



Formerly known as CAIR Coalition

1025 Connecticut Avenue NW,
Suite 701 | Washington, DC 20036

www.amicacenter.org



March 12, 2025

Sent via Public Access Link (PAL) to:

Department of Health and Human Services (HHS) Office of the Secretary (OS)
Freedom of Information Act Office
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Administration for Children and Families
FOIA Office
330 C Street, SW, 4th Floor
Washington, DC 20201

EXPEDITED PROCESSING AND FEE WAIVER REQUESTED

Re: Freedom of Information Act Request for Office of General Counsel's Memorandum
and Related Policies and Memoranda Regarding Access to Legal Counsel for
Unaccompanied Children

To Whom It May Concern:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, the Amica Center for Immigrant Rights (“Amica Center”),¹ the Florence Immigrant and Refugee Rights Project (“Florence Project”), and the Center for Constitutional Rights (“CCR”) (together, “Requestors”) hereby request a copy of records relating to the Department of Health and Human Services’ (“HHS”) policies, guidance, and legal assessments of which kinds and forms of services are sufficient to satisfy HHS’ obligations to provide access to legal counsel for unaccompanied children.² This request is submitted in light of the recent “stop work” order that HHS, through the Department of the Interior, issued to contractors and subcontractors providing legal services to unaccompanied children who were or had been in the custody of HHS’ Office of Refugee Resettlement (“ORR”). *See* Exhibit 1, Stop Work Order. This “stop work” order was inexplicably rescinded a few days later. *See* Exhibit 2, Rescission of Stop Work Order. Since then, Requestors have heard reports that HHS plans to stop funding legal services for unaccompanied non-citizen children and replace those services with “Know Your Rights” videos once the current contract expires on March 29, 2025.

Please direct this request to all appropriate offices and departments within HHS, including but not limited to HHS’ Office of General Counsel (“OGC”), ORR, and HHS’ Administration for Children and Families (“ACF”); any and all appropriate field offices within each of the agencies subject to this request as well as applicable custodians in leadership positions within each agency related to decision-making on the subject of this FOIA request.

Requestors are seeking expedited processing of this request, given the urgent need to inform the public of the government’s actions relating to the provision of legal services mentioned above. Requestors also seek a waiver of any fee imposed by the agency because the records sought will contribute to the public’s understanding of the government’s operations and release of the information is not primarily in Requestors’ commercial interest.

I. Records Requested

Requestors seek records prepared, received, transmitted, collected, or maintained by various government agencies as described below:

- a. The HHS’ OGC legal memorandum discussing the possibility of “Know Your Rights” presentations satisfying the requirements of the Trafficking Victims Protection Reauthorization Act (“TVPRA”) and the regulations at 45 CFR Part 410 (“the Flores regulations”);

¹ Formerly known as the Capital Area Immigrants’ Rights (“CAIR”) Coalition.

² Note that while HHS typically uses the phrase “unaccompanied alien children” to refer to the same population, requestors will use the term “unaccompanied children” to avoid using the pejorative “alien.”

- b. Any and all communications, drafts, white papers, and media reports that are related to the preparation of the OGC legal memorandum mentioned above
- c. Any and all sources that are explicitly cited and/or referenced in the above-mentioned OGC legal memorandum
- d. Any and all communications, drafts, legal memoranda, and other records created in preparation for the issuance of ORR/ACF's Field Guidance #8 (FG21-8), entitled "Know Your Rights Presentations," on February 27, 2021. *See* Exhibit 3, Field Guidance #8.
- e. Any and all communications, drafts, legal memoranda, and other records created in preparation for the revision of ORR/ACF's Field Guidance #8 (FG21-8), entitled "Know Your Rights Presentations," on September 7, 2023, as indicated on ORR's website. *See* Exhibit 4, ORR Website Print-Out.
- f. Any and all communications, drafts, legal memoranda, and other records created in preparation for the rescission of ORR/ACF's Field Guidance #8 (FG21-8), entitled "Know Your Rights Presentations," as indicated on ORR's website. *See* Exhibit 4, ORR Website Print-Out.
- g. Any and all communications, drafts, legal memoranda, and other records created in preparation for the revision of Sections 3.7 (Legal Services), 3.7.1. (Know Your Rights Presentation & Confidential Legal Consultation for Legal Relief), and 3.7.2 (Direct Legal Representation) of the ORR Unaccompanied Alien Children Bureau Policy Guide on August 1, 2024. *See* Exhibit 5, Excerpt from UAC Policy Guide.
- h. Any and all policies, guidance, white papers, memoranda, etc., that HHS has created since January 1, 2020, in assessing the minimum services that must be provided to unaccompanied children to satisfy the requirements of the TVPRA and the Flores regulations

