acknowledge that the delays associated with authenticating foreign documents will persist even if the sponsor has U.S.-issued identification.	Policy Guide § 2.2.4, Angelica-00000005; ID Decision Memo, Angelica-0000080.
36. ORR applied its new proof of identification policy to all pending sponsorship applications, including to completed applications ready for approval.	Amended Complaint ¶¶ 75, 102; Defs.' Answer ¶¶ 75, 102 Deisy S. Decl. ¶ 22, ECF 9-12; Declaration of Rosa M. ("Rosa M. Decl.") ¶¶ 4-5, ECF 9-13; Ex. 5, Declaration of J.E.D.M. ("J.E.D.M. Decl.") ¶ 6, ECF 10-16; Declaration of Sofia W. ("Sofia W. Decl.") ¶¶ 6-7, ECF 9-14; Ximena L. Decl. ¶¶ 6-8, ECF 9-15.
37. Parents and other sponsors who provided ORR a copy of their foreign passport but lacked accompanying immigration documentation were told that their foreign passports were now insufficient under the new policy.	Amended Complaint ¶¶ 75, 102, 115-116; Defs.' Answer ¶¶ 75, 102, 115-116 Rosa M. Decl. ¶¶ 3, 5, ECF 9-13; Sofia W. Decl. ¶¶ 4, 7, ECF 9-14; Ximena L. Decl. ¶¶ 6-7, ECF 9-15; Deisy S. Decl. ¶¶ 11, 22, ECF 9-12; Declaration of Milagro G. ("Milagro G. Decl.") ¶¶ 5-6, ECF 56-5.

38. Even if a sponsor has qualifying identification and there are no safety concerns, ORR refuses to release a child unless *all* adults in the household and the alternate caregiver also have newly required identification.	ORR Policy Guide § 2.2.4, Angelica-00000005; Amended Complaint ¶¶ 109-111; Defs.' Answer ¶¶ 109-111; Declaration of Steven N. ("Steven N. Decl.") ¶¶ 3, 6, 8-9, ECF 56-3.
39. ORR's decision memo regarding proof of identification does not address the burdens on family integrity of disqualifying non-parent close relative sponsors based on a lack of specific identification.	ID Decision Memo, Angelica-0000080-85.
40. The new policy permits exceptions to the new ID requirements only for a parent or legal guardian sponsor, and even then, only if "supported by clear justification" and with approval of ORR Headquarters "on a case-by-case basis."	Policy Guide § 2.2.4, Angelica-00000005; ID Decision Memo, Angelica-0000083.
41. Even when a parent is the sponsor, the adult household members living with the parent and alternate caregiver are not eligible for an exception and still have to provide qualifying identification.	Amended Complaint ¶ 55, Defs.' Answer ¶ 55; Sofia W. Decl. ¶ 7, ECF 9-14; Rosa M. Decl. ¶ 6, ECF 9-13; Isabel D. Decl. ¶ 5, ECF 56-7.
42. The ID decision memo notes, without rebutting, that stakeholders are "likely to claim ORR's restrictions place barriers on sponsors, in particular parents, to the principles of family unity."	ID Decision Memo, Angelica-0000084.
43. The ID decision memo includes no reasoning or explanation of the decision to require ORR Headquarters approval for every parent or legal guardian sponsor who lacks newly required identification.	ID Decision Memo, Angelica-0000080-85.
44. The ID decision memo includes no consideration of the likely delays associated with requiring ORR Headquarters approval for every parent or legal guardian sponsor who lacks newly required identification.	ID Decision Memo, Angelica-0000080-85.
45. The ID decision memo includes no reasoning or explanation regarding the refusal to apply the potential exception for parents or legal guardians to the parent's household members.	ID Decision Memo, Angelica-0000080-85.
46. ORR gave no consideration to the family integrity burdens of forcing parents to choose between living with their close relatives or sponsoring their sons or blocking a sibling from sponsorship so long as he lives with his wife who lacks acceptable identification.	ID Decision Memo, Angelica-00000080-85; Isabel D. Decl. ¶ 5, ECF 56-7; Sofia W. Decl. ¶ 7, ECF 9-14; Steven N. Decl. ¶¶ 3, 8-9, ECF 56-3.
47. There is no timeline or decision criteria for ORR's approval of ID exception requests.	Policy Guide § 2.2.4, Angelica-00000006; ID Decision Memo, Angelica-00000080-85.

48. Children and their parents can be left weeks waiting for approval of an ID exception with no information or updates.	Isabel D. Decl. ¶¶ 7-8, ECF 56-7; Defs.' Answer ¶ 125 (admitting that, as of August 29, 2025, ORR had not issued Isabel a decision regarding her exception request); Rosa M. Decl. ¶¶ 9-11, ECF 9-13; Ex.. 1, Supplemental Declaration of Cynthia Felix ¶¶ 15-17, September 11, 2025 ("Felix Suppl. Decl.") (3-year old child has been pending ID exception request to reunite with mother since 8/1/25).
49. ORR is failing to adjudicate completed sponsor applications within required timelines: 10 or 14 days for parents, legal guardians, and close relatives, "absent an unexpected delay (such as a case that requires completion of a home study)."	Isabel D. Decl. ¶¶ 7-8, ECF 56-7; Amended Complaint ¶ 125; Defs.' Answer ¶ 125; Rosa M. Decl. ¶¶ 9-11, ECF 9-13; Amended Complaint ¶ 13; Defs.' Answer ¶ 13.
50. ORR is taking over a month in some cases to decide applications from parents even after a home study and all other vetting requirements are complete and the case manager has submitted the case to ORR Headquarters.	Isabel D. Decl. ¶¶ 7-8, ECF 56-7; Ex. 1, Felix Suppl. Decl. ¶¶ 15-17; Amended Complaint ¶ 125; Defs.' Answer ¶ 125.
51. 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 the right form of identification.	Deisy S. Decl. ¶ 25, ECF 9-12.
52. Children have pursued release to non-family sponsors because their close family members are disqualified due to lack of qualifying identification.	Declaration of Yair G. ("Yair G. Decl.") ¶¶ 7, 10, ECF 56-4; Milagro G. Decl. ¶ 8, ECF 56-5; Amended Complaint ¶ 117; Defs.' Answer ¶ 117.
53. In contrast to agency memos related to fingerprinting and DNA testing, ORR's decision memo on proof of identification includes no analysis of the impact on children's length of custody associated with the new documentation requirement, much less a weighing of these likely delays against the safety benefits of the new documents.	ID Decision Memo, Angelica-0000080-85 Biometric Informational Memo, Angelica-00000048-71. Decision Memo re: Approval for the Office of Refugee Resettlement to publish Field Guidance 26, "Fingerprint Background Checks and Acceptable Supporting

	Documentation for a Family Reunification Application" ("Fingerprint Decision Memo"), Angelica-00000072-76; Decision Memo re: Field Guidance #27: DNA Testing Expansion, Angelica-000000093-98.
54. ORR did not consider whether these additional biometric information collection measures such as fingerprinting, and DNA testing, could adequately address concerns about sponsor, household member, or alternate caregiver identity fraud.	ID Decision Memo, Angelica-0000080-85; *see also* Fingerprint Decision Memo, Angelica-00000072-76; DNA Decision Memo, Angelica-000000093-98.
55. In deciding to change its identification requirements, ORR did not consider the HHS OIG's 2019 report on the serious mental health impacts of prior policies that increased length of custody, including "higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation."	Index, ECF 47-1; ID Decision Memo, Angelica-0000080-85 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*, 12-13 (Sept. 2019), https://oig.hhs.gov/documents/evaluation/3153/OEI-09-18-00431-Complete%20Report.pdf.
56. ORR's proof of identification decision memo did not consider the reliance interests of children and sponsors who began the reunification process and provided extensive sensitive personal information to ORR because they believed they were eligible to sponsor a child based on the requirements in the sponsorship application.	ID Decision Memo, Angelica-0000080-85
57. ORR did not 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.	ID Decision Memo, Angelica-0000080-85; Declaration of Leo B. ("Leo B. Decl.") ¶¶ 9-14, ECF 9-10; Declaration of Angelica S. ("Angelica S. Decl.") ¶¶ 8-9 ECF 9-7; Rosa M. Decl. ¶¶ 8, 10-11, ECF 9-13;

	Ximena L. Decl. ¶¶ 11-12, ECF 9-15; Yair. G. Decl. ¶ 8-9, ECF 56-4.
58. ORR's decision memos on proof of identification did not consider the risk to children of abuse or mistreatment in ORR custody.	ID Decision Memo, Angelica-0000080-85.
59. A 2024 Department of Justice lawsuit alleged persistent sexual abuse and harassment of unaccompanied children in facilities operated by Southwest Key Programs, the largest operator of ORR facilities at the time.	Complaint ¶ 1, *U.S. v. Southwest Key Programs, Inc.*, No. CV 24-00798 (W.D. Tex. July 17, 2024), ECF No. 1.

IV. Changes to Proof of Income Requirements

Undisputed Material Fact	Administrative Record or Evidentiary Support
60. The OMB-approved sponsor application also asks sponsors to provide a narrative answer about their income and how they will financially support the child but does not require specific supporting documentation.	Amended Complaint ¶¶ 67, 167; Answer ¶¶ 67, 167 Current Published UAC Tools wrt Proof of Income, Angelica-00000309-310; Ex. 1-A, Family Reunification Application at 6, 8-10, de Gramont Decl, ECF 10-5.
61. On April 15, 2025, ORR again amended Policy Guide § 2.2.4 to require specific documentation of proof of income from all sponsors.	Income Decision Memo, Angelica-00000111-116, 121 UAC Policy 2.2.4, 2.4.1 (Redline), Angelica-00000121.
62. 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.	Amended Complaint ¶ 56; Defs.' Answer ¶ 56. Income Decision Memo, Angelica-00000121, 124.
63. Although the agency produced multiple memos discussing the importance of verifying sponsor financial stability, none explained why the agency chose these specific documents.	Index, ECF 47-1 Income Decision Memo, Angelica-00000111-116

	Decision memo re: UAC Policy Guide, Manual of Procedures (MAP) Revisions - Proof of Income, Angelica-0000086-92 ("Kronk Income Memo") Decision memo re: Revisions to the Unaccompanied Children Bureau Policy Guide and Manual of Procedures (MAP) Revisions to require sponsors to provide proof of income, Angelica-00000107-110 ("March 18 Salazar Income Memo").
64. The April 15, 2025, policy change related to proof of income differed from the requirements of the sponsor application.	Amended Complaint ¶ 67; Defs.' Answer ¶ 67.
65. The policy change related to proof of income applied to all applications, including applications that were already complete.	Amended Complaint ¶ 83; Defs.' Answer ¶ 83. Rosa M. Decl. ¶ 8, ECF 9-13; Ximena L. Decl. ¶ 10, ECF 9-15.
66. The April 15, 2025, revision of Policy Guide § 2.2.4 related to proof of income includes no exceptions for parents or legal guardians.	Policy Guide § 2.2.4, Angelica-00000121.
67. The Policy Guide section related to proof of income includes no other mechanism to prove financial stability and ability to care for the child.	Amended Complaint ¶ 57; Defs.' Answer ¶ 57 Policy Guide § 2.2.4, Angelica-00000121.
68. ORR's decision memo related to proof of income acknowledges, without rebutting, the likely argument "that the majority of potential sponsors engaging with UACB do not have work authorization and may not be able to provide documentation required under this update to ORR's sub-regulatory guidance."	Income Decision Memo, Angelica-00000115.
69. Despite acknowledging that potential sponsors may not have these proof of income documents and "may not be able to complete their sponsorship application or may go to more extreme lengths to fake documents in order to sponsor children," ORR did not consider whether alternative more accessible	Income Decision Memo, Angelica-00000111-115; Rosa M. Decl. ¶ 8, ECF 9-13.

documents could equally serve its purposes—such as bank statements or a letter from a small employer who lacks company letterhead.	
70. ORR also failed to consider that in some cases another individual—such as the sponsor's partner—may contribute financial support to the child.	Income Decision Memo, Angelica-00000111-115; Ximena L. Decl. ¶ 10, ECF 9-15.
71. ORR did not explain why ORR's existing tools—which included inquiries about a sponsor's sources of financial support, employment, and income—were insufficient to confirm financial stability, beyond vague references to minimizing variability in decision making.	Income Decision Memo, Angelica-00000112-115.
72. ORR's proof of income decision memo includes a section on relevant legal authority but cites only the TVPRA and Foundational Rule provisions related to sponsor vetting and does not mention ORR's corresponding statutory duties and regulations to release children to the least restrictive setting without unnecessary delay.	Income Decision Memo, Angelica-00000112-113.
73. ORR's decision memo regarding its new proof of income policy notes that the new policy "could result in longer lengths of stay for children in ORR custody, which could be a litigation risk to ORR," but the administrative record related to proof of income does not examine the expected impacts on length of stay or weigh them against the safety benefits of the new policy.	Income Decision Memo, Angelica-00000115; *see also* Index, ECF 47-1; March 18 Salazar Income Memo, Angelica-00000107; Kronk Income Memo, Angelica-0000086-92.
74. ORR did not consider the mental health and other impacts on detained children of the expected increase in detention time caused by this new proof of income policy.	Income Decision Memo, Angelica-00000111-115.
75. ORR did not weigh the expected benefits of its proof of income policies against the impacts on family integrity, despite acknowledging that the new policy would could lead to a "dramatic increase" in the number of denials of close relative sponsors (Category 1 and Category 2).	Kronk Income Memo, Angelica-00000090 Income Decision Memo, Angelica-00000111-115.
76. The proof of income decision memo notes that stricter financial screening is typically required for *non-related* foster parents and recognizes that denying a parent or legal guardian "solely based on financial hardship . . . does not align with standard child welfare practices in the United States."	Income Decision Memo, Angelica-00000111-115.
77. The proof of income decision memo notes that "a carve out for parents/legal guardians [] ensures a balanced approach, protecting parental rights while maintaining child safety protections against trafficking and labor exploitation."	Income Decision Memo, Angelica-00000112.

