

November 21, 2025

Submitted via email to infocollection@acf.hhs.gov

Mary C. Jones
Certifying Officer
Administration for Children and Families
Mary E. Switzer Building
330 C St. SW, Room 5123
Washington, DC 20201

RE: ACF Notice “Expedited Office of Management and Budget Review and Public Comment: Placement and Transfer of Unaccompanied [Alien] Children Into ORR Care Provider Facilities,” OMB #: 0970-0554

Dear ACF/OPRE Certifying Officer Jones:

We are scholars at the Ethics and Public Policy Center (EPPC), and we write to offer brief comment on the Administration for Children and Families’ (ACF) notice “Expedited Office of Management and Budget Review and Public Comment: Placement and Transfer of Unaccompanied [Alien] Children Into ORR Care Provider Facilities.”¹

ACF’s Office of Refugee Resettlement (ORR) proposes several changes to placement-related forms and “global terminology updates” to “align with ORR regulations and to comply with Executive Order 14168 *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, as well as other guidance from the current Administration.”² ACF specifically requests comments on, inter alia, “the quality, utility, and clarity of the information to be collected.”³

We support ACF’s proposal to update terminology. These updates are consistent with President Trump’s executive order, which states that “[i]t is the policy of the United States to recognize two sexes, male and female,”⁴ and directs federal agencies, like ACF, to use the term “sex” and not “gender” in relevant polices, documents, and regulations.⁵

¹ 90 Fed. Reg. 46898 (Sept. 30, 2025), <https://www.federalregister.gov/d/2025-18927> .

² *Id.* at 46899.

³ *Id.*

⁴ Exec. Order 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090> (defining “sex” for the purpose of Executive Branch interpretation and application of federal law as referring “to an individual’s immutable biological classification as either male or female”).

⁵ *Id.*

There are two sexes—male and female. While “gender” historically was used synonymously with sex, the term is now often used to mean something other than binary, biological sex. Biology is not bigotry. As Supreme Court Justice Ruth Bader Ginsburg recognized, “Physical differences between men and women ... are enduring: ‘The two sexes are not fungible.’”⁶ The proposed terminology updates will also improve the “quality, utility, and clarity of the information to be collected” by reflecting biological reality, not subjective self-perception.

As ACF evaluates its forms related to placement considerations for unaccompanied children, we direct ACF to aspects of its April 30, 2024 “Unaccompanied Children Program Foundational Rule” (“Foundational Rule”)⁷ that are likewise at odds with President Trump’s executive order and policy priorities. The Foundational Rule directs ORR to consider “LGBTQI+ status” for placements and facilitate abortions and sex-rejecting procedures⁸ for unaccompanied children. As our EPPC colleague Eric Kniffin explained in a May 2025 public comment: 1) “The Foundational Rule’s commitment to gender ideology is at odds with President Trump’s executive orders, HHS definitions, and HHS’s Gender Dysphoria Report”; 2) “The Foundational Rule refused to honor the Hyde Amendment’s consensus on federal funding for abortion and refused to clarify how it would be facilitating sex-rejecting procedures for unaccompanied children”; and 3) “The Foundational Rule refused to make concrete commitments on how ACF would honor its legal obligations under federal laws protecting religious freedom and conscience protections.”⁹ In light of these concerns, we encourage ACF to also update the Foundational Rule in light of President Trump’s executive order and policy priorities.

Thank you for the opportunity to provide public comment on this notice.

Sincerely,

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Fellow and Director
Administrative State Accountability Project
Ethics & Public Policy