To further clarify our request, we seek all responsive records regardless of format, medium, or physical characteristics. In conducting the search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request includes any attachments to these records, including e-mail attachments. No category of material should be omitted from search, collection, and production, including metadata attached to any records.

II. Format of Production

Requestors seek responsive electronic records in a machine-readable format with all metadata and load files. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits. Requestors ask that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

III. Requestor Information

A. Amica Center

Amica Center is a 501(c)(3) nonprofit organization that provides legal services to noncitizens in ICE custody, including services administered through the Department of the Interior and Department of Health and Human Services' UC legal services contract. Originally started as a project of the Washington Lawyer's Committee for Civil Rights and Urban Affairs, Amica Center became an independent non-profit organization in 1999. Amica Center consists of the Detained Adults Program, the Detained Children's Program, and the Immigration Impact Lab.

Amica Center's mission is to confront the impact that the unjust immigration system has on our clients and communities through direct legal representation, impact litigation, education, and client-centered advocacy. We are driven in our pursuit of a vision for a country with a humane and just immigration system that affords everyone due process and direct legal representation, protects all people seeking safety, and keeps communities together.

B. Florence Project

The Florence Project is a 501(c)(3) non-profit organization that provides free legal and social services to the thousands of adults and children detained in immigration custody in Arizona on any given day. The Florence Project was founded in 1989 to provide free legal services to asylum seekers and other migrants in a remote immigration detention center in Florence, Arizona where people had no meaningful access to counsel. We have expanded significantly since that time and now provide free legal and social services to hundreds of detained and released unaccompanied children throughout Arizona.

As the only 501(c)(3) non-profit organization in Arizona dedicated to providing free legal and social services to people in immigration detention, our vision is to ensure that every person facing removal proceedings has access to counsel, understands their rights under the law, and is treated fairly and humanely.

C. Center for Constitutional Rights

The Center for Constitutional Rights (“CCR”) is a non-profit, public interest legal and advocacy organization that engages in the fields of civil and international human rights. CCR’s diverse issue areas include litigation and advocacy around immigration, as well as racial and ethnic profiling. One of CCR’s primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current immigration law issues, and other similar materials - including FOIA documents - for public dissemination. These and other materials are available through CCR’s Development, Communications, and Advocacy Departments. CCR operates a website, <http://ccrjustice.org>, which addresses the issues on which the Center works. CCR staff members often serve as sources for journalists and media outlets, including on issues related to racial justice, public records, and immigrant rights. In addition, CCR regularly issues press releases, has an active social media presence with thousands of followers, and also issues regular email updates sent to over 50,000 supporters about developments and news pertaining to CCR’s work.

IV. Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54, we request a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. 45 C.F.R. § 5.54(a). Moreover, the request is fundamentally for non-commercial purposes. *Id.* **In the event that there are fees, we would be grateful if you would inform us of the total charges in advance of fulfilling our request.**