78. ORR adopted the proof of income requirements without any exception for parents and legal guardians and did not explain why it rejected a carve out for parents and legal guardians.	Income Decision Memo, Angelica-00000111-115.
79. The administrative record related to proof of income does not include consideration of the HHS OIG's 2019 report on the serious mental health impacts of prior policies that increased length of custody, including "higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation."	Index, ECF 47-1; Income Decision Memo, Angelica-00000111-115; March 18 Salazar Income Memo, Angelica-00000107-110; Kronk Income Memo, Angelica-0000086-92 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), https://oig.hhs.gov/documents/evaluation/3153/OEI-09-18-00431-Complete%20Report.pdf.
80. The administrative record related to proof of income does not include consideration of the reliance interests of children and sponsors who began the reunification process and provided extensive sensitive personal information to ORR because they believed they were eligible to sponsor a child based on the requirements in the sponsorship application.	Index, ECF 47-1; Income Decision Memo, Angelica-00000111-115; March 18 Salazar Income Memo, Angelica-00000107-110; Kronk Income Memo, Angelica-0000086-92.
81. The administrative record related to proof of income does not include consideration of the risks to children of abuse or mistreatment in ORR custody.	Index, ECF 47-1; Income Decision Memo, Angelica-00000111-115; March 18 Salazar Income Memo, Angelica-00000107-110; Kronk Income Memo, Angelica-0000086-92.

V. Prolonged Detention

Undisputed Material Fact	Administrative Record or Evidentiary Support
82. Children are routinely remaining in custody far longer because of ORR's new identification and proof of income requirements.	Declaration of Cynthia Felix ¶¶ 7-8, ECF 10-15 ("Felix Decl."); Ex. 1, Felix Suppl. Decl. ¶¶ 14-15, 20; Yair G. Decl. ¶¶ 7-10, ECF 56-4; Isabel D. Decl. ¶¶ 2, 4-6, 8, 10, ECF 56-7; Steven N. Decl. ¶¶ 6-9, ECF 56-3.
83. ORR shelters are more restrictive than living in the community.	Leo B. Decl. ¶¶ 11-13, 15-16, ECF 9-10 (describing restrictive conditions in shelter); Declaration of Liam W. ¶ 9, ECF 9-9 ("Liam W. Decl."); Angelica S. Decl. ¶ 13, ECF 9-7; Ximena L. Decl. ¶¶ 11-12, ECF 9-15; Yair G. Decl. ¶¶ 9-12, ECF 56-4; Declaration of David D. ("David D. Decl.") ¶¶ 6-9, ECF 56-6.
84. The average length of custody 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 to a peak of 217 days in April before falling slightly to 182 days in August 2025.	Ex. 1-H, ORR Fact Sheets and Data, Average Monthly Data as of April 7, 2025 at 2, de Gramont Decl., ECF 10-12; Fact Sheets and Data, Office of Refugee Resettlement, Average Monthly Data (current as of Sept. 11 2025), https://perma.cc/2X2G-YT3X.
85. The average length of custody for children who remain in ORR custody was 179 days in August 2025.	Fact Sheets and Data, Office of Refugee Resettlement, Average Monthly Data (current as of Sept. 11 2025), https://perma.cc/2X2G-YT3X.
86. Between fiscal year 2015 and fiscal year 2024, the average length of ORR custody ranged between 27 days and 69 days.	Fact Sheets and Data, Office of Refugee Resettlement, Average Length of Care (current as of Aug. 18, 2025), https://perma.cc/8PBB-8MY4; Defs.' Answer ¶ 58.

VI. Proposed Changes to Sponsor Application Packet

Undisputed Material Fact	Administrative Record or Evidentiary Support
87. 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.	Defs.' Answer ¶ 70; Proposed Information Collection Activity: Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278), 90 Fed. Reg. 17438 (Apr. 25, 2025).
88. On August 14, 2025, ORR published a notice of Submission for OMB Review of the Sponsor Application Packet, with a comment period ending on September 15, 2025.	Defs.' Answer ¶ 71; Submission for Office of Management and Budget Review; Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278), 90 Fed. Reg. 39194 (Aug. 14, 2025).
89. The proposed changes to the sponsorship application include changes to the required "Supporting Documents" related to proof of identification and proof of income.	Defs.' Answer ¶ 71; Submission for Office of Management and Budget Review; Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278), 90 Fed. Reg. 39194 (Aug. 14, 2025); Decision memo re: UAC Policy Guide, Manual of Procedures (MAP) Revisions - Proof of Income, Angelica-00000086-92; Income Decision Memo, Angelica-00000114, 124-125.
90. ORR has not yet obtained OMB approval for its changes to the proof of identification and proof of income information collection requirements.	Defs.' Answer ¶¶ 67, 167.

VII. Prior Information Sharing with DHS

Undisputed Material Fact	Administrative Record or Evidentiary Support
91. In 2018, ORR's expanded fingerprinting requirements and memorandum of agreement with DHS to share information obtained through the sponsorship	U.S. Dep't of Health & Hum. Servs., Office of the Inspector Gen., Report No. OEI-09-

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, led to a reduction in sponsors willing to come forward to sponsor children.	18-00431, *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 4-5, 13 (2019) ("2019 HHS OIG Report"); Dorn-Lopez Decl. ¶ 5, ECF 10-13; Smyers Decl. ¶¶ 7, 17, ECF 10-14.
92. In 2018, ORR's expanded fingerprinting requirements and memorandum of agreement with DHS to share information obtained through the sponsorship vetting process directly ICE and CBP, which they planned to use for enforcement purposes, led to dramatically increased lengths of stays in detention.	2019 HHS OIG Report at 13; Dorn-Lopez Decl. ¶ 5, ECF 10-13; Smyers Decl. ¶ 7, ECF 10-14.
93. In 2018, ORR's expanded fingerprinting requirements and memorandum of agreement with DHS to share information obtained through the sponsorship vetting process directly with ICE and CBP, which they planned to use for enforcement purposes, led to serious harms to children's mental health and wellbeing.	2019 HHS OIG Report at 12-13 (noting that "longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation" and "even children who come into care with good coping skills become disillusioned after a lengthy stay"); Dorn-Lopez Decl. ¶ 6, ECF 10-13; Smyers Decl. ¶¶ 7, 17, ECF 10-14.
94. In 2018, ICE began to arrest some sponsors who came forward to sponsor unaccompanied children.	William A. Kandel, Cong. Rsch. Serv., R 43599 *Unaccompanied Alien Children: An Overview* 23-24 (2024), https://www.congress.gov/crs-product/R43599.
95. ORR itself acknowledged that information-sharing was leading to unnecessary delays in release without producing any additional information that helped make children safer and as result, in 2019, it suspended reconciliation of sponsor background checks with ICE.	2019 HHS OIG Report at 13; Oversight Hearing: Mental Health Needs of Children in HHS Custody, Subcomm. on Lab., Health & Hum. Servs., Educ., & Related Agencies of the H. Comm. on Appropriations, 116th Cong. at 1:29:00-1:32:00 (2019),

	https://www.congress.gov/committees/video/house-appropriations/hsap00/MLrcPTTqNmA (testimony of Jonathan Hayes, Director, Office of Refugee Resettlement).
96. Appropriations restrictions on DHS's use of information obtained from HHS regarding unaccompanied children and their potential sponsors were put in place beginning in fiscal year 2020 and have been extended each year through fiscal year 2025.	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).
97. 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))."	Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. 2317, 2513 (2019).
98. ORR acknowledged in internal memorandum regarding its sponsor vetting process that Congressional riders restrict information-sharing.	Harper Memo, Angelica-00000256.
99. Consistent with Congressional restrictions, the authorization for release of information included in the OMB-approved sponsor application packet stated: "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."	Ex. 1-B, ORR Authorization for Release of Information at 1, de Gramont Decl., ECF 10-6 Amended Complaint ¶ 36; Defs.' Answer ¶ 36.
100. ORR has proposed to remove language from the sponsorship application regarding restrictions on DHS's use of information for removal proceedings, but ORR has not yet received OMB approval for this change.	Defs.' Answer ¶ 70; Proposed Information Collection Activity: Unaccompanied Alien Children Sponsor Application Packet (OMB # 0970-0278), 90 Fed. Reg. 17438 (Apr. 25, 2025).

VIII. Angelica S.

Undisputed Material Fact	Administrative Record or Evidentiary Support
101. Angelica S. was born in 2007 and is 17 years old.	Amended Complaint ¶ 12; Defs.' Answer ¶ 12; Angelica S. Decl. ¶ 2, ECF 9-7.
102. Angelica S. entered ORR custody in November 2024.	Amended Complaint ¶ 73; Defs.' Answer ¶ 73.
103. Angelica S. was pregnant when she entered custody and due to give birth in February 2025.	Defs.' Answer ¶ 74; Angelica S. Decl. ¶ 4, ECF 9-7.
104. Angelica S. is, and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 12; Defs.' Answer ¶ 12.
105. Prior to March 7, 2025, Angelica S.'s sister Deisy S. completed a sponsorship application, provided ORR with a copy of her foreign passport as proof of identification, and she and her household members completed fingerprint-based background checks and two positive home studies.	Deisy S. Decl. ¶¶ 11-16, ECF 9-12
106. Angelica S.'s case worker assured Deisy S. that the information she provided in her sponsorship application would not be used for immigration enforcement.	Deisy S. Decl. ¶ 10, ECF 9-12.
107. As of March 6, 2025, Angelica S. was waiting only on vaccines for her newborn baby for her case to be submitted for release approval.	Angelica S. Decl. ¶ 8, ECF 9-7; Deisy S. Decl. ¶¶ 22-25, ECF 9-12.
108. ORR refused to release Angelica to her sister, Deisy, because Deisy was unable to provide the documents required by the updated ORR Policy Guide Section 2.2.4.	Defs.' Answer ¶ 12; Deisy S. Decl. ¶¶ 22-25, ECF 9-12.
109. Deisy S. used her foreign passport as a form of identification and was disqualified solely based on the lack of documented work authorization accompanying her foreign passport.	Defs.' Answer ¶ 75; Deisy S. Decl. ¶¶ 11, 22, ECF 9-12.
110. Deisy S. was unable to obtain other qualifying identification because of her immigration status.	Deisy S. Decl. ¶ 22, ECF 9-12; Tex. Transp. Code § 521.142(a) (noting that applicants for Texas driver licenses must provide proof of lawful immigration status).
111. Angelica S.'s case manager told Deisy to find any adult she knew with the correct documentation to sponsor Angelica.	Deisy S. Decl. ¶ 25, ECF 9-12.

