

Secretary Robert F. Kennedy Jr.
Department of Health and Human Services
Administration for Children and Families
330 C Street, S.W., Washington, D.C. 20201

RE: Comment on ACF-2026-0199 / RIN 0970-AD26: Unaccompanied Children Program Proposed Foundational Rule; Sponsor Assessment Update

Dear Secretary Kennedy,

Thank you for the opportunity to respond to the U.S. Department of Health and Human Services' (HHS) notice of proposed rulemaking (NPRM)¹ that proposes changes to the Unaccompanied Children Program through the Office of Refugee Resettlement (ORR). The rule would create additional requirements in sponsor assessment to include restrictive proof of identity requirements, modified income verification standards, and expanded background checks. The NPRM also proposes the conduct of examinations of unaccompanied children for gang-related tattoos or markings related to considerations of "dangerousness."²

The Center for Law and Social Policy (CLASP) writes to strongly oppose these changes which do not advance ORR's stated goal of protecting children's safety and well-being. Instead, such changes would keep unaccompanied children in federal custody longer, delaying family reunification and exposing children to further trauma. Specifically, changes increase the risk that vulnerable children will be retraumatized while in federal custody, make it extremely difficult for parents, legal guardians, or other adult relatives to qualify for sponsorship, and ultimately make it possible for them to be sent back to dangerous conditions. Sponsor assessment is critical to ensure that unaccompanied children are placed with safe caretakers, but the changes proposed by the rule only create additional barriers to family reunification without improving child safety.

Founded in 1969, CLASP is a national, non-partisan, non-profit, anti-poverty organization that advances policy solutions for people with low incomes. Our comment draws upon the work of CLASP as experts in the areas of immigration, anti-poverty, and child development policies. As a national anti-poverty organization, we bring a deep commitment to families living with low incomes and knowledge of the challenges that they experience. At CLASP, we are also experts on policies that support children's healthy development, such as promoting access to good

¹ Office of Refugee Resettlement, Administration for Children and Families. *Unaccompanied Children Program Foundational Rule; Sponsor Assessment Update To Include Proof of Identity, Background Check, Placement, and Income Verification Standards*. 91 FR 38582, 26 June 2026, <https://www.federalregister.gov/documents/2026/06/26/2026-12946/unaccompanied-children-program-foundational-rule-sponsor-assessment-update-to-include-proof-of>.

² *Id.*

nutrition, high-quality health care and education, a healthy living environment, and stable, nurturing caregivers. We recognize that harsh immigration policies, such as keeping children in federal custody longer and subjecting them to body searches by federal contractors, undermine these very foundations.

No matter their immigration status, children deserve safety and protection. No child, especially a child who may already have survived abuse, trafficking, or violence, should be needlessly held in government custody. These new regulations would create additional barriers for vulnerable children seeking to leave federal custody and reunite with safe family members.

Heightened requirements for potential sponsors harm unaccompanied children

a. Heightened requirements undermine child well-being by delaying family reunification

Unaccompanied children should be released to sponsors because it is in their best interests to be placed in a safe and stable environment while awaiting immigration proceedings. The fundamental purpose of the Unaccompanied Children Program is to act in the best interests of the children in federal custody, prioritizing family reunification as quickly and safely as possible. However, the changes proposed by this rule would delay family reunification without improving child safety. The proposed rule would significantly and unnecessarily increase documentation and screening requirements for parents, family members, and other safe and trusted adults to sponsor an unaccompanied child. These impertinent modifications to existing requirements would deter suitable sponsors from coming forward, prolonging unaccompanied children's stay in federal custody and delaying family reunification.

First, the proposed rule would establish a modified, more limited list of acceptable documents to prove identity, modeled after the accepted documents for employment verification under Form I-9. This change would disproportionately create a barrier for potential sponsors who may lack U.S. identification documents or primarily use identification documents issued by a foreign entity, which is often the case for undocumented potential sponsors. A parent or other trusted adult may be able to seamlessly prove their identity using a foreign identification and may otherwise be able to seamlessly meet the sponsorship requirements to prove they are capable of caring for the unaccompanied child, but simply lack a U.S. identification document. This proposed change would vet potential sponsors' ability to fulfill bureaucratic requirements rather than their fitness to safely care for a child, and as a result displaces the best interests of the child.

Second, the proposed rule would require that potential sponsors prove income through traditional documents like tax returns, paystubs, or via employer letter. This proposed change creates a false dichotomy, misleadingly setting documentation requirements as indicators of parental/sponsor fitness. The proposed rule would disproportionately burden potential sponsors who provide for their children and families through cash-based employment, disqualifying any

adult who may be perfectly willing and able to financially support an unaccompanied child but may lack traditional forms of proving income. Through this proposed rule, the government seemingly interrogates, “show your income through these specified forms of proof, or you are unfit to sponsor a child.”