Requestors seek information that concerns the operations of various federal government agencies and components, including HHS, ORR, and ACF, and therefore disclosure of the requested records will contribute to a better understanding of relevant government procedures (namely, the provision of legal services to unaccompanied children) by the general public in a significant way. In particular, Requestors seek information regarding a recent, sweeping decision by HHS to order legal services providers to stop providing contractually obligated services to unaccompanied children. Although that order has been rescinded, Requestors have reason to believe that HHS will ultimately choose to not continue funding legal services for unaccompanied children beyond the March 29, 2025 expiration of the current contract for such legal services. Requestors have also heard reports that HHS plans to replace legal services for these children – currently provided by numerous legal services organizations, including Requestors, and highly specialized lawyers across the country – with “Know Your Rights” videos. The current administration’s policies regarding legal services for unaccompanied children have been the

subject of widespread media coverage and public outcry.³ The requested information will shed further light on the administration's current policies and plans, and will also shed light on HHS' prior positions regarding the adequacy of such "Know Your Rights" resources in satisfying the TVPRA and the Flores regulations (and the *Flores* settlement before that). Such policies and plans (and the way they may or may not depart from prior HHS positions) affect not only the hundreds of unaccompanied children with whom Requestors work but also affect tens of thousands of unaccompanied children and their families across the country, along with the other legal services providers who work with them.

As providers of legal services to unaccompanied children, Requestors have the necessary expertise, capacity, and intention to review, analyze, and synthesize this information and make it accessible to a broad audience of attorneys and clients in immigration proceedings. Requestors also request a limitation of search and review fees as "representatives of the media" pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media") and 28 C.F.R. § 16.10(c)(1)(i) (search fees shall not be charged to "representatives of the news media").

Requestors are "representative[s] of the news media" within the meaning of the statute and applicable regulations. *See* 5 U.S.C. § 552(a)(4)(A)(ii) (defined as "any . . . entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience,"); *Nat. Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1397 (D.C. Cir. 1989) (same); *Electronic Privacy Info. Ctr. v. Dep't of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003) (non-profit that published information in a wide variety of sources on topics of privacy and civil liberties qualified as representative of news media for FOIA purposes).

The statutory definition does not require that the requestor be a member of the traditional media. "[A]s methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative

³ *See, e.g.*, Maanvi Singh and Lois Beckett, "Trump administration cuts off legal aid for unaccompanied immigrant children," The Guardian, <https://www.theguardian.com/us-news/2025/feb/18/trump-administration-legal-aid-immigrant-children> (Feb. 18, 2025); Priscilla Alvarez and Piper Hudspeth Blackburn, "Trump administration cuts off access to legal services for unaccompanied migrant children," CNN.com, <https://www.cnn.com/2025/02/18/politics/unaccompanied-migrant-children-legal-services-trump-cuts/index.html> (Feb. 18, 2025); Rebecca Santana, Gisela Salomon and Elliot Spagat, "Trump administration halts legal aid for migrant children, leaving some to navigate courts alone," APNews.com, <https://apnews.com/article/trump-legal-aid-unaccompanied-children-immigration-court-5b5573cc022ebfdf8dc6b961bfcc0768> (Feb. 19, 2025); Daniella Silva, "Trump administration rescinds order to halt legal aid for unaccompanied migrant children," NBCNews.com, <https://www.nbcnews.com/news/latino/trump-administration-legal-aid-unaccompanied-migrant-children-rcna193230> (Feb. 21, 2025).

media shall be considered to be news-media entities.” 5 U.S.C. § 552(a)(4)(A)(ii); *see also Cause of Action v. F.T.C.*, 799 F.3d 1108, 1125 (D.C. Cir. Aug. 25, 2015) (disagreeing “with the suggestion that a public interest advocacy organization cannot satisfy the statute’s . . . criterion” and remanding for reconsideration). Accordingly, courts have found that non-traditional news media outlets (such as, the ACLU—a nationwide nonprofit civil rights organization) can qualify as representatives of the news media for the purposes of FOIA. *See ACLU of Washington v. Dep’t of Justice*, No. C09-0642RSL, 2011 WL 887731, at *10 (D. Wash. Mar. 10, 2011) (finding that the ACLU qualifies as a “representative of the news media”) *recons. on other grounds, ACLU v. Dep’t of Justice*, 2011 WL 1900140 (D. Wash. May 19, 2011). Requestors are members of the news media and routinely provide written news commentary on immigration laws and policies on their website and social media platforms as well as traditional news media platforms.⁴