112. Deisy S. was unable to find an alternative sponsor for Angelica because potential sponsors were afraid that ORR would share their information with immigration enforcement authorities.	Deisy S. Decl. ¶¶ 28-29, ECF 9-12.
113. As of the date of the initial Complaint on May 8, 2025, Angelica S. was in ORR custody.	Amended Complaint ¶ 12; Defs.' Answer ¶ 12.
114. After the Court's June 9, 2025, preliminary injunction, ORR reopened Deisy S.'s application.	Amended Complaint ¶ 77; Defs.' Answer ¶ 77.
115. Angelica S. and her baby were released to Deisy S. in August 2025.	Amended Complaint ¶ 77; Defs.' Answer ¶ 77.

IX. Eduardo M.

Undisputed Material Fact	Administrative Record or Evidentiary Support
116. Plaintiff Eduardo M. and his 7-year-old brother entered ORR custody in January 2025.	Amended Complaint ¶ 79; Defs.' Answer ¶ 79.
117. Eduardo was born in 2010 and is 14 years old.	Amended Complaint ¶ 13; Defs.' Answer ¶ 13; Declaration of Eduardo M. ("Eduardo M. Decl.") ¶ 2, ECF 9-8.
118. Eduardo is, and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 13; Defs.' Answer ¶ 13.
119. Eduardo and his brother were in ORR custody at a transitional foster care program in California at the time of the initial Complaint on May 8, 2025.	Amended Complaint ¶ 13; Defs.' Answer ¶ 13.
120. Prior to March 7, 2025, Eduardo's mother Rosa M. completed a sponsorship application, provided ORR with a copy of her foreign passport as proof of identification, and completed a fingerprint-based background check.	Rosa M. Decl. ¶ 3, ECF 9-13.
121. In early March 2025, Eduardo and his brother were waiting only on medical clearance for their case to be submitted for release.	Rosa M. Decl. ¶ 4, ECF 9-13.
122. After ORR amended Policy Guide 2.2.4. on March 7, 2025, Rosa M. was informed that her foreign passport was no longer acceptable form of identification.	Rosa M. Decl. ¶ 5, ECF 9-13.

123. Rosa M. lives in California.	Rosa M. Decl. ¶ 2, ECF 9-13.
124. California requires proof of lawful presence to obtain a state identification card but does not require proof of lawful presence to obtain a driver's license.	*Compare* AB 60 Driver's Licenses, Cal. Dep't of Motor Vehicles, https://www.dmv.ca.gov/portal/driver-licenses-identification-cards/assembly-bill-ab-60-driver-licenses/ (last visited Sept. 10, 2025) ("AB 60 driver's licenses are for individuals who are unable to provide proof of legal presence in the United States, but who meet California DMV requirements and are able to provide proof of identity and California residency."), *with* ID Cards, Cal. Dep't of Motor Vehicles, https://www.dmv.ca.gov/portal/driver-licenses-identification-cards/identification-id-cards/ (last visited Sept. 10, 2025) (requiring a social security number for an identification card).
125. Rosa M. was unable to obtain an acceptable state-issued identification because she cannot drive.	Rosa M. Decl. ¶ 5, ECF 9-13.
126. Rosa M. was required to complete DNA testing and identify a backup caregiver with the approved form of identification before she could be considered for an exception to the new proof of identification requirement.	Rosa M. Decl. ¶¶ 5-7, ECF 9-13.
127. After ORR once again amended Policy Guide § 2.2.4. on April 15, 2025, Rosa M. was informed that she needed to provide specific proof of income documentation.	Rosa M. Decl. ¶ 8, ECF 9-13; Amended Complaint ¶ 83; Defs.' Answer ¶ 83.
128. Rosa M. was unable to provide the proof of income newly required by ORR but provided a handwritten letter and her bank statements.	Defs.' Answer ¶ 83; Rosa M. Decl. ¶ 8, ECF 9-13.
129. Rosa M.'s request for an exception to the proof of identification and proof of income requirements was submitted on or around April 29, 2025, and her sons were not released until over three weeks later, on May 21, 2025.	Rosa M. Decl. ¶ 9, ECF 9-13; Declaration of Toby Biswas ¶ 23, ECF 21-1 ("Biswas Decl."); Amended Complaint ¶ 85; Defs.' Answer ¶ 85.

X. Liam W.

Undisputed Material Fact	Administrative Record or Evidentiary Support
130. Liam W. entered ORR custody in January 2025.	Amended Complaint ¶ 87; Defs.' Answer ¶ 87; Liam W. Decl. ¶ 3.
131. Liam W. was born in 2010 and is 15 years old.	Amended Complaint ¶ 14; Defs.' Answer ¶ 14; Liam W. Decl. ¶ 2.
132. Liam W is and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 14; Defs.' Answer ¶ 14.
133. Plaintiff Liam W. in ORR custody at a shelter in New York at the time of the initial Complaint on May 8, 2025.	Amended Complaint ¶ 14; Defs.' Answer ¶ 14.
134. Liam W.'s mother Sofia W. submitted a sponsorship application to ORR on or around January 15, 2025.	Biswas Decl. ¶ 24, ECF 21-1; Sofia W. Decl. ¶ 3, ECF 9-14.
135. Prior to March 7, 2025, Liam's mother Sofia W. provided a copy of her passport as proof of identification, and she and her household members completed fingerprinting and had a positive home study.	Sofia W. Decl. ¶¶ 4-6, ECF 9-14.
136. After ORR amended Policy Guide 2.2.4. on March 7, 2025, Sofia W. was told that her foreign passport was no longer an acceptable form of identification and she and her adult daughters and nephew required new forms of identification.	Sofia W. Decl. ¶ 7, ECF 9-14.
137. Neither Sofia nor her household members could obtain an acceptable form of identity document in their state of Florida because of their immigration status.	Sofia W. Decl. ¶ 7, ECF 9-14; Biswas Decl. ¶ 24, ECF 21-1.
138. Sofia W. was told that if her adult daughters and nephew could not obtain qualifying identification, Sofia would have to stop living with them to sponsor Liam.	Sofia W. Decl. ¶ 7, ECF 9-14.
139. Until this court issued a preliminary injunction, Liam W.'s release to his mother did not move forward because his mother and adult sisters and cousin could not obtain qualifying identification.	Liam W. Decl. ¶ 7; Sofia W. Decl. ¶ 7, ECF 9-14; Biswas Decl. ¶ 24, ECF 21-1.
140. After the Court's June 9, 2025, preliminary injunction, ORR reconsidered Sofia W.'s sponsorship application and approved Liam's release to his mother on August 5, 2025.	Amended Complaint ¶ 91; Defs.' Answer ¶ 91.

XI. Leo B.

Undisputed Material Fact	Administrative Record or Evidentiary Support
141. Leo B. first entered ORR custody in February 2023.	Amended Complaint ¶ 93; Defs.' Answer ¶ 93.
142. ORR approved Leo B.'s sister as his sponsor and released Leo in March 2023.	Amended Complaint ¶ 93; Defs.' Answer ¶ 93; Biswas Decl. ¶ 25, ECF 21-1.
143. Leo B. re-entered ORR custody in March 2025.	Amended Complaint ¶ 95; Defs.' Answer ¶ 95.
144. Leo B. was born in 2007 and was 17 years old when he re-entered ORR custody in 2025.	Amended Complaint ¶¶ 15, 95; Defs.' Answer ¶¶ 15, 95.
145. Leo B. attended high school in Georgia prior to re-entering ORR custody.	Leo B. Decl. ¶¶ 6, 11, ECF 9-10.
146. Leo's sister was ineligible to sponsor Leo again because she was unable to provide identification newly required under the March 7, 2025, revision of ORR Policy Guide § 2.2.4.	Biswas Decl. ¶ 25, ECF 21-1; Leo B. Decl. ¶¶ 8-9, ECF 9-10.
147. As of May 6, 2025, Leo had no available potential sponsor.	Biswas Decl. ¶ 25, ECF 21-1.
148. As of the date of the initial Complaint on May 8, 2025, Leo was an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 15; Defs.' Answer ¶ 15.
149. Plaintiff Leo B. was in ORR custody at a shelter in California at the time of the initial Complaint on May 8, 2025.	Amended Complaint ¶ 15; Defs.' Answer ¶ 15.
150. ORR released Leo to a short-term shelter in late June 2025, shortly before his 18th birthday.	Amended Complaint ¶ 15; Defs.' Answer ¶ 15.

XII. Xavier L.

Undisputed Material Fact	Administrative Record or Evidentiary Support
151. Plaintiff Xavier L. and his 13-year-old sister entered ORR custody in December 2024.	Amended Complaint ¶ 99; Defs.' Answer ¶ 99.
152. Xavier was born in 2007 and was 17 years old while in ORR custody.	Amended Complaint ¶ 16; Defs.' Answer ¶ 16.

153. Prior to March 7, 2025, Xavier's L.'s mother Ximena L. completed an application to sponsor Xavier and his younger sister, provided a copy of her passport as proof of identity, and completed a fingerprint-based background check and a positive home study.	Ximena L. Decl. ¶ 6, ECF 9-15.
154. The forms Ximena L. completed as part of the sponsorship application stated that the information would not be used for immigration enforcement purposes.	Ximena L. Decl. ¶ 5, ECF 9-15.
155. Prior to March 2025, Ximena L.'s partner also submitted his personal information to ORR as part of the sponsorship process.	Ximena L. Decl. ¶¶ 5-7, ECF 9-15.
156. After ORR amended Policy Guide 2.2.4. on March 7, 2025, Ximena was informed that her foreign passport was no longer an acceptable form of identification.	Amended Complaint ¶ 102; Defs.' Answer ¶ 102; Ximena L. Decl. ¶ 7, ECF 9-15.
157. Ximena L. was required to apply for a new state identification to meet ORR's new identification requirements, which took several weeks.	Ximena Decl. ¶¶ 7-8, ECF 9-15.
158. Despite providing information to ORR prior to March 2025, Ximena L.'s partner was too afraid to submit proof of income information newly required in April 2025 for fear that ORR would share his information with immigration officials.	Ximena L. Decl. ¶¶ 5, 7, 10, ECF 9-15.
159. Ximena L. was unable to provide specific proof of income documentation newly required by ORR.	Ximena Decl. ¶ 10, ECF 9-15.
160. Xavier ultimately pursued sponsorship with his aunt instead of his mother because his aunt had the proof of identification and proof of income required by ORR.	Ximena Decl. ¶ 9, ECF 9-15.
161. Plaintiff Xavier L. was in ORR custody at a shelter in New York at the time of the initial Complaint on May 8, 2025.	Amended Complaint ¶ 16; Defs.' Answer ¶ 16.
162. When he was in ORR custody, Xavier L. was an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 16; Defs.' Answer ¶ 16.
163. Xavier L. was released to his aunt in June 2025.	Amended Complaint ¶ 16; Defs.' Answer ¶ 16.