Third, the proposed rule would expand background checks for potential sponsors to include every adult who is a resident in that sponsor’s household. These extensive background checks would collect sensitive information of all household residents, including social security numbers and taxpayer ID numbers, and would even potentially require government-conducted interviews for the “resolution of discrepancies.”³ Safe and trusted adults may be discouraged from sponsoring unaccompanied children if they live with mixed-status family members out of fear of interaction with the federal government. The legal status of potential sponsors or that of the family members with whom they reside should not prevent family reunification. As recognized in broader child welfare practice, an adult’s immigration status is irrelevant to whether a caregiver is safe for a child. Indeed, the proposed rule could actually create a barrier to a placement that upholds a child’s best interest, as many families rely on all members of a household to share caregiving responsibilities.

b. Heightened requirements undermine child well-being by creating a chilling effect for potential sponsors interacting with the federal government

The proposed rule would further undermine family reunification and create a massive chilling effect for children and families by restricting the forms of documentation that parents and other potential sponsors can use to establish their identity and financial circumstances. Reunification decisions should be based on the safety and best interests of the child. By requiring proof of identity and income through documents that are often unavailable to undocumented parents and other potential sponsors, the proposed rule would make it more difficult for children to return safely to their loved ones. These requirements do not demonstrate whether a parent or other trusted caregiver is capable of providing a safe and supportive home; instead, they create bureaucratic barriers that can prevent otherwise appropriate sponsors from qualifying.

Children should be released to safe caregivers, and sponsors should be appropriately vetted. Both the statute and regulations are clear that a sponsor is suitable so long as they can provide for the child’s physical and mental well-being. Per the Trafficking Victims Protection Reauthorization Act (TVPRA), the sponsor vetting process simply requires “verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.”⁴

³ *Id.*

⁴ Office of Refugee Resettlement. *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2: Safe and Timely Release from ORR Care*. Administration for Children and Families, U.S. Department of Health and Human Services, 23 July 2026, <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

The proposed rule, however, would add financial and documentation hurdles that could prevent parents from reuniting with their children based not on concerns about child safety, but on their ability to produce specific forms of documentation. A parent's immigration status should not determine whether they are capable of safely caring for their own child.

Of note, as it stands, the sponsor vetting process conducted through the Unaccompanied Children Program already requires an extensive background check for potential sponsors.⁵ Background checks are an important mechanism to ensure that unaccompanied children are placed with safe adults as they await immigration proceedings. The proposed rule would expand background checks to encompass sponsor households, effectively surveilling households that are oftentimes immigrant families of mixed statuses. In doing so, the proposed rule could deter family members from applying to sponsor an unaccompanied child for fear of their household interacting with the federal government.

The expanded background checks proposed by this rule would collect sensitive information from all adult residents of the potential sponsor's household. When families begin to associate seeking government services with the risk of immigration consequences, that fear can extend beyond ORR and create a broader chilling effect. Research on the chilling effect created by anti-immigrant policies has consistently shown how immigration-related concerns related to sharing information with government agencies can lead to unnecessary and deeply harmful reluctance to engage with government agencies, leading children—including U.S. citizen children—to lose access to critical programs that support their healthy development.⁶ For instance, research points to widespread fear and anxiety among parents and service providers due to immigration-related activity, and in many cases families limiting use of services and providers witnessing that families would disappear from programs.⁷

⁵ Office of Refugee Resettlement. *Unaccompanied Alien Children Bureau Fact Sheet*. Administration for Children and Families, U.S. Department of Health and Human Services, July 2025, <https://acf.gov/orr/fact-sheet/programs/uc/fact-sheet>.

⁶ Roche, Kathleen M., Rebecca M. Vera Cruz, Elizabeth Vaquera, and María Ivonne Rivera. "Impacts of Immigration Actions and News and the Psychological Distress of U.S. Latino Parents Raising Adolescents." *The Journal of Adolescent Health* 62, no. 5 (2018): 525–531. <https://doi.org/10.1016/j.jadohealth.2018.01.004>; Twersky, S.E. Do state laws reduce uptake of Medicaid/CHIP by U.S. citizen children in immigrant families: evaluating evidence for a chilling effect. *Int J Equity Health* 21, 50 (2022). <https://doi.org/10.1186/s12939-022-01651-2>; Dulce Gonzalez, Jennifer M. Haley, and Genevieve M. Kenney, "One in Six Adults in Immigrant Families with Children Avoided Public Programs in 2022 Because of Green Card Concerns," Urban Institute (November 30, 2023); Shelby Gonzales, "Harsh New 'Public Charge' Policy Will Threaten Lawful Immigration and Lead Families to Forgo Help They Need and Are Eligible for Under Federal Law," July 27, 2026, <https://www.cbpp.org/blog/harsh-new-public-charge-policy-will-threaten-lawful-immigration-and-lead-families-to-forgo>.