As members of the news media, Requestors intend to use the documents and information received in response to this request to share with the public and to write related news articles about the stop work order. Requestors can effectively convey the information to a broad audience via our respective websites, which are visited thousands of times on a monthly basis by members of the public. Also, information available on our websites is shared and re-posted on other websites and social media platforms with large audiences. Requestors also share information with the public via our respective newsletters and email lists, which are directly distributed to thousands of recipients. Further information on the reports, news articles and commentary, and other public-facing information that Requestors disseminate regularly is available at our respective websites:

⁴ *See, e.g.*, Daniel Melo, *Glenn Youngkin’s Border Folly*, WAPo Opinions (July 17, 2023), <https://www.washingtonpost.com/opinions/2023/07/17/glenn-youngkins-border-folly/>; Eric Lopez, *Could Prince Harry face deportation? How his immigration experience differs from most.*, USA TODAY (June 9, 2023), <https://www.usatoday.com/story/opinion/voices/2023/06/09/prince-harry-visa-us-immigration-experience-privilege/70300031007/>; Evan Benz, *Making Changes to U.S. Immigration Policy*, N.Y.T. Opinions (Jan. 19, 2024), <https://www.nytimes.com/2024/01/19/opinion/immigration-policy.html>; Monica Mananzan, *Law360: Immigration Board Must Mend Choice of Law Post-Garcia*, LAW360 (June 8, 2023), <https://www.law360.com/articles/1684986>; Peter Alfredson, *Pugin Ruling Lowers Bar For Felony-Based Deportation*, LAW360 (July 6, 2023), <https://www.law360.com/articles/1695988/pugin-ruling-lowers-bar-for-felony-based-deportation>; Florence Immigrant and Refugee Rights Project, *Handcuffed, Pushed, And Afraid: Immigrant Children Share Terrifying Experiences While In Border Patrol Custody* (Sept. 2024) https://firrp.org/wp-content/uploads/2024/09/September-2024_Handcuffed-Pushed-and-Afraid-Immigrant-children-share-terrifying-experiences-while-in-Border-Patrol-custody.pdf; Florence Immigrant and Refugee Rights Project, *Arizona Adult Immigration Detention Center Complaints: September 2023 – February 2024* (Apr. 12, 2024) <https://firrp.org/florence-project-six-month-report-ongoing-complaints-and-systemic-issues-in-arizona-adult-immigration-detention-centers/>; Florence Immigrant and Refugee Rights Project, *Report on ICE Immigration Detention Complaints, October 2022 – March 2023* (Sept. 2023) https://firrp.org/wp-content/uploads/2023/09/2023-09-15_Florence-Project-Report-on-ICE-Detention-Complaints_Oct-2022-March-2023.pdf.

<https://firrp.org/news-events/>, <https://amicacenter.org/news-and-stories/>, and <https://ccrjustice.org/home/press-center>.

As 501(c)(3) non-profit organizations, Requestors have no commercial interest in the information to be obtained under this FOIA request and may make the information publicly available at no cost through our website.

Given that FOIA's fee waiver requirements are to be "liberally construed in favor of waivers for noncommercial requesters," a waiver of all fees is justified and warranted in this instance. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (quotation omitted).

V. Request for Expedited Processing

Requestors request Track 1 expedited treatment for this FOIA request. There is a compelling need for expedited processing, namely, an urgency to inform the public concerning the actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II); 45 C.F.R. § 5.27. The courts have interpreted the "compelling need" language in the statute to encompass three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *See Protect Democracy Project, Inc. v. U.S. Department of Defense*, 263 F.Supp.3d 293, 298-99 (D.C. Cir. 2017) (citing *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001)).