XIII. Mateo N.

Undisputed Material Fact	Administrative Record or Evidentiary Support
164. Mateo N. entered ORR custody in May 2025 and is currently detained by ORR at a shelter in New York.	Amended Complaint ¶ 17; Defs.' Answer ¶ 17.
165. Mateo N. is 17 years old.	Amended Complaint ¶ 17; Defs.' Answer ¶ 17; Mateo N. Decl. ¶ 2.
166. Mateo N. is and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 17; Defs.' Answer ¶ 17.
167. Mateo N.'s brother Steven N. promptly completed a sponsorship application and provided ORR with a copy of his U.S. passport.	Amended Complaint ¶ 109; Defs.' Answer ¶ 109; Steven N. Decl. ¶ 6, ECF 56-3.
168. Steven N. lives in Massachusetts with his wife and two young daughters.	Steven N. Decl. ¶ 2-3, ECF 56-3.
169. Steven N.'s wife submitted her foreign passport to ORR as proof of identification.	Amended Complaint ¶ 109; Defs.' Answer ¶ 109; Steven N. Decl. ¶ 8, ECF 56-3.
170. Steven N. and his wife each completed fingerprint-based background checks and a positive home study in July 2025.	Amended Complaint ¶ 109; Defs.' Answer ¶ 109; Steven N. Decl. ¶ 7, ECF 56-3.
171. Mateo N. and Steven N. completed DNA testing showing they were biologically related.	Amended Complaint ¶ 109; Defs.' Answer ¶ 109; Mateo N. Decl. ¶ 6; Steven D. Decl. ¶ 7, ECF 56-3.
172. ORR informed Steven that his sponsorship application cannot proceed until his wife provides a form of identification acceptable under ORR's post-March 2025 rules.	Amended Complaint ¶ 110; Defs. Answer ¶ 110; Steven D. Decl. ¶ 9, ECF 56-3.
173. Massachusetts permits individuals to obtain a driver's license without proof of lawful immigration status but requires proof of lawful presence to obtain a state identification card.	*Compare* Massachusetts Registry of Motor Vehicles, Standard Class D or M Driver's License Documents Checklist, https://www.mass.gov/doc/standard-class-d-or-m-drivers-license-documents-checklist-english/download (no requirement for proof of lawful presence), *with* REAL ID, Standard CDL, and Standard ID Card Documents Checklist, https://www.mass.gov/doc/standard-mass-

	id-documents-checklist/download (requiring proof of lawful presence).
174. Steven's wife has not yet been able to obtain qualifying identification because she is not eligible for a Massachusetts state identification card and needs to pass a driving test to get a driver's license.	Amended Complaint ¶ 110; Defs. Answer ¶ 110; Steven N. Decl. ¶ 8, ECF 56-3.
175. ORR refuses to release Mateo to his brother because his brother's wife, a household member, is unable to provide the documents required by the updated ORR Policy Guide Section 2.2.4.	Amended Complaint ¶ 17; Defs.' Answer ¶ 17; Steven N. Decl. ¶ 9, ECF 56-3.

XIV. Yair G.

Undisputed Material Fact	Administrative Record or Evidentiary Support
176. Yair G. entered ORR custody in May 2025.	Amended Complaint ¶ 18; Defs.' Answer ¶ 18.
177. Yair G. is in ORR custody at a shelter in New York.	Amended Complaint ¶ 18; Defs.' Answer ¶ 18; Yair G. Decl. ¶ 4, ECF 56-4.
178. Yair G. is 17 years old.	Amended Complaint ¶ 18; Defs.' Answer ¶ 18; Yair G. Decl. ¶ 2, ECF 56-4.
179. Yair G. is and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 18; Defs.' Answer ¶ 18.
180. Yair G.'s sister Milagro G. completed a sponsorship application, provided her foreign passport as proof of identification, and completed a fingerprint-based background check.	Amended Complaint ¶ 115; Defs.' Answer ¶ 115; Milagro G. Decl. ¶¶ 5-6, ECF 56-5.
181. After Milagro G. completed fingerprinting in July 2025, ORR informed her that she could not move forward with her sponsorship application for Yair without a form of identification from her home state.	Amended Complaint ¶ 116; Defs.' Answer ¶ 116; Milagro G. Decl. ¶¶ 5-6, ECF 56-5.
182. Milagro G. is unable to obtain any of the types of identification documents newly required by ORR since March 2025 because of her immigration status.	Amended Complaint ¶ 116; Defs.' Answer ¶ 116; Milagro G. Decl. ¶ 6, ECF 56-5.
183. Yair G.'s case manager told Milagro to find another family member with the required form of identification to sponsor Yair but Milagro does not have other family members with the right forms of identity document.	Amended Complaint ¶ 117; Defs.' Answer ¶ 117; Milagro G. Decl. ¶ 8, ECF 56-5.

184. Yair G. pursued sponsorship with Milagro's friend because he does not have any family members with newly required forms of identification.	Amended Complaint ¶ 117; Defs.' Answer ¶ 117; Milagro G. Decl. ¶ 8-9, ECF 56-5; Yair G. Decl. ¶¶ 7-10, ECF 56-4.

XV. David D.

Undisputed Material Fact	Administrative Record or Evidentiary Support
185. David D. entered ORR custody in May 2025.	Amended Complaint ¶ 19; Defs.' Answer ¶ 19; David D. Decl. ¶ 2, ECF 56-6.
186. David D. is in ORR custody at a shelter in California.	Amended Complaint ¶ 19; Defs.' Answer ¶ 19; David D. Decl. ¶¶ 2-3, ECF 56-6.
187. David D. is 14 years old.	Amended Complaint ¶ 19; Defs.' Answer ¶ 19; David D. Decl. ¶ 2, ECF 56-6.
188. David D. is and at all relevant times was, an unaccompanied child within the meaning of 6 U.S.C. § 279(g)(2).	Amended Complaint ¶ 19; Defs.' Answer ¶ 19.
189. David D.'s mother Isabel D. completed an application to sponsor David, provided her consular identification card as proof of identification, and completed a fingerprint-based background check and DNA testing.	Amended Complaint ¶ 121; Defs.' Answer ¶ 121; Isabel D. Decl. ¶ 3, ECF 56-7.
190. When she began the application process, Isabel D. lived with other members of her family who lacked U.S-issued identification.	Isabel D. Decl. ¶ 5, ECF 56-7.
191. Isabel D. had to move to a new apartment to continue the sponsorship process.	Isabel D. Decl. ¶ 5, ECF 56-7.
192. After Isabel D. moved, her new housemate completed a fingerprint-based background check and provided identification acceptable to ORR.	Amended Complaint ¶ 122; Defs.' Answer ¶ 122; Isabel D. Decl. ¶ 5, ECF 56-7.
193. ORR conducted a home study of Isabel D.'s new apartment in June 2025, which was positive.	Amended Complaint ¶ 122; Defs.' Answer ¶ 122; Isabel D. Decl. ¶ 5, ECF 56-7.
194. Isabel D. is unable to obtain a state-issued identification because she does not know how to drive.	Isabel D. Decl. ¶¶ 4, 9, ECF 56-7.
195. On July 31, 2025, Isabel attended an appointment at a federal government office to present her identification to an ORR official in person.	Amended Complaint ¶ 124; Defs.' Answer ¶ 124; Isabel D. Decl. ¶ 7, ECF 56-7.
196. David D.'s case was submitted to ORR headquarters for an exception to the new proof of identification requirement at the beginning of August.	Isabel D. Decl. ¶¶ 7-8, ECF 56-7; Defs.' Answer ¶ 125.

197. Isabel D.'s request for an exception to the new identification requirements was pending for over five weeks at ORR headquarters before an exception was granted on or around September 10, 2025.	Defs.' Answer ¶ 125; Isabel D. Decl. ¶¶ 7-8, ECF 56-7.

XVI. Immigrant Defenders Law Center

Undisputed Material Fact	Administrative Record or Evidentiary Support
198. One of ImmDef's primary activities, and work that is central to its mission is providing zealous, competent counsel to unaccompanied children in their immigration cases.	Felix Decl. ¶¶ 3-4, 7-17, 22, ECF 10-15. Ex. 1, Felix Suppl. Decl. ¶ 4.
199. ImmDef's mission and vision is that no immigrant has to face removal proceedings alone.	Felix Decl. ¶ 4, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶ 4.
200. ImmDef is the largest provider of legal services to unaccompanied children in California.	Felix Decl. ¶ 3, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶ 4.
201. ImmDef currently provides legal services to children housed in seventeen ORR facilities throughout Southern California.	Felix Decl. ¶ 3, ECF 10-15.
202. The IFR has impeded ImmDef's ability to provide counsel to all unaccompanied children in the ORR shelters it serves.	Ex. 1, Felix Suppl. Decl. ¶¶ 24-26.
203. The IFR has impeded ImmDef's ability to provide counsel to children who are released from ORR shelters it serves to sponsors who live in ImmDef's service area.	Ex. 1, Felix Suppl. Decl. ¶¶ 24-26.
204. The Policy Guide Section 2.2.4 changes have impeded ImmDef's ability to provide counsel to all unaccompanied children in the ORR shelters it serves.	Ex. 1, Felix Suppl. Decl. ¶¶ 24-25.
205. The Policy Guide Section 2.2.4 changes have impeded ImmDef's ability to provide counsel to children who are released from ORR shelters it serves to sponsors who live in ImmDef's service area.	Ex. 1, Felix Suppl. Decl. ¶¶ 24-26.
206. Children ImmDef represents are routinely remaining in custody far longer because of ORR's new identification and proof of income requirements.	Felix Decl. ¶¶ 7-8; Ex. 1, Felix Suppl. Decl. ¶¶ 5, 13, 14-20.
207. Potential sponsors of children in ORR custody have been detained by ICE during the sponsorship process.	Ex. 1, Felix Suppl. Decl. ¶¶ 6, 8-9.

208. In July 2025, after the IFR permitted ORR to share sponsor immigration status with immigration enforcement agencies, ORR began requiring sponsors to appear for in-person verification of identification at Immigration and Customs Enforcement and Homeland Security Investigation offices.	Ex. 1, Felix Suppl. Decl. ¶ 7.
209. Sponsors have been detained by ICE at in-person ID verification appointments required by ORR.	Ex. 1, Felix Suppl. Decl. ¶¶ 6, 8.
210. Some potential sponsors have declined to attend required in-person ID verification appointments for fear of immigration enforcement at the appointment.	Ex. 1, Felix Suppl. Decl. ¶ 7.
211. Some potential sponsors have withdrawn their applications because of fear of information sharing and enforcement.	Ex. 1, Felix Suppl. Decl. ¶¶ 6, 10-11, 19.
212. Children in ORR custody served by ImmDef have decided to forgo reunification for fear that their sponsors will be targeted by immigration enforcement because of ORR's information-sharing with ICE.	Ex. 1, Felix Suppl. Decl. ¶¶ 10-11.
213. Children in ORR custody served by ImmDef are experiencing negative mental health effects as a result of the detention of their sponsors during the sponsorship process or stress that their sponsors will be detained because of ORR's information-sharing with ICE.	Ex. 1, Felix Suppl. Decl. ¶¶ 8, 11, 17.
214. ORR information-sharing with ICE has significantly increased children's time in ORR custody because it is increasingly difficult for children to be released to sponsors.	Ex. 1, Felix Suppl. Decl. ¶¶ 6, 12.
215. The changes to the Policy Guide have significantly increased children's time in ORR custody because it is increasingly difficult for children to be released to sponsors.	Felix Decl. ¶¶ 7-8, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶¶ 14-16, 18-19.
216. Some potential sponsors are unable to complete applications because their alternate caregivers are unable or unwilling to share required information.	Ex. 1, Felix Suppl. Decl. ¶ 12.
217. Some potential sponsors have had to move homes because their household members are unable or unwilling to share required information with ORR, leading to delays in cases.	Ex. 1, Felix Suppl. Decl. ¶¶ 13, 17.
218. ImmDef must expend a significantly higher portion of its limited resources to advocate on behalf of detained unaccompanied child clients due to the children's significantly longer stay in ORR custody.	Felix Decl. ¶¶ 8, 12-17, 22, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶¶ 20-24.

219. Between February and September 2024, 44% of ImmDef's new cases for unaccompanied children were on behalf of detained children, but over that same period in 2025 the proportion is approximately 84%.	Ex. 1, Felix Suppl. Decl. ¶ 24.
220. It is more time and resource-intensive for ImmDef to represent detained children than non-detained children.	Felix Decl. ¶¶ 13-16, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶¶ 24-28, 36-38.
221. Historically, ImmDef has guaranteed representation to children released from ORR facilities ImmDef serves to sponsors in ImmDef's service area, but ImmDef has had to close intake to these children because they must divert resources to serve detained children.	Ex. 1, Felix Suppl. Decl. ¶ 24.
222. Because children are remaining in custody longer, ImmDef must expedite work for a greater number of detained unaccompanied child clients, diverting attention from other ongoing work.	Felix Decl. ¶¶ 8, 12-17, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶¶ 20-24.
223. Because of new barriers to release, ImmDef must spend time it had not spent previously responding to inquiries from potential sponsors as well as ORR-subcontracted facility staff regarding the policy and procedures of the new sponsorship requirements.	Felix Decl. ¶ 10, ECF 10-15.
224. ImmDef is forced to expend resources, otherwise spent on representing child clients in their immigration cases, to revise know-your-rights presentations and screening materials to counteract the diminished immigration relief available to detained children.	Felix Decl. ¶ 21, ECF 10-15.
225. ImmDef is hampered from obtaining release for detained unaccompanied child clients because many children no longer have eligible sponsors.	Felix Decl. ¶¶ 7-9, ECF 10-15; Ex. 1, Felix Suppl. Decl. Felix ¶¶ 6-19.
226. Because more sponsors are ineligible or have withdrawn from sponsorship, ImmDef must spend time with more clients than typical to discuss Long-Term Foster Care placement instead of using that time and those resources to pursue immigration relief for clients.	Felix Decl. ¶¶ 7-9, 11, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶¶ 22-23, 34-38.
227. From February to September 2024, representation of children in LTFC comprised approximately 12% of ImmDef's new cases.	Ex. 1, Felix Suppl. Decl. ¶ 23.
228. From February to September 2025, representation of children in LTFC had more than doubled to 31% of ImmDef's new cases.	Ex. 1, Felix Suppl. Decl. ¶ 23.
229. Representation of children in LTFC is more time and resource-intensive than representation of released children.	Ex. 1, Felix Suppl. Decl. ¶¶ 34-38.