⁷ Suma Setty, Kaelin Rapport, Emily Rodriguez, and Renato Rocha, "Even the Playground Isn't Safe: How Immigration Policies are Harming Our Youngest Children," CLASP, April 16, 2026, <https://www.clasp.org/publications/report/brief/even-playground-unsafe-immigration-policies-hurt-child/>.

The proposed rule's expansion of background checks to encompass sponsor households could cascade into a dangerous chilling effect, preventing not only their access to the ORR's service of swift placement of unaccompanied children with safe sponsors, but intimidating sponsors and their families from seeking other services for fear of interaction with the federal government.

Indeed, chilling effects extend far beyond those targeted by anti-immigrant policies.⁸ In recent interviews and focus groups with immigrant parents and service providers who serve immigrant families with young children, CLASP researchers learned that parents would not seek services, engage with government agencies, or enroll in programs for which their children were otherwise eligible, even when doing so would benefit their kids, all out of fear of interacting with the government.⁹ Parents and caretakers are scared of engaging in everyday activities and using services for which they or their children are eligible due to increased immigration enforcement. These persistent chilling effects only stand to be perpetuated by the proposed rule's expansion of background checks to include adult residents in a potential sponsors' household.

Prolonged federal custody is harmful to child well-being

a. Prolonged federal custody of unaccompanied children leads to long-term harm

Under the Flores Settlement, ORR is required to place unaccompanied children “in the least restrictive setting that is in the best interests of the child” and to release children from its custody “without unnecessary delay.”¹⁰ Yet recent changes to the Unaccompanied Children Program have created unnecessary barriers to family reunification and resulted in children remaining in federal custody for significantly longer periods of time. Before 2025, children spent approximately one month in ORR facilities before discharge. By August 2025, children in ORR facilities had spent an average of 179 days in custody. During the same period, the rate of children discharged from ORR facilities fell dramatically, from approximately 3 percent of children in custody on an average day historically to less than 1 percent.¹¹ These changes demonstrate a breakdown in ORR's ability to safely and efficiently reunify children with sponsors and have subjected children to prolonged stays in federal custody.

Keeping children in federal custody for prolonged periods not only undermines ORR's obligation to release children without unnecessary delay, but also exposes children to additional trauma

⁸ Gomez, Juan Carlos, and Juliana Zhou. *What's at Stake?* Center for Law and Social Policy (CLASP), July 2024, https://www.clasp.org/wp-content/uploads/2024/07/pathforward_immigration_final_update.pdf.

⁹ Suma Setty, Kaelin Rapport, Emily Rodriguez, and Renato Rocha, “Even the Playground Isn't Safe: How Immigration Policies are Harming Our Youngest Children,” CLASP, April 16, 2026, <https://www.clasp.org/publications/report/brief/even-playground-unsafe-immigration-policies-hurt-child/>.

¹⁰ The Young Center for Immigrant Children's Rights, *Flores v. Reno* (Minimum Standards for Children in Immigration Custody) (Jan. 28, 2026), <https://www.theyoungcenter.org/case/floresvreno/>

¹¹ Acacia Center for Justice, *Two New Reports Reveal Harms of Prolonged Custody for Unaccompanied Children* (2026), <https://acaciajustice.org/two-new-reports-reveal-harms-of-prolonged-custody-for-unaccompanied-children>

and lasting harm.¹² Most unaccompanied children have experienced trauma in their countries of origin, during their migration journeys, or after arriving in the United States. These experiences make children particularly vulnerable and underscore the importance of stable, supportive, and trauma-informed care.¹³ The longer a child remains in a restrictive setting with an unclear timeline for release, the greater the risk that the child will experience additional trauma and harm to their mental health and development. Children thrive when integrated into the community, attending school, playing with friends, and having experiences that support their development. Children have a range of physical, psychosocial, emotional, and cognitive developmental needs. All of these can be compromised by being in prolonged custody and the continued delay of being reunited with a caregiver.