All three factors outlined above are present in this case. First, legal services for children are a foundation of basic due process in removal proceedings, and an area of public funding that has widespread support. The issue of immigrant detention and deportation – who should be detained or not, who should be deported or not, etc. – is a pressing concern for all Americans, regardless of their political beliefs, as exemplified by Congress' recent passage of the Laken Riley Act and the strong opposition to that law expressed by Amica Center, the Florence Project, and others. The HHS' apparent plans (as indicated by the recent "stop work" order) to eliminate federal funding for lawyers to represent unaccompanied children in immigration court is a hugely significant development in the operation and functioning of immigrant legal services providers across the country, as would be the decision to replace such high-quality legal services with "Know Your Rights" videos. Such a decision appears to also represent a significant and unjustified departure from HHS' prior positions regarding the requirements of the TVPRA and the Flores regulations regarding access to legal counsel for unaccompanied children. For these reasons, the request records should be disclosed as soon as practicable to inform the American public of this development.

Second, delaying a response to this request would compromise a significant recognized interest. Requestors Amica Center and the Florence Project, as subcontractors for Acacia entrusted with providing legal services to unaccompanied children, have a significant recognized interest in continuing to provide those services for the foreseeable future. Our children's legal services program is a core part of Amica Center's and the Florence Project's organizational mission, which, respectively, is to "confront the impact that the unjust immigration system has on our clients and communities through direct legal representation, impact litigation, education, and client-centered advocacy" and to ensure "that every person facing removal proceedings has access to counsel, understands their rights under the law, and is treated fairly and humanely. Providing children's legal services enables Requestors to help reduce the impact of the lack of access to legal counsel for unaccompanied children, to ensure that people understand their rights under the law, and is deeply related to our other legal representation, education, and advocacy programs.

Third, this request clearly concerns federal government activity. All requested records were created or maintained by HHS and its subcomponents, ORR and ACF. Further, legal services for noncitizen unaccompanied children have been funded by the federal government for decades, and HHS's apparent plan to defund these programs is a federal government activity with widespread ramifications. Thus, all three factors demonstrating a compelling need for the disclosure of the requested records are present in this request, and this request should be expeditiously processed.

Pursuant to 5 U.S.C. § 552(a)(vi), we certify the statement in support of the request for expedited treatment to be true and correct to the best of our knowledge and belief.

If you have any questions regarding this request, please do not hesitate to contact us.

Sincerely,

/s/ F. Evan Benz

F. Evan Benz, Senior Attorney
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/s/ Laura St. John

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/s/ Ian Head

Ian Head
Manager of the Open Records Project
Center for Constitutional Rights

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Exhibit 1



United States Department of the Interior

INTERIOR BUSINESS CENTER

Washington, DC 20240

[REDACTED]
Acacia Center for Justice
1025 Connecticut Avenue NW
Suite 1000A
Washington, DC 20036

February 18, 2025

Re: Immediate Stop Work Order

Dear [REDACTED]

This letter constitutes an official Stop Work Order for all activities under Contract 140D0422C0009 – Legal Services for Unaccompanied Children.

In accordance with FAR 42.1303, the Government hereby directs your firm to stop all work associated with the scope of Contract 140D0422C0009. Therefore, your firm shall cease all services and the ordering of supplies.

All subcontractors shall be notified immediately that a stop-work order has been issued to the prime contractor. The stop-work order shall remain in place until you are notified otherwise by the CO. As soon as feasible and prior to the lifting of the stop-work order, appropriate action shall be taken to either terminate the contract or extend the period of performance, if necessary. The stop work order is being implemented due to causes outside of your control and should not be misconstrued as an indication of poor performance by your firm.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,
[REDACTED]

Exhibit 2



United States Department of the Interior

INTERIOR BUSINESS CENTER

Washington, DC 20240

[Redacted]
Acacia Center for Justice
1025 Connecticut Avenue NW
Suite 1000A
Washington, DC 20036

February 21, 2025

Re: Cancellation of Stop Work Order

Dear [Redacted]

This letter cancels the Stop Work Order issued February 18, 2025. Acacia Center for Justice may resume all activities under Contract 140D0422C0009 – Legal Services for Unaccompanied Children.

If Acacia intends to submit a Request for Equitable Adjustment under FAR 52.242-15, please submit it to the Contracting Officer no later than 30 days after the receipt of this letter.

Please do not hesitate to contact me with any questions or concerns.