230. If a child is considering LTFC, ImmDef's contract requires they meet with the child one or more times to discuss their options before the care provider can submit a referral.	Ex. 1, Felix Suppl. Decl. ¶¶ 34-35.
231. From February to September 2024, representation for Voluntary Departure comprised 0.03% of new ImmDef cases.	Ex. 1, Felix Suppl. Decl. ¶ 23.
232. From February to September 2025, representation for Voluntary Departure comprised 6% of new ImmDef cases.	Ex. 1, Felix Suppl. Decl. ¶ 23.
233. If a child is considering Voluntary Departure, ImmDef attorneys must spend significant additional time counseling the child.	Ex. 1, Felix Suppl. Decl. ¶¶ 31-33.
234. If a child chooses Voluntary Departure, ImmDef attorneys are contractually required to offer full scale representation and spend significant additional time on their case.	Ex. 1, Felix Suppl. Decl. ¶ 31.
235. Because more sponsors are ineligible or have withdrawn from sponsorship, ImmDef must spend time with more clients than typical to discuss voluntary departure instead of using that time and those resources to pursue immigration relief for clients.	Ex. 1, Felix Suppl. Decl. ¶¶ 22-23, 31-33.
236. Because of new barriers to release, ImmDef must spend additional time meeting with its detained unaccompanied child clients to support their mental stability.	Felix Decl. ¶ 10, ECF 10-15; Ex. 1, Felix Suppl. Decl. ¶ 22.
237. Because of children's prolonged detention, ImmDef is hampered from effectively representing its detained unaccompanied child clients because clients struggle to provide necessary information without family support.	Felix Decl. ¶¶ 13, 22, ECF 10-15.
238. Because of children's prolonged detention, ImmDef is hampered from effectively representing its detained unaccompanied child clients because their clients are experiencing mental health impacts that impede their participation in their cases.	Felix Decl. ¶¶ 10, 22, ECF 10-15.
239. Because of children's prolonged detention, ImmDef has been forced to divert staff time and resources away from defending released children in their removal proceedings to focus almost entirely on representation of detained children.	Ex. 1, Felix Suppl. Decl. ¶¶ 24-26.
240. Because ImmDef must focus its resources on detained children, many children who would otherwise qualify for ImmDef's services are left unserved.	Ex. 1, Felix Suppl. Decl. ¶ 25-26.

Date: September 12, 2025

Respectfully submitted,

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EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

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

SUPPLEMENTAL DECLARATION OF CYNTHIA ISABEL FELIX

Supplemental Declaration of Cynthia Isabel Felix

1. I, Cynthia Isabel Felix, make the following statements on behalf of myself and Immigrant Defenders Law Center ("ImmDef"). 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 ImmDef where I have been employed for eight years. I directly oversee our provision of legal services to minors detained in Office of Refugee Resettlement ("ORR") custody.

3. On May 6, 2025, I signed a declaration in support of Plaintiffs in *Angelica S. v. U.S. Department of Health and Human Services, et al.* and that declaration was filed on May 9, 2025, at ECF 10-15. I now offer this declaration in support of Plaintiffs' Motion for Summary Judgment to supplement my prior declaration and add additional information about the harm to ImmDef and our clients as a result of ORR's rescission of 45 C.F.R. § 410.1201(b) and the changes to sponsorship requirements made after March 7, 2025.

4. ImmDef is a non-profit organization that 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 immigrant children in California and represents both detained and released youth who reside in the Greater Los Angeles Area. ImmDef's mission and vision is that no immigrant should have to face deportation proceedings alone and we believe every person facing removal deserves to have zealous, competent counsel at their side.

5. Since my last declaration, ImmDef has continued to be hampered in its ability to provide legal services to detained immigrant children because of the Interim Final Rule ("IFR") and ORR Policy Guide changes that allow ORR to deny release to sponsors based on their immigration status, collect sponsor immigration status for law enforcement or immigration enforcement purposes, and share sponsor's immigration status with law enforcement for immigration

enforcement. Additionally, because of the IFR and Policy Guide changes, which have increased children's length of stay in ORR custody as described below, ImmDef has had to close intake to new clients who ImmDef would have normally served, thereby reducing the number of clients ImmDef is able to serve.

ORR Information Sharing with Immigration Enforcement Agencies

6. ORR's collection and sharing of sponsor immigration status has negatively impacted the reunification process of a significant number of minors. Sponsors have withdrawn from the sponsorship process because they are afraid to provide identifying information to ORR and in some cases, sponsors have been detained by ICE during the sponsorship process.

7. In July 2025, after the IFR permitted ORR to share sponsor immigration status with immigration enforcement agencies, ORR began requiring sponsors to appear for in-person verification of identification at Immigration and Customs Enforcement and Homeland Security Investigation offices. Sponsors have withdrawn from the sponsorship process because they are afraid to appear at these appointments and ImmDef is aware of sponsors who have been detained by ICE at these appointments.

8. In a recent case, the mother of a 17-year-old girl presented herself at an ORR identification verification appointment and was detained by ICE at said appointment. The mother was hospitalized due to the emotional toll the apprehension took on her. During the "wellness check" with this child after her mother's apprehension, the child was severely distraught and crying. The child said she would refuse to eat or drink or partake in anything required of her until she was reassured that her mother was safe. The child asked whether she still had a chance to be released from care and was informed that she would need to explore whether alternative sponsors exist and determine whether they can meet ORR's new requirements.

9. In the case of two siblings detained by ORR, their father was gathering documents in support of his reunification packet when he was grabbed by ICE while crossing the street outside of a courthouse. The father was quickly removed, and the children sought voluntary departure as they had no one else to reunify with.

10. I am also aware of children who are being forced to forgo reunification with their family members out of fear of immigration enforcement against sponsors. For example, ImmDef represents a 13-year-old child in custody whose mother lives in Washington but due to the child's fear that his mother and alternate caregiver (adult brother) could be at risk of detention, the mother agreed to withdraw her reunification packet at to the child's request.

11. Another child who was in ORR custody in July 2024, and released to her aunt, was re-detained during an ICE raid. Instead of pursuing reunification with her aunt and putting her aunt on the radar for immigration enforcement action, the child has decided to forgo reunification and pursue Long Term Foster Care. The child found it unimaginable for her aunt to potentially be detained and her young cousins to be left without their mother.

12. Even for children who still have viable sponsors, ORR's new policy of information sharing with immigration and law enforcement has increased children's length of stay in ORR custody. For example, one issue that is impacting the length of stay is the identification of alternate care givers ("ACGs") (who do not necessarily have to live with sponsors) because they are required to submit identifying information but are sometimes unwilling to do so. It is increasingly difficult for sponsors to find ACGs who are willing to provide their personal and biometric information to ORR because they are afraid that information will be used for immigration enforcement purposes.

13. Other children have experienced delays in reunification because their parents or other sponsors have had to move when other adult household members decline to provide their personal and biometric information for purposes of the reunification packet for fear of immigration enforcement.

New Proof of Identity and Proof of Income Requirements

14. ORR's March 7, 2025, and April 15, 2025, revisions to ORR Policy Guide Section 2.2.4 related to proof of identification and proof of income have compounded the obstacles to release for the unaccompanied children ImmDef serves.

15. In the reunification cases we have seen, it has taken sponsors at least two and a half months to get state issued driver's licenses, if they are able to get one at all; approximately two weeks for in-person identification verification appointments; and at least two weeks and sometimes over a month to receive a decision on a request for an exception to the identification requirements for Category 1 ("Cat 1" parent or legal guardian) sponsors. Children waiting for their sponsors to complete these requirements are routinely experiencing lengths of stays greater than 120 days.

16. In the case of a 3-year-old child attempting to reunify with his mother in Los Angeles, the family has experienced delay after delay. The reunification case was submitted to the ORR case coordinators and Federal Field Specialist ("FFS") on July 20, 2025. The FFS submitted the case for an exception to the sponsor identification requirement on August 1, 2025, as well as a request for exception for the requirement to provide a Social Security or Internal Transaction number ("SS/ITN requirement") on August 18, 2025. The identification exception request is still pending a response from ORR headquarters to this date. This 3-year-old child has been detained and separated from his mother since the end of June.

17. In the case of another child who has been detained since May 7, 2025, the child's father was required to move out of his home because the other adult household members refused to provide their personal information and submit to fingerprinting, creating significant delays in the case. The father lacks the required proof of income and proof of identity per revised ORR Policy Guide Section 2.2.4 and the ORR care provider finally elevated the child's reunification case to ORR Headquarters on Friday, August 15, 2025, to request an exception to these requirements. To this date, there has not been any update communicated to the child or sponsor, and the child is

noticeably stressed about her father's risk of detention because she knows ORR is sharing information from her father's application with immigration enforcement.

18. Another ImmDef client who has been in ORR custody since July 13, 2025, has been categorized as a "CAT 4" meaning she has no sponsor, however, the child has an uncle in the greater Los Angeles area whom she lived with prior to being detained following an ICE raid. Her uncle was unable to provide the required documentation for the reunification process and since there is no exception applicable to him, he has been completely ruled out for sponsorship. The child is lingering and fighting her immigration case in detention.

19. Another child has a sister in Santa Barbara County who initially agreed to sponsor her brother, but after only two weeks, the sibling withdrew her sponsor application as she does not have a valid identification card. This child continues to be without a viable sponsor as none of the child's family in the U.S. are willing to sponsor him due to their inability to meet requirements because of their legal status and because of their fear in providing ORR with all their personal information which they know could be shared with ICE. This child's case is at a standstill because his only intention was to reunify with family.

Impacts on ImmDef's Work

20. Since the issuance of the IFR and the changes to Policy Guide Section 2.2.4, children's lengths of stay in ORR custody are significantly higher than in years past. As a result, ImmDef has been forced to allocate a significantly higher portion of its limited resources to advocating for both existing and new clients on issues related to release and to expend increased resources on their immigration cases.

21. Currently, ImmDef is conducting about three times the normal number of consultations with detained children. As minors experience prolonged detention stays, they are presented with a greater number of setbacks and require more consultation with ImmDef.

22. If a child's sponsor withdraws or is detained, this increases the time and resources we spend on their cases because children are then presented with all other possible options (i.e., reunification with another sponsor, Long Term Foster Care ("LTFC"), or Voluntary Departure

("VD")). The decision to opt for LTFC placement, where children could end up in programs across the country, many hours away from their families, or to elect to pursue VD are traumatic and stressful for children. These decisions are causing visible stress for these children. For example, when we visit them for follow-up meetings, many children are disinterested in engaging with our team or conversely, are obsessive over the information they receive from their sponsors and their case managers and trying to make it all make sense. One child asked to sit with me and two other attorneys after we held a group meeting because she needed time to process her options. She sat alone in a chair, shoulders hunched, a quiet voice about to cry at any minute, asking us questions about her plan to reunify with her mom and how her mother having shared her information with the government could affect her family once she's released.

23. Of the 120 minors in care at facilities ImmDef serves, ImmDef is seeing an increase in children opting for LTFC or VD as sponsors decline to come forward. For example, from February to September 2024, representation of children in LTFC comprised approximately 12% of ImmDef's new cases, and representation for VD comprised a miniscule 0.03% of our new cases. In contrast, in the period of February to September 2025, representation of children in LTFC had more than doubled to 31% of our new cases, and representation for VD increased a whopping twenty-fold to 6% of our new offers of representation. As described below and in my prior declaration, when a child chooses LTFC or VD the process requires significant attorney-time to advise the child.