The uncertainty created by prolonged custody is not only harmful to child well-being but also their relationships with their parents and caregivers. Children who do not understand why they remain in federal custody may come to believe that a parent or family member in the United States does not want them, even when that family member is actively seeking to reunify with them.¹⁴ For children who have already experienced separation, violence, abuse, trafficking, or other trauma, unnecessary and prolonged separation from a parent or trusted caregiver can further undermine their sense of safety and security. According to the American Academy of Pediatrics, immigrant children should not be exposed to conditions that may harm or traumatize them, and their exposure to immigration detention should be limited.¹⁵ Persistent and substantial exposure to fear and anxiety—sometimes called “toxic stress”—can do immense damage to children’s health. This level of stress can interfere with young children’s physical brain development leading to mental health disorders, developmental delays, and physical and mental health problems that last into adulthood. Additionally, some children, experiencing distress as their reunification with their family becomes delayed, may ultimately abandon their claims for protection and request return to their countries of origin.

Prolonged periods in federal custody also impose unnecessary costs on the government and could create pressure to establish additional facilities to accommodate children who remain in custody for extended periods. Such facilities are not an appropriate substitute for the stable, nurturing, and community-based environments children need to grow and develop. Rather than

¹² Young, Janine, et al. “Health Risks of Unaccompanied Immigrant Children in Federal Custody and in US Communities.” *American Journal of Public Health*, vol. 114, no. 3, Mar. 2024, pp. 340-346. *PubMed*, <https://doi.org/10.2105/AJPH.2023.307570>.

¹³ Welch L. (2024). Understanding the Legal Rights and Mental Health Needs of Unaccompanied Immigrant Children in US Government Custody and Beyond. *Child and adolescent psychiatric clinics of North America*, 33(2), 151–161. <https://doi.org/10.1016/j.chc.2023.10.007>.

¹⁴ Acacia Center for Justice, *Dismantling Protections: The Impact of Prolonged Custody on Unaccompanied Children* (Sept. 2025),

<https://acaciajustice.org/wp-content/uploads/2025/09/Acacia-Dismantling-Protections-2025-09.pdf>

¹⁵ Linton, J. M., Griffin, M., Shapiro, A. J., Council On Community Pediatrics, Chilton, L. A., Flanagan, P. J., Dilley, K. J., Duffee, J. H., Green, A. E., Gutierrez, J. R., Keane, V. A., Krugman, S. D., McKelvey, C. D., & Nelson, J. L. (2017, May 1). Detention of Immigrant Children. *Pediatrics*, 139(5). <https://doi.org/10.1542/peds.2017-0483>.

creating policies that prolong children's time in federal custody, ORR should prioritize the safe and timely reunification of children with parents, relatives, and other trusted caregivers, consistent with ORR's obligation to act in the best interests of each child and release children without unnecessary delay.

b. Prolonged federal custody of unaccompanied children exposes them to greater risks of abuse, including body searches by unvetted federal contractors

The government has an obligation to protect children in its custody, but that responsibility must be carried out through practices that prioritize children's safety, dignity, and well-being and are rooted in a trauma-informed lens. The proposed rule would instead permit bodily examinations of children for the purpose of identifying tattoos or other markings that could be associated with gang involvement. Subjecting vulnerable children to invasive bodily examinations to search for markings that may have no connection to gang involvement and that may instead be evidence of prior victimization does not advance that interest. Instead, it risks further traumatizing children who are already in a vulnerable position and undermines the safety, dignity, and trust that children need while in government custody.

Any examination of a child's body is inherently sensitive and must be approached with appropriate safeguards to protect the child from harm, retraumatization, and violations of their privacy and dignity. Bodily examinations should occur only when medically necessary, be conducted by qualified, licensed medical professionals, and include rigorous safeguards to protect children's privacy, dignity, and well-being. Children should not be subjected to invasive examinations by unvetted federal contractors based on the assumption that a marking on their body indicates that they are dangerous.

Conclusion

CLASP strongly opposes the proposed changes to the Unaccompanied Children Program because they would prolong unaccompanied children's stay in federal custody and risk further trauma and long-lasting harm, without any evidence that such changes would improve child safety. ORR must withdraw or substantially revise this proposed rule to reflect the shared value of protecting children from harm. ORR should prioritize the well-being of unaccompanied children by safely and expeditiously facilitating family reunification. By imposing greater income and identification requirements, expanding background checks, and authorizing ORR to search children's bodies for gang-related tattoos or markings, this proposed rule would destabilize the lives of children and the adults who care for them, disproportionately burden immigrant families, produce far-reaching chilling effects, and harm child well-being.

Please contact Wendy Cervantes (wcervantes@clasp.org) with any questions regarding this comment.