Exhibit 3



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE #8

Know Your Rights Presentations

February 17, 2021

GUIDANCE

Current Office of Refugee Resettlement (ORR) protocols during the Coronavirus Disease 2019 (COVID-19) pandemic prioritize placement of unaccompanied children (UC) referred from the United States' southwest border to ORR care providers in close proximity to the border. After a 14-day quarantine period, UC may be transferred to ORR care providers in the interior of the U.S.

In an effort to ensure the prompt delivery of legal information to UC, ORR care providers located along the southwest border that are unable to facilitate Know Your Rights (KYR) presentations for UC by an ORR-funded Legal Service Provider (LSP) within 10 business days of placement shall provide KYR videos in this timeframe instead. However, the ORR care provider must continue to make efforts to schedule LSP-facilitated KYRs and other legal screening services as is practicable (including by videoconferencing if possible and telephone if videoconferencing is unavailable).

The KYR presentations and videos, in addition to documents in the *Legal Resource Guide* (also provided to UC upon admission), provide the following: legal services information regarding the availability of free legal assistance; the right to be represented by counsel at no expense to the government; the right to a removal hearing before an immigration judge; and the right to apply for asylum or to request voluntary departure in lieu of deportation, as is required by [ORR Policy Guide, Section 3.3](#).

INSTRUCTIONS

For ORR care providers along the U.S. southwest border *only*:

1. If the ORR care provider is unable to schedule a LSP-facilitated KYR presentation within 10 business days of admission into ORR custody, the ORR care provider shall provide UC with a KYR video.
2. The ORR care provider must continue to make attempts to schedule an LSP-facilitated KYR presentation and other legal screening services (including using teleconferencing capabilities, if available, or the telephone).
3. When UC are transferred from a southwest border ORR care provider to another ORR care provider in the interior, the sending ORR care provider informs the receiving ORR care provider

whether the UC still requires an LSP-facilitated KYR presentation and/or legal screening in the *Transfer Request* or group transfer documentation.

For receiving ORR care providers:

4. The receiving ORR care provider coordinates with the local LSP to facilitate a KYR presentation and legal screening for children transferred from the southwest border who have not yet received LSP-facilitated legal services. The receiving ORR care provider must document when a child has received services on the UC status page on the UC Portal following standard ORR procedures.

Exhibit 4

Unaccompanied Alien Children Program Field Guidance

Listen

Current as of: February 18, 2025

Unaccompanied Alien Children Program Field Guidance (FG) Documents

GUIDANCE NUMBER	DOCUMENT TITLE	ISSUE DATE	REVISION DATE	STATUS
FG-1	COVID-19 Interim Preparedness and Response Guidance	03/02/2020	03/13/2020	Superseded by subsequent guidance
FG-2	COVID-19 Verbal Screening and Temperature Check for Staff and Visitors	03/13/2021	05/18/2021	Rescinded, refer to FG-6
FG-3	Temperature Checks and Reporting	03/23/2020	04/15/2022	Rescinded, refer to FG-6
FG-4	COVID-19 Discharge Guidance	04/06/2020	06/04/2021	Rescinded, refer to FG-6
FG-5	Home Study/Post Release Services COVID-19 Practice Guidance	05/06/2020	02/1/2023	Superseded by modification and incorporation into ORR Policy Guide
FG-6	COVID-19 Procedures for Unaccompanied Children and Care Provider Staff (PDF)	11/30/2020	02/1/2024	Active
FG-7	Interim Guidance - Information Sharing with Immigration Courts and DHS	02/17/2021	06/27/2022	Superseded by modification and incorporation into ORR Policy Guide
FG-8	Know Your Rights Presentations	02/17/2021	09/7/2023	Rescinded
FG-9	Interim Guidance on Age Outs and Post-18 Planning (PDF)	02/17/2021		Active

Exhibit 5

3.7 Legal Services

All unaccompanied alien children should receive the following immigration legal-related services when in ORR legal custody:

- **Know Your Rights (KYR) presentations**;
- **Confidential legal consultations**, which are legal screenings for potential immigration legal relief from removal, as well as human trafficking concerns.