24. Because children are unable to leave ORR custody, ImmDef must spend more time representing detained children who urgently need attention and cannot spend as much time representing released children who are still in need of counsel. For example, from February to September 2024, approximately 44% of our new cases were detained children who required our representation while detained. Over that same period in 2025, that proportion had nearly doubled to approximately 84%. As outlined below, these detained cases are much more time intensive and urgent to handle, making it impossible to offer representation to released children

we otherwise would have represented had we had capacity. As a result, ImmDef's ability to meet its goal of universal representation is significantly harmed.

25. ImmDef has had to divert *all* of our resources to providing legal services to detained unaccompanied children, both children in short-term care as well as long-term care. Our attorneys are nearly all at capacity and experiencing high workloads and we are having to nevertheless take on new detained child matters to prevent those children from experiencing prejudice in their legal cases. Historically, ImmDef has guaranteed representation to children placed in facilities we serve who are being released to our service area. Currently, ImmDef has closed intake to these children because we have to divert staff time and resources to serve detained children. This leaves many children in our service area who would otherwise qualify for our services unserved, frustrating our mission to ensure that no immigrant facing removal should have to go to court alone.

Detained Docket

26. Detained cases are much more time and resource-intensive for ImmDef than released cases. ImmDef has been forced to divert its limited resources away from accepting the typical projected number of new clients due to the unexpected increased demands of existing clients' cases, thereby hampering ImmDef's ability to fulfill its mission to provide zealous advocacy to all children in the ORR shelters that it serves.

27. Children in ORR custody are placed on an expedited "detained juvenile docket," where immigration judges grant only short continuances (typically maximum 60 days) to prepare for pleadings and file relief. Conversely, released children on these non-expedited dockets may receive much longer continuances to allow the attorney to prepare their case.

28. Furthermore, because of the increased time children are spending in ORR custody, and the corresponding increased time working on their cases, ImmDef has been prevented from pursuing certain forms of relief for which its clients would otherwise be eligible, significantly limiting the immigration services ImmDef is able to provide to its clients. Detained children are often not able to pursue the full range of legal relief for which they may be eligible. For

example, Special Immigrant Juvenile Status ("SIJ") (a form of legal relief that provides a pathway to citizenship for children who have been abused, abandoned or neglected) requires a proceeding to be initiated in a State juvenile court. In California, detained children access the juvenile court via a California Probate Guardianship Petition, which requires the child's custodian (here, the ORR-subcontracted facility) to participate as proposed guardian. Many ORR-subcontracted facilities, especially short-term facilities, refuse to participate in the Guardianship process, and therefore children who would qualify for SIJ had they been released from ORR custody are blocked from accessing this form of relief. This places children with meritorious claims for relief at risk of deportation. These same children would be able to access this relief were they released to sponsors who would participate in the relevant state court proceeding to obtain the required findings regarding their best interests and abuse, abandonment or neglect so that they may petition USCIS for SIJS. Thus, detained children are placed at a disadvantage in their legal cases, and ImmDef is prevented from carrying out its mission to defend them from deportation.

29. In addition to our work on their legal cases, ImmDef has had to spend significant additional time on advocacy related to the child's release case. Additionally, if a child is unlikely to be released from ORR custody before their 18th birthday, we regularly spend two to ten hours conducting "post-18" planning for the child. This includes assisting with making travel arrangements to a final destination if a child will be released on their own recognizance to a family sponsor that was ruled out of ORR sponsorship, or securing emergency housing if a sponsor is not available (either because the child has none, or no sponsor is willing to come forward in light of the current enforcement environment).

30. As a result of prolonged detention, more children are opting for LTFC placement or voluntary departure. The increased number of Voluntary Departure and LTFC cases have posed additional specific obstacles to ImmDef's ability to fulfill its mission, as described below.

Voluntary Departure

31. When a child decides to pursue Voluntary Departure, this increases the amount of time and resources we spend on their case because ImmDef must first offer full scale representation (as opposed to general advocacy and support regarding their rights in detention) due to our contractual requirements with the Acacia Center for Justice. This requires that our team of attorneys specialized in working with detained children must meet in person with a child at the ORR facility, which requires them to drive up to an hour and a half to any given shelter. Currently, immigration cases are being docketed less than 10 days after a child's arrival, so attorneys have only a few days to enter an appearance with the Immigration Court. If a child wishes to repatriate as soon as possible, attorneys must then spend at least 3 entire workdays preparing for the Voluntary Departure hearing at the initial Master Calendar Hearing (MCH). If a child is able to wait in the shelter for the attorney to prepare their case, attorneys may seek a continuance at the initial (MCH) to prepare the case, but the Immigration Judges will generally only grant about a 30-day continuance. Attorneys require at least three meetings with a client to fully prepare for a Pre-Conclusion Voluntary Departure hearing. And the Immigration Judges require personal appearances by the attorney and any client over the age of twelve in Voluntary Departure cases. All other types of detained juvenile cases are conducted virtually.

32. Furthermore, whether or not to pursue voluntary departure is a huge, life-changing decision for anyone, much less a child. Alternative legal options available to a child (and their likelihood of success) are complex to explain, especially given the rapidly changing legal landscape. When a child expresses interest in voluntary departure due to their prolonged length of stay in light of changes to sponsorship requirements, attorneys often have to meet with them multiple times to ensure they understand their rights and options before proceeding with voluntary departure. That is, even if a child ultimately decides against pursuing voluntary departure after full advice and consultation, the detention fatigue caused by ORR's information-sharing policies and the new sponsorship ID and income requirements increases ImmDef's workload on those cases as well. The fact that there has been a twenty-fold increase in the

percentage of children choosing voluntary departure because of the government's policies has had a significant impact on ImmDef's resources and ability to represent all children in custody.

33. In the case of the two siblings whose father was detained, described in paragraph 9, our team met with the children approximately 12 separate times in the span of 3 months. This included meetings with support staff, program managers, and attorneys, to support the children in making a decision. Our team of attorneys made four court appearances during this time span to convey to the Immigration Judge that the children had yet to make a final decision. Once the children ultimately decided to pursue Voluntary Departure, our team visited them yet again to offer representation and prepare for their hearing. During the course of our representation, the case manager shared that a request for an OTIP letter (Office of Trafficking in Persons eligibility letter designating them a victim of sex or labor trafficking and qualifying them for a long list of federal benefits) had been made. Yet, despite the forced trafficking the children had suffered, they still decided to pursue Voluntary Departure as they no longer had a viable sponsor to be released to.

Long Term Foster Care

34. Rather than seeking voluntary departure, some children prevented from reunifying with sponsors will seek to enter Long Term Foster Care ("LTFC"). Children interested in pursuing LTFC must have one or more meetings with an attorney to receive consultation and advice regarding their legal options if they enter LTFC due to our contractual requirements with the Acacia Center for Justice. These consultations are often complicated and time-consuming given the rapidly changing nature of asylum law, and the fact that a child's ability to pursue Special Immigrant Juvenile Status ("SIJ") while detained varies not only by state but also by individual LTFC program. An attorney must meet with a child in person (again, often at a distant detention facility) at least once for approximately one hour (double that if interpretation is required) to explore and explain their options, and additional members of our staff must assist with processing the necessary documentation required by ORR to submit LTFC referrals. If a child has follow-up questions or changes her mind, a further legal meeting is required, and additional

paperwork needs to be prepared. These are the additional steps ImmDef must take even before the child is placed in LTFC.

35. Specifically, when a child selected LTFC we must meet with a child to develop what is referred to as an "RSL" (Recommended States List) which is required by ORR for an LTFC referral to be made by a care provider and can only be drafted by an LSP such as ImmDef. The RSL talks range anywhere from at least 45 minutes to an hour and a half as children are presented with the various options for placement. Some of the factors discussed with children include physical location, eligibility for immigration relief in certain jurisdictions, and most importantly, access to counsel (especially considering the ongoing litigation over the UCP contract). Preparation for an RSL talks requires our attorneys to ensure that shelter staff has provided the child's birth certificate (to verify their age), Notice to Appear (to verify placement in Removal proceedings and ensure accurate information), Authorized Release of Confidential Information document (granting our team permission from the child to share confidential information with the care provider), and coordination of the physical meeting at the shelter with the child. Additionally, an attorney must review the intake, determine what relief a child might be eligible for, and review any notes and history of reunification to understand where the child might have family in the United States. Once a child determines a list of states where they would feel comfortable living in LTFC, our team prepares the physical list, and sends it back to the care provider so they can upload it to the LTFC referral database. Lastly, our team is required to upload the RSL list to an internal Unaccompanied Child Online Referral Database so that a receiving LSP can review the referral and determine whether they could represent a child if placed in an LTFC program they service. RSL requests are made by care providers when children have reached the end of reunification prospects, or for concurrent planning so that a child can be placed on the referral list meanwhile also attempting reunification with a sponsor. Sometimes, our attorneys must redraft RSL letters once a child reaches a prolonged length of stay and either ORR or the Immigration Judge begins to pressure them to move their case along.

The total time it takes for our team to complete this process is between 4-6 hours, with an additional 3 hours every time the letter requires an update.

36. If a child is placed in an LTFC facility served by ImmDef, we must handle their case on an expedited basis. Again, since these children are considered detained, our staff must travel to distant foster care offices to conduct client meetings, often burning hours of attorney time sitting in Southern California traffic, and they are on an expedited docket. In contrast, children released to their sponsors in the community typically attend client meetings at ImmDef's offices. Furthermore, children in LTFC are at risk of "aging out" of ORR care and being detained on their 18th birthdays.

37. Children whose sponsors have been ruled out may be eligible to enter the Unaccompanied Refugee Minor ("URM") program, assuming they have obtained some form of legal relief (typically, but not necessarily, SIJ) with sufficient time before their eighteenth birthday for their URM application to be approved. The process to obtain SIJ findings in state court and receive an approved SIJ I-360 typically takes about a year. This means that any child transferred to LTFC on or after their 17th birthday is considered urgent, and the assigned attorney must drop other work to immediately prioritize their case. This means conducting initial client meetings immediately upon assignment, filing in state court on an expedited basis. It often means submitting additional filings and appearing at additional hearings to request the state court hearing to be expedited, taking an additional two to ten hours per case. It also often means significant attorney time advocating before USCIS to expedite consideration of the Form I-360. For released children, ImmDef files Form I-360 and then simply awaits adjudication. For detained children, attorneys regularly spend two to five additional hours sending emails to USCIS, contacting their call center, and communicating with the USCIS Ombudsman and Congressional Representatives to attempt to obtain approval of the Form I-360 before the child ages out of ORR custody. If the expedite is unsuccessful, or if we are not sure whether it will be, ImmDef attorneys and support staff must engage in urgent post-18 planning as described above.

38. If children have instead been released to sponsors in the community, the relevant timeline slows down dramatically. Children released to the community typically only need to obtain SIJ findings from the state court (not approval of their I-360) before their eighteenth birthday, or before their 21st birthday depending on the facts of the case. While Immigration Judges may set earlier timelines, in general, released children's cases proceed on a much more flexible timeline that allows more seamless prioritization of cases, without having to drop everything to respond to an "urgent age out" client matter.

Delays in Implementation of the Preliminary Injunction

39. At the time the Court issued the preliminary injunction in this matter on June 9, 2025, ImmDef was monitoring the reunification cases of multiple *Angelica S.* class members at the facilities we serve.

40. After the preliminary injunction issued, my team and I followed up with case managers of class members to ensure they were aware of the preliminary injunction and inquire on the status of the cases. Case managers informed us that they were still awaiting guidance from ORR before proceeding. On June 16, 2025, I emailed the Federal Field Specialist responsible for one of our shelters to ask for updates on how ORR was proceeding with the applications. I only received confirmation of my email but did not receive a meaningful response otherwise.

41. On June 20, 2025, a case manager informed me that one of our client's sponsors had not yet been contacted because the sponsor was a more distant relative. I asked for further guidance from the assigned Federal Field Specialist because the preliminary injunction did not distinguish between sponsor categories. On June 20, 2025, the Federal Field Specialist informed me that she was still awaiting guidance from the ORR legal team.

42. Upon information and belief, ORR did not issue guidance to its programs regarding compliance with the Court's preliminary injunction until June 23, 2025.

