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Title 45 – Public Welfare

Subtitle B – Regulations Relating to Public Welfare

Chapter IV – Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services

Part 410 – Care and Placement of Unaccompanied Children

Subpart C – Releasing an Unaccompanied Child From ORR Custody

Authority: 6 U.S.C. 279, 8 U.S.C. 1232.

Source: 89 FR 34584, Apr. 30, 2024, unless otherwise noted.

§ 410.1202 Sponsor suitability.

- (a) Potential sponsors shall complete an application package to be considered as a sponsor for an unaccompanied child. The application package may be obtained from either the care provider facility or ORR directly.
- (b) Prior to releasing an unaccompanied child, ORR shall conduct a suitability assessment to determine whether the potential sponsor is capable of providing for the unaccompanied child's physical and mental well-being. At minimum, such assessment shall consist of review of the potential sponsor's application package, including verification of the potential sponsor's identity, physical environment of the sponsor's home, and relationship to the unaccompanied child, if any, and an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the unaccompanied child. ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented.
- (c) ORR's suitability assessment shall include taking all needed steps to determine that the potential sponsor is capable of providing for the unaccompanied child's physical and mental well-being. As part of its suitability assessment, ORR may require such components as an investigation of the living conditions in which the unaccompanied child would be placed and the standard of care the unaccompanied child would receive, verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child, interviews with members of the household, a home visit or home study as discussed at § 410.1204. In all cases, ORR shall require background and criminal records checks, which at minimum includes an investigation of public records sex offender registry conducted through the U.S. Department of Justice National Sex Offender public website for all sponsors and adult residents of the potential sponsor's household, and may include a public records background check or an FBI National Criminal history check based on fingerprints for some potential sponsors and adult residents of the potential sponsor's household. Any such assessment shall also take into consideration the wishes and concerns of the unaccompanied child.
- (d) ORR shall assess the nature and extent of the potential sponsor's previous and current relationship with the unaccompanied child, and the unaccompanied child's family, if applicable. Lack of a pre-existing relationship with the child does not categorically disqualify a potential sponsor, but the lack of such relationship will be a factor in ORR's overall suitability assessment.
- (e) ORR shall consider the potential sponsor's motivation for sponsorship; the unaccompanied child's preferences and perspective regarding release to the potential sponsor; and the unaccompanied child's parent's or legal guardian's preferences and perspective on release to the potential sponsor, as applicable.

- (f) ORR shall evaluate the unaccompanied child's current functioning and strengths in conjunction with any risks or concerns such as:
 - (1) Victim of sex or labor trafficking or other crime, or is considered to be at risk for such trafficking due, for example, to observed or expressed current needs, e.g., expressed need to work or earn money;
 - (2) History of criminal or juvenile justice system involvement (including evaluation of the nature of the involvement, for example, whether the child was adjudicated and represented by counsel, and the type of offense) or gang involvement;
 - (3) History of behavioral issues;
 - (4) History of violence;
 - (5) Any individualized needs, including those related to disabilities or other medical or behavioral/mental health issues;
 - (6) History of substance use; or
 - (7) Parenting or pregnant unaccompanied child.
- (g) For individual sponsors, ORR shall consider the potential sponsor's strengths and resources in conjunction with any risks or concerns that could affect their ability to function as a sponsor including:
 - (1) Criminal background;
 - (2) Substance use or history of abuse or neglect;
 - (3) The physical environment of the home; and/or
 - (4) Other child welfare concerns.
- (h) ORR shall assess the potential sponsor's:
 - (1) Understanding of the unaccompanied child's needs;
 - (2) Plan to provide adequate care, supervision, and housing to meet the unaccompanied child's needs;
 - (3) Understanding and awareness of responsibilities related to compliance with the unaccompanied child's immigration court proceedings, school attendance, and U.S. child labor laws; and
 - (4) Awareness of and ability to access community resources.
- (i) ORR shall develop a release plan that will enable a safe release to a potential sponsor through the provision of post-release services if needed.