Additionally, unaccompanied alien children may also receive direct legal representation in seeking immigration legal relief and/or protection from removal.

In-person meetings are preferred during the course of providing legal counsel to any unaccompanied alien child, though telephonic or teleconference meetings between the unaccompanied alien child's attorney or U.S. Department of Justice (DOJ) Accredited Representative and the unaccompanied alien child may substitute as appropriate. Either the unaccompanied alien child's attorney, DOJ Accredited Representative, or a care provider staff member or care provider must always accompany the unaccompanied alien child to any in-person courtroom hearing or proceeding, in connection with any legal representation of an unaccompanied alien child.

An unaccompanied alien child in ORR care must be able to conduct private communications with their attorney of record, DOJ Accredited Representative, or **legal service provider** in a private enclosed area that allows for confidentiality for in-person, virtual, or telephonic meetings.

Care provider facilities must make qualified interpretation and/or translation services available to unaccompanied alien children, child advocates, and legal service providers upon request while unaccompanied alien children are being provided with those services. Such services must be available to unaccompanied alien children in enclosed, confidential areas.

Revised 08/01/2024

3.7.1 Know Your Rights Presentation & Confidential Legal Consultation for Legal Relief

Children in ORR legal custody receive a **Know Your Rights (KYR) presentation** (in-person, telephonic, or video presentation) within ten (10) business days of admission to an ORR care provider facility⁸, within ten (10) business days of a child's transfer to ORR facility (except ORR Long-Term Foster Care or ORR **Transitional Foster Care**), and every six (6) months for unrepresented children who remain in ORR custody, as practicable. Such presentation must be provided by an independent legal service provider (LSP) that has appropriate qualifications and experience, as determined by ORR, to provide such presentation and must include information notifying the unaccompanied alien child of their legal rights and responsibilities in the immigration system, including protections under child labor laws, and of services to which they are entitled, including educational services. The presentation must be delivered in the native or preferred language of the unaccompanied alien child and in an age-appropriate manner. The information from the presentation must also be posted for unaccompanied alien children in an age-appropriate format and translated into each child's native or preferred language, in any ORR contracted or grant-funded facility where unaccompanied alien children are in ORR care. For children released prior to receiving the KYR presentation, LSPs must follow up as soon as practicable to complete the presentation, in-person or telephonically. Among the topics covered in the presentation are information on the availability of legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, notification regarding the child's ability to petition for Special Immigrant Juvenile (SIJ) classification, to request that a juvenile court determine dependency or placement for the purpose of altering the child's custody status or seeking release from ORR custody, and notification of the ability to apply for asylum or other forms of relief from removal, including voluntary departure in lieu of deportation, and the risk determination hearings available in certain situations (see **Section 2.9 Risk Determination hearings for Unaccompanied Alien Children**).

In addition to the KYR presentation, all children undergo a confidential legal consultation with a qualified attorney (or paralegal working under the direction of an attorney, or DOJ Accredited Representative) to determine possible forms of relief from removal in relation to the unaccompanied alien child's immigration case, as well as other case

disposition options such as, but not limited to, voluntary departure. As part of the confidential legal consultation, the legal service provider also will identify indicators of mistreatment, exploitation, or trafficking. As part of the confidential legal consultation process, LSPs notify children if they are potentially eligible for immigration legal relief. Children are screened by LSPs in a private setting at the care provider facility or in the community at a setting arranged by the LSP. Care providers are responsible for providing a private setting if the children attend the confidential legal consultation at their facility. Care providers are also responsible for providing legal service providers information in accordance with **Section 5.10.3 Information Sharing with LSPs, Attorneys of Record, and Child Advocates** in preparation for the child's confidential legal consultation.

Children in ORR custody receive a confidential legal consultation within ten (10) business days of admission to an ORR care provider facility. In the case where a child is unable to participate in person within the ten (10) business days time limit (e.g., due to medical isolation), the LSP must make every effort to ensure that the child receives confidential legal consultation as soon as possible, including performing it remotely if needed.

Such legal consultation must occur within ten (10) business days of a child's transfer to a new ORR facility (except ORR long-term foster care or ORR transitional foster care) or upon request from ORR. ORR must request an additional legal consultation on behalf of a child, if the child has been identified as:

- (A) A potential victim of a severe form of trafficking; or
- (B) Having been abused, abandoned, or **neglected**; or
- (C) Having been the victim of a crime or domestic violence; or
- (D) Persecuted or in fear of persecution due to race, religion, nationality, membership in a particular social group, or for a political opinion.

When an unaccompanied alien child requests legal counsel, ORR must ensure that the child is provided with a list and contact information for pro bono counsel, and reasonable assistance to ensure that the child is able to successfully engage an attorney at no cost to the government. ensure that the child is provided with a list and contact information for pro bono counsel, and reasonable assistance to ensure that the child is able to successfully engage an attorney at no cost to the government.

Under rare cases where an LSP requests additional information for legal consultation beyond those specified as files to be automatically provided in **Section 5.10.3**, the LSP should also follow the case file request process outlined in **Section 5.10.1 UAC Case File Request Process**.

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3.7.2 Direct Legal Representation

ORR funds legal service providers (LSPs) to provide direct immigration legal representation or representation in non-immigration related matters to the extent of available appropriations, and insofar as it is not practicable for ORR to secure pro bono counsel. ORR prioritizes direct representation for the following classes of children:

- Upon their placement in a Long-Term Foster Care (LTFC) facility or in a residential treatment center (RTC) outside a licensed ORR facility and for whom other legal assistance does not satisfy the legal needs of the individual child. LSPs must coordinate with ORR staff and care provider staff to timely identify such children;
- With no identified sponsor who are unable to be placed in LTFC facilities. LSPs must coordinate with ORR staff and care provider staff to timely identify such children;
- In ORR custody who must appear before EOIR, including children seeking voluntary departure, and for whom other available assistance does not satisfy the legal needs of the individual child. LSPs must coordinate with ORR staff and care provider staff to timely identify such children;
- In ORR custody who must appear before ORR appellate procedures, including **Placement Review Panel (PRP)** and risk determination hearings;

- In need of judicial bypass or similar legal processes as necessary to enable an unaccompanied alien child, per their request, to access certain lawful medical procedures that require the consent of the parent or legal guardian under State law, and when the unaccompanied alien child is unable or unwilling to obtain such consent;
- In state juvenile court proceedings, when the unaccompanied alien child already possesses Special Immigrant Juvenile classification;
- Enrolled in ORR **Unaccompanied Refugee Minor (URM) program**, provided they have not yet obtained immigration relief (including related petitions) or reached 18 years of age at the time of retention of an attorney;
- Released to a sponsor residing in the defined service area of the same LSP who provided the child legal services in ORR custody, to promote continuity of legal services and advance ORR's goal of universal representation;
- In need of obtaining an employment authorization document; and
- Other categories of unaccompanied alien children, up to funded capacity.

Attorneys of record who are funded by ORR are not, solely by reason of such funding, prohibited from representing the child in ORR custody with respect to any other matter. This includes but is not limited to: step-up to a more restrictive placement, release from ORR custody, and with respect to administration of psychotropic medications; however, ORR need not fund such representation.

Attorneys of record for the child in ORR legal custody notify ORR of their role by submitting a completed *Notice of Attorney Representation form* to the ORR care providers. This includes, but is not limited to, Legal Service Providers funded by ORR who are representing a child in an immigration proceeding, in a risk determination hearing, or in other individual matters, as specified in the Notice of Attorney Representation form, who have entered into formal representation for an unaccompanied alien child. Care providers will upload the form into the ORR case management database within five (5) days of receiving the completed form and include a copy of the form in the unaccompanied alien child's case file. The *Notice of Attorney Representation form* details the purpose of legal representation and the representation timeframe. Attorneys of record who are representing an individual child and who are identified on the *Notice of Attorney Representation form* are eligible to receive updates on their client's case, as relevant to the purpose of the representation, and to request a copy of their client's case file from ORR, in accordance with **Section 5.10.1 UAC Case File Request Process**.

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