



SUBJECT: Unaccompanied Alien Children Program

The Unaccompanied Alien Children (UAC) Program is managed by the Office of Refugee Resettlement (ORR) within the Administration for Children and Families, an operational division of the U.S. Department of Health and Human Services (HHS).

Current Law -

By law, the U.S. Department of Health and Human Services (HHS) has custody and must provide care for each UAC, defined as a child who has no lawful immigration status in the United States; has not attained 18 years of age; and, with respect to whom, there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody. *See* 6 U.S.C. § 279(g)(2).

Program Foundation -

Under the Homeland Security Act of 2002, Congress transferred the care and custody of these children to ORR from the former Immigration and Naturalization Service (INS) to move away from the adult detention model. In the Trafficking Victims Protection Reauthorization Act of 2008, which expanded and redefined HHS's statutory responsibilities, Congress directed that each child must "be promptly placed in the least restrictive setting that is in the best interest of the child." *See* 8 U.S.C. § 1232(b)(2).

Program Development -

UAC are referred to ORR by another federal agency, usually the Department of Homeland Security. Most children are placed into ORR care because they were apprehended by immigration authorities while trying to cross the border; others are referred after coming to the attention of immigration authorities at some point after crossing the border. HHS plays no role in the apprehension or initial detention of UAC prior to their referral to HHS custody and HHS is not a party to the child's immigration proceedings.

ORR has provided care for and found suitable sponsors for over 250,000 UAC. For its first nine years at ORR, fewer than 8000 children were served annually in this program. Since Fiscal Year 2012 (October 1, 2011 – September 30, 2012), this number has jumped dramatically, with a total of 13,625 children referred to ORR by the end of FY 2012. The program received 24,668 UAC referrals from DHS in FY 2013, 57,496 referrals in FY 2014, 33,726 referrals in FY 2015, 59,170 in FY 2016, and 40,810 in FY 2017. In FY 2018 49,100 UAC were referred. Because of the large fluctuations in arrival numbers throughout the year, ORR maintains a mix of "standard" beds that are available year-round, and "temporary" beds that can be added or reduced as needed. This bed management strategy provides the ability to accommodate changing flows.

In FY 2018, approximately 73 percent of all children referred were over 14 years of age, and over 71 percent were boys. In FY 2018, countries of origin of youth in this program were approximately as follows: Guatemala (54%); El Salvador (12%); Honduras (26%); and other (8%).

Today, HHS operates a network of just over 100 shelters in 17 states and has a proven track record of accountability and transparency for program operations, as well as being a good neighbor in the communities where shelters are located. In FY 2018 the overall average length of care for UAC in the program was 60 days. The overwhelming majority of UAC are released to suitable sponsors who are family members within the United States (U.S.) to await immigration hearings.

All potential sponsors for UAC are required to undergo background checks and complete a sponsor assessment process that identifies risk factors and other potential safety concerns. As a part of the release process, all potential sponsors must undergo a criminal public records check and a sex offender registry check. ORR also conducts background checks on adult household members and individuals identified in a potential sponsor's care plan. In addition ORR policy requires that all proposed UAC sponsors be fingerprinted to enhance the safety checks on potential sponsors and UAC home. The fingerprints are cross-checked with the Federal Bureau of Investigation's (FBI) national criminal history and state repository records and also includes a search of DHS arrest records. HHS will no longer require household members to submit to fingerprint background checks effective December 18, 2018. ORR will continue to do public records checks on all adult household members to ensure child safety

In some instances ORR also requires a home study before releasing a child. Home studies are mandatory for certain cases identified in law, including for: a child who is a victim of trafficking; a child with a disability; where the child has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened; and where the child's sponsor clearly presents a risk of abuse, maltreatment, exploitation or trafficking, to the child based on all available objective evidence. Additionally, per ORR policy, a home study is required for any child to a non-relative sponsor who is seeking to sponsor multiple children, or has previously sponsored or sought to sponsor a child and is seeking to sponsor additional children. ORR requires a home study for children who are 12 years and under before releasing to a non-relative sponsor.

Since the beginning of the program, ORR has notified Immigration and Customs Enforcement (ICE) 24 hours before and 24 hours after the release of all UAC. The notification includes the name of the sponsor and their current address.

Program Services -

Consistent with federal law, ORR places children while in ORR custody in the least restrictive setting that is in the best interest of the child, taking into account potential flight risk and danger to self and others. State-licensed ORR-funded facility services includes:

- Classroom education
- Mental and medical health services
- Case management
- Recreation

- Family reunification services that facilitate safe and timely release to family members or other sponsors who can care for them. We conduct home studies prior to release if safety is in question, and fund follow-up services for at-risk children after their release.

Program Responsibilities –

- Making and implementing placement decisions for the UAC
- Ensuring that the interests of the child are considered in decisions related to the care and custody of UAC
- Providing home assessments for certain categories of children
- Conducting follow-up services for certain categories of children
- Overseeing the infrastructure and personnel of ORR-funded care provider facilities
- Conducting on-site monitoring visits of ORR-funded care provider facilities and ensuring compliance with ORR national care standards
- Collecting, analyzing, and reporting statistical information on UAC
- Providing training to federal, state, and local officials who have substantive contact with UAC
- Developing procedures for age determinations and conducting these determinations
- Cooperating with the Department of Justice's Executive Office for Immigration Review to ensure that sponsors receive legal orientation presentations
- Ensuring, to the greatest extent practicable, that all UAC in custody have access to pro bono legal representation or counsel
- Releasing UAC to qualified sponsors and family members who are determined to be capable of providing for the child's physical and mental well-being

Updated: December 2018