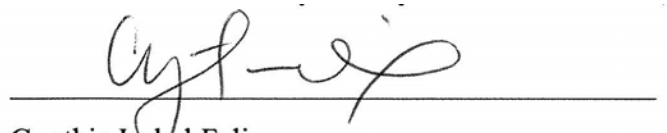
43. Even after ORR issued guidance to its programs regarding the preliminary injunction, one of the shelter programs we serve continued to tell us that they were awaiting further guidance from legal before proceeding with *Angelica S.* class member applications. On June 25,

2025, I contacted the Federal Field Specialist Supervisor responsible for our area to ask for clarification.

44. During the two-week time period between the issuance of the preliminary injunction and ORR's guidance to care providers, our clients experienced significant anxiety due to the lack of updates or progress on their reunification cases. Some of our clients were aware of the preliminary injunction but their case managers and sponsors were not, leading to confusion and worry about whether their cases would in fact be reopened. Sponsors were also aware of the preliminary injunction but were being left in limbo or given conflicting updates about the reunification status, causing them significant stress as well.

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

Executed on this 11th day of September 2025, in Santa Ana, California.



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 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGELICA S., *et al.*,	)	
	)	
Plaintiffs,	)	
	)	No. 25-cv-01405 (DLF)
v.	)	
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,	)	
	)	
	)	
Defendants.	)	
	)	

DECLARATION OF JOEL McELVAIN

I, Joel McElvain, do hereby declare as follows:

1. I am a Senior Legal Advisor at Democracy Forward Foundation. I represent Plaintiffs in the above-titled action, and I submit this Declaration in support of Plaintiffs' motion for summary judgment. I have personal knowledge of the facts stated herein and, if called to testify, could and would testify competently thereto.

2. This Court entered an order partially granting Plaintiffs' motion for a preliminary injunction on June 9, 2025. ECF No. 34.

3. Attached as Exhibit A to this declaration is a true copy of the email correspondence between counsel for Plaintiffs and counsel for Defendants during the sixteen days following this Court's order. (Exhibit A excludes one email from counsel for Defendants providing an update on the status of the named Plaintiffs that contains identifying information regarding some of the Plaintiffs who are proceeding under a pseudonym.)

4. As reflected in Exhibit A, counsel for Plaintiffs contacted counsel for Defendants on June 11, 2025, to ask them to confirm that the Office of Refugee Resettlement had ceased enforcing

the proof of identification and proof of income requirements that were the subject of this Court's preliminary injunction.

5. As also reflected in Exhibit A, despite repeated requests from Plaintiffs, ORR did not issue instructions to its care provider network revoking the challenged documentation requirements for class members until June 23, 2025.

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

Executed this 12th day of September at Washington, D.C.

/s/ Joel McElvain
JOEL McELVAIN

EXHIBIT A

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Wed, Jun 11, 2025 at 5:36 PM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>

Christina, Lindsay, and Joshua,

I hope you are doing well.

In light of the preliminary injunction issued on Monday, we expect ORR to immediately stop enforcing its challenged proof of identification and proof of income requirements as to class members. Please confirm that ORR has informed its care providers of the changed requirements applicable to class member sponsorship applications.

Additionally,. the named plaintiffs who remain in custody - Angelica S., Liam W., and Leo B. - are entitled to have their sponsor's applications immediately reopened and timely adjudicated. Please confirm that the named plaintiffs' case managers are aware of the Court's order and will permit their sponsors to reopen their applications. Because Liam W. seeks release to his mother and Leo B. seeks release to his sister who was previously his primary caregiver, their applications should be adjudicated within 10 days of receipt, consistent with 45 C.F.R. § 410.1205(b). Angelica S. seeks release to her sister and should have her application adjudicated within 14 days. Id. Given that these sponsors were previously approved (in the case of Leo B.'s sister) or have already undergone thorough vetting, we expect their applications should require less time.

Leo B. will turn 18 on July 3, 2025, and it is therefore especially urgent that his sister's application be timely processed so that her application can be adjudicated before he ages out of ORR custody.

Thank you,

Joel

Joel McElvain
Senior Legal Advisor
Democracy Forward
he/him

(202) 935-2082
jmcelvain@democracyforward.org
democracyforward.org

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Fri, Jun 13, 2025 at 10:29 AM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>

Chrstina, Lindsay, and Joshua,

We would appreciate a response to this email to confirm that ORR is taking the steps described below. We are continuing to hear reports from legal service providers that case managers have not been told about the preliminary injunction. Please provide confirmation of ORR's compliance, as we are hoping that this can be resolved without bringing this to the attention of the court.

Regards,
Joel

[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Vick, Lindsay (CIV) <Lindsay.Vick@usdoj.gov> Fri, Jun 13, 2025 at 10:35 AM
To: Joel McElvain <jmcelvain@democracyforward.org>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Good morning, Joel,

Thank you for your message. We are in receipt of your emails and are assessing the Court's orders. We'll be in touch as soon as we can with more information.

Best,

Lindsay M. Vick

Senior Litigation Counsel

Office of Immigration Litigation – General Litigation and Appeals

United States Department of Justice

P.O. Box 878 Ben Franklin Station
Washington, D.C. 20044

Office: 202-532-4023
Cell: 202-598-0252

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DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Fri, Jun 13, 2025 at 1:14 PM
To: "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Lindsay,

Thank you for your email. As I noted in my prior email, Leo B. turns 18 in less than three weeks and it is essential that ORR immediately allow his sister to proceed with her application and timely adjudicate it. The Court specifically noted the prejudice Leo B. is facing from the new requirements given that he was previously released to his sister and lived with her in the community for two years. See PI Opinion at 15-16. His imminent age-out significantly increases this prejudice. Please confirm by 5pm ET today that Leo B.'s case manager is proceeding with his sister's application.

In addition, the Court ordered ORR to inform all previously disqualified or denied potential sponsors that they may continue their sponsorship applications within 10 days of the order. We believe there are likely hundreds of affected sponsors. To feasibly comply with this order, ORR must immediately inform case managers of the new requirements and direct them to start contacting affected sponsors. Please confirm ORR that is doing so.

Thank you,
Joel
[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Vick, Lindsay (CIV) <Lindsay.Vick@usdoj.gov> Fri, Jun 13, 2025 at 3:08 PM
To: Joel McElvain <jmcelvain@democracyforward.org>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Hi Joel,

I've been discussing the case with ORR, and they have confirmed that they are moving forward with the sponsorship application in Leo B's case as promptly as appropriate at this time.

Thank you,

[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Fri, Jun 13, 2025 at 5:10 PM
To: "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Thank you, Lindsay. Please let us know as soon as possible that ORR has issued guidance to its care providers regarding compliance with the injunction.
[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Mon, Jun 16, 2025 at 6:05 PM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>

Christina,

Thank you - we appreciate the update regarding the named plaintiffs. However, we are continuing to hear concerning reports from legal service providers that--even as of today--the applications of other class members are not being adjudicated in accordance with the Court's order and case managers report having no guidance as to compliance with the preliminary injunction.

As we have stated, the preliminary injunction required ORR to immediately stop enforcing the new proof of identification and proof of income requirements as to "all members of the certified class." For sponsors who have completed applications, the Court ordered ORR "to adjudicate the application without regard to the revised requirements." Based on the information we have received, ORR is not in compliance with the preliminary injunction.

ORR is also required to inform "all potential sponsors of class members" disqualified or denied based on the new requirements that they may continue their applications within 10 days of the Court's order, that is, Thursday, June 19. It will not be possible to meet this deadline unless ORR begins contacting potential sponsors immediately.

Please confirm by tomorrow that ORR has issued guidance to its care providers and when and to whom this guidance was sent. Please also confirm that case managers have begun the process of informing previously disqualified or denied sponsors that they may continue with their applications to meet Thursday's deadline.

Regards,
Joel
[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Wed, Jun 18, 2025 at 4:38 PM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>

Christina,

Your silence on this issue is deeply concerning. Plaintiffs were hoping to avoid motion practice to enforce the PI but without confirmation that ORR has issued guidance to its care providers (including confirming when and to whom that guidance was sent) Plaintiffs are forced to conclude the agency is not complying with the Court's order. Please confirm that case managers have begun the process of informing previously disqualified or denied sponsors that they may continue with their applications to meet tomorrow's deadline and share any applicable guidance sent to care providers. If you continue to ignore these requests, we have no choice but to file a motion to enforce.

Joel

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DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Silvis, William (CIV) <William.Silvis@usdoj.gov> Wed, Jun 18, 2025 at 5:55 PM
To: Joel McElvain <jmcelvain@democracyforward.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>

Hi Joel,

The Government is aware of the requirements of the Court's preliminary injunction and is working diligently toward meeting the deadline. If there are any issues in its ability to do so we will contact Plaintiffs' counsel. We expect to provide a more substantive update by the end of the day on Friday, June 20, 2025.

Best – Will

[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov> Fri, Jun 20, 2025 at 12:23 PM
To: Joel McElvain <jmcelvain@democracyforward.org>, Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>
Cc: "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Hi Joel,

ORR has identified 21 class members, including the 5 named Plaintiffs, who have potential Category 1, Category 2A ,or Category 2B sponsors.

ORR sent each class member's potential sponsor a personally addressed, written notice of the court's order and that the potential sponsor may continue with their sponsorship application. ORR did not send notices to the sponsors of the two class members who have been released to sponsors. See our email to you on Monday, June 16, 2025 (below).

ORR provided the written notice in English and Spanish. ORR sent the notices via UPS Next Day Air, to the address ORR has on file for the sponsor.

Sincerely,

Christina

Christina Parascandola

Senior Litigation Counsel

Office of Immigration Litigation – General Litigation and Appeals Section

U.S. Department of Justice

202-514-3097 |christina.parascandola@usdoj.gov

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DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Fri, Jun 20, 2025 at 2:28 PM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Christina,

Thank you for this update. The Court's order, however, applies to *all* potential sponsors of class members and neither the class definition nor the order is limited to Category 1 and Category 2 sponsors. When will ORR inform previously disqualified or denied Category 3 sponsors?

Additionally, can you confirm that letters were sent to all previously disqualified or denied potential Category 1 and 2 sponsors and not just the most recent potential sponsor on file? It is our understanding that many class members have gone through several potential sponsors as they try to find a sponsor that can fulfill ORR's new requirements, and the potential sponsor with the closest relationship may have been the first potential sponsor, not the most recent sponsor.

With regard to paragraphs (1) and (3) of the preliminary injunction, can you confirm that ORR has instructed its staff and facility case managers to process applications, including of Category 3 sponsors, without regard to the enjoined requirements? Please provide a copy of the guidance issued so we can evaluate whether to move forward with a motion to enforce.

Joel
[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov> Fri, Jun 20, 2025 at 9:36 PM
To: Joel McElvain <jmcelvain@democracyforward.org>, Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>
Cc: "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Hi Joel,

ORR sent packets to potential sponsors who have received a formal denial letter and potential sponsors identified in the complaint.

For other potential sponsors for whom ORR does not have an address, including Category 3 sponsors, ORR has been making phone calls. ORR informs us that it has completed calls to all the affected potential sponsors in its records.

Further, ORR informs us that its grantees have posted notices at each and every grantee program, except where the grant has been suspended and the grantee has not housed UACs since March 7, 2025.

ORR also informs us that it will also send an email to its network of care providers on Monday.

Sincerely,

Christina

Christina Parascandola

Senior Litigation Counsel

Office of Immigration Litigation – General Litigation and Appeals Section

U.S. Department of Justice

202-514-3097 |christina.parascandola@usdoj.gov

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DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov> Mon, Jun 23, 2025 at 9:54 PM
To: Joel McElvain <jmcelvain@democracyforward.org>, Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>
Cc: "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Hi Joel, just confirming that ORR sent an email to its network of care providers this afternoon. ORR noted that it is prohibited from applying new documentation requirements with respect to *Angelica S.* class members and has been ordered to adjudicate the affected applications without regard to the revisions made to the UAC Policy Guide on March 7 and April 15, 2025. -Christina

[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Joel McElvain <jmcelvain@democracyforward.org> Tue, Jun 24, 2025 at 1:12 PM
To: "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Christina,

Thank you for those updates.

We would like to hold a meet and confer call this week to confirm ORR's progress on compliance with the preliminary injunction as we evaluate whether a motion to enforce will be necessary. We think it would be most productive if someone from ORR could participate in that call. Please provide your availability for a call this week.

Specifically, we would like to discuss the following topics:

1. We understand from your June 20, 2025, email that ORR has now contacted all potential sponsors of class members who were denied or disqualified because of the enjoined proof of identification and proof of income policies. If this understanding is incorrect, please provide an update as to when ORR expects to contact all affected sponsors.

Additionally, if a potential sponsor does not answer ORR's phone call, what is ORR's plan to ensure they are actually informed? Will ORR send the sponsor a letter by mail (at least with respect to potential sponsors who case managers have both phone numbers and addresses for)? If so, when will that be complete?

We would like to confirm that the outreach done by ORR includes all sponsor categories and prior sponsors in addition to current sponsors.

2. Since the Court's order, has ORR adjudicated any applications of class member sponsors that were previously complete but for the proof of identification and/or income requirements?

3. Based on our conversations with Sofia W., it is our understanding that Liam W.'s reunification case has still not progressed since the Court's order. Please provide an update on the status of his case.

4. As we receive information about noncompliance and/or if children's legal service providers continue to encounter issues with compliance with the preliminary injunction, how should we and/or the LSPs communicate those noncompliance issues so that they are addressed most efficiently?

Thank you,
Joel

[Quoted text hidden]

DEMOCRACY FORWARD

Joel McElvain <jmcelvain@democracyforward.org>

Angelica S. v. HHS

Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov> Fri, Jun 27, 2025 at 3:14 PM
To: Joel McElvain <jmcelvain@democracyforward.org>
Cc: Cynthia Liao <cliao@democracyforward.org>, Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, David Hinojosa <dhinojosa@youthlaw.org>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Masetta Alvarez, Katelyn (CIV)" <Katelyn.Masetta.Alvarez@usdoj.gov>

Hi Joel,

ORR has provided responses your questions below.

Please see the attached email that ORR sent to the UC Care Provider Network on Monday, June 23, 2025.

Sincerely,

Christina

Christina Parascandola

Senior Litigation Counsel

Office of Immigration Litigation – General Litigation and Appeals Section

U.S. Department of Justice

202-514-3097 |christina.parascandola@usdoj.gov

From: Joel McElvain <jmcelvain@democracyforward.org>
Sent: Tuesday, June 24, 2025 1:12 PM
To: Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>
Cc: Cynthia Liao <cliao@democracyforward.org>; Mishan Wroe <mwroe@youthlaw.org>; Diane de Gramont <ddegramont@youthlaw.org>; Becky Wolozin <bwolozin@youthlaw.org>; David Hinojosa <dhinojosa@youthlaw.org>; McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>; Vick, Lindsay (CIV) <Lindsay.Vick@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>
Subject: Re: [EXTERNAL] Re: Angelica S. v. HHS

Christina,

Thank you for those updates.

We would like to hold a meet and confer call this week to confirm ORR's progress on compliance with the preliminary injunction as we evaluate whether a motion to enforce will be necessary. We think it would be most productive if someone

from ORR could participate in that call. Please provide your availability for a call this week.

Specifically, we would like to discuss the following topics:

1. We understand from your June 20, 2025, email that ORR has now contacted all potential sponsors of class members who were denied or disqualified because of the enjoined proof of identification and proof of income policies. If this understanding is incorrect, please provide an update as to when ORR expects to contact all affected sponsors.

As of yesterday all but one of the hard copy letters have been delivered.

Additionally, if a potential sponsor does not answer ORR's phone call, what is ORR's plan to ensure they are actually informed? Will ORR send the sponsor a letter by mail (at least with respect to potential sponsors who case managers have both phone numbers and addresses for)? If so, when will that be complete?

We would like to confirm that the outreach done by ORR includes all sponsor categories and prior sponsors in addition to current sponsors.

ORR contacted all sponsors where contact information was available. Multiple phone calls were attempted for each individual. Where after three attempts ORR still was unsuccessful in reaching the sponsor, a text message/whatsapp message was sent.

2. Since the Court's order, has ORR adjudicated any applications of class member sponsors that were previously complete but for the proof of identification and/or income requirements?

ORR has returned multiple release denial recommendations to FFSs for reconsideration in light of the Order. Care providers were provided with the attached Notice/instructions on reevaluating cases of class members.

3. Based on our conversations with Sofia W., it is our understanding that Liam W.'s reunification case has still not progressed since the Court's order. Please provide an update on the status of his case.

ORR is currently waiting to hear back from the FFS on any further updates in his case. ORR’s last update, as of June 16, 2025, is that Liam’s case is on track and prioritized.

4. As we receive information about noncompliance and/or if children's legal service providers continue to encounter issues with compliance with the preliminary injunction, how should we and/or the LSPs communicate those noncompliance issues so that they are addressed most efficiently?

ORR suggests that they be routed to the UACSettlements@acf.hhs.gov inbox.

Thank you,

Joel
[Quoted text hidden]

---------- Forwarded message ----------
From: "UC Policy (ACF)" <UACPolicy@acf.hhs.gov>
To:
Cc:
Bcc:
Date: Mon, 23 Jun 2025 19:00:51 +0000
Subject: Guidance for Adjudication of Sponsorship Application for children in the Angelica S. Class

The below message was sent to the UC Care Provider Network on Monday, June 23, 2025.

Dear Care Providers,

Please review the attached policy requirements, which must be used to guide the adjudication of sponsorship applications of unaccompanied alien children who are members of the *Angelica S.* provisional class.

On June 9, 2025, the U.S. District Court for the District of Columbia provisionally certified the *Angelica S.* class as all unaccompanied alien children who were in, or transferred to, the custody of HHS on or before April 22, 2025, and who both:

1. Have or had a potential sponsor who has been identified; and

2. Whose sponsor's family reunification application has been denied, closed, withdrawn, delayed, or cannot be completed because the sponsor is missing documents newly required on or after March 7, 2025, under the revised UAC Policy Guide policies relating to identification or proof of income standards.

For children in the *Angelica S.* class, the ID requirements for their prospective sponsors may follow the standards and policies in place **prior to March 7, 2025**, and proof of income may include documents verifying income which follow the standards and policies in place **prior to April 15th, 2025**.

In accordance with the Court's order, ORR is prohibited from applying new documentation requirements with respect to *Angelica S.* class members and has been ordered to adjudicate the affected applications without regard to the revised requirements (meaning revisions made to the UAC Policy Guide on March 7 and April 15, 2025).

All applicable sponsor applications for these class members must be reconsidered using prior ID and proof of income verification requirements (attached). Sponsors who were previously disqualified or denied, had an application closed, withdrew their application, saw their application delayed, or otherwise cannot complete the reunification process due to the new ID or proof of income requirements may resume the application process under this guidance.

Importantly, the class does not include children who were admitted to ORR on April 23 or later and does not prevent the policy guide changes from going into effect except as applies to the class members above. Children who entered care on April 23 or later should be adjudicated according to existing policy guide standards.

NOTE: Field Guidance 26, issued on February 14, 2025, requires that only original and unexpired IDs be presented as part of the sponsor application process. This guidance applies to all prospective sponsors, regardless of *Angelica S.* class membership.

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3 attachments

ORR-FG-26-Revised-Fingerprint-Requirements-for-Sponsors-and-HHM--02-14-2025.pdf
467K

UAC Policy Guide Section 2.2.4 & Footnotes -Angelica S.pdf
856K

Guidance for Adjudication of Sponsorship Application for children in the Angelica S. Class.eml
1823K

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2 Attachments • Scanned by Gmail Add all to Drive

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

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 21[4]

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 guardia and custody in the United States (i.e., Category 1 sponsors). Where there are no safety concerns, ORR does not requi 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 proce
- The child is not subject to a mandatory **Trafficking Victims Protection Reauthorization Act of 2008 (T 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 Catego Category 2B sponsor, the proof of identity for Household Member(s) (HHM)and adult caregiver is not required so lon concerns as described above. All other potential sponsors that do not meet the criteria above must submit docume identity of non-sponsor adults in their household and adult caregivers named in the sponsor care plan. Potential sp one (1) identification document that contains a photograph for all such adults. The document may be from either Li be an original version or a legible copy of the document. Expired documents are acceptable for the purpose of estab

Proof of Address

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

- A current lease or mortgage statement dated within the last two (2) months before submission of the F
- 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 submiss
- 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
- A piece of mail from a county, state, or federal agency (with the exception of ORR) with the sponsor's na 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.

Footnotes

[1] As per the release order preference outlined in Flores v. Reno Stipulated Settlement Agreement, No. 85-4544-RJK (Px) (C.D. Cal., Jan 17, 1997).

[2] These categories were created for program use, to help identify potential **sponsors**. They are not intended to replace the legal order of preference established in Flores.

[3] The care provider may offer assistance to potential sponsors in securing necessary documentation, but it is ultimately the potential sponsor's responsibility to find and submit them.

[4] This policy does not amend Policy Guide Section 2.10 Separations under the Ms. L Settlement.

[5] Verification of the potential sponsor's relationship to the child is a minimum step required by the **Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA)** (PDF) to determine a potential sponsor's suitability and capability of providing for the child's physical and mental well-being. See 8 U.S.C. § 1232. As a result, as stated above, ORR may in its discretion require the submission of multiple forms of evidence.

[6] The **ORR Director** delegates final authority for approving discretionary home studies to ORR/FFS Supervisors who act as agents of HHS/ORR. (See **Section 4.2 Home Study Requirement**).

[7] An *Authorization for Release of Information* is not required for sponsors, adult household members, or adult care givers identified in a sponsor care plan undergoing a sex offender registry check. An *Authorization for Request of Information* also is not required for sponsors, adult household members and adult caregivers identified in a sponsor care plan undergoing a public records check. However, sponsors will receive notice that public records and sex offender registry checks will be performed and will have an opportunity to explain the results of these checks

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGELICA S., *et al.*, Plaintiffs, v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*, Defendants.	No. 1:25-cv-01405 (DLF)

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Upon consideration of Plaintiffs' Motion for Summary Judgment and based on the documents and arguments submitted in support and in opposition to the motion, Plaintiffs' Motion for Summary Judgment is GRANTED.

The Court ORDERS 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 VACATED and shall be given no legal force or effect.

(2) The Office of Refugee Resettlement's ("ORR")'s proof of identification requirements contained in the March 7, 2025, revision of its Unaccompanied Alien Children Bureau Policy Guide Section 2.2.4 are hereby VACATED and shall be given no legal force or effect.

(3) The Office of Refugee Resettlement's ("ORR")'s proof of income requirements contained in the April 15, 2025, revision of its Unaccompanied Alien Children Bureau Policy Guide Section 2.2.4 are hereby VACATED and shall be given no legal force or effect.

For the reasons stated in the accompanying Memorandum Opinion, the above-referenced final agency actions are hereby declared unlawful under the Administrative Procedure Act, 5 U.S.C. § 706.

The Court further finds that Plaintiffs have satisfied the requirements for a permanent injunction. Defendants and their agents, employees, attorneys, and all those who are in active concert or participation with them, including ORR grantees and contractors, Fed. R. Civ. P. 65(d)(2), are ENJOINED as follows:

(4) The vacated proof of identification requirements and 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 shall not be applied to any application to sponsor a member of the certified class.

(5) Within one day of this order, ORR shall inform its care providers and any employees, contractors, or grantees working on release cases of the Court's order and direct them to immediately cease applying the vacated policies to sponsorship applications.

(6) Within 10 days of this order, ORR shall inform all potential sponsors of class members who were disqualified or denied based on ORR's revised proof of identification and proof of income requirements described in sections 2 and 3 above that they may now continue with their sponsorship applications. Within 11 days of this order, Defendants shall file a report with the Court confirming such notice is complete.

(7) In all cases where (a) a potential sponsor of a class member submitted a completed sponsorship application and (b) the application was denied, closed, withdrawn, delayed, or could not be completed because of the unlawful policies vacated in sections (1) through (3) above, ORR shall promptly adjudicate the previously submitted application in accordance with its regulatory timelines, 45 C.F.R § 410.1205(b), and without regard to the vacated policies. Within 30 days of this order, Defendants shall file

a report with the Court describing how many cases under this section have not yet been adjudicated and the reasons for the delay in adjudication. Defendants shall file any personally identifying information under seal pursuant to the Court's May 16, 2025, and August 15, 2025, orders, and Federal Rule of Civil Procedure 5.2.

SO ORDERED.

Dated: _____

_____
Hon. Dabney L. Friedrich
U.S. District Judge

LCvR 7(k): Persons to Be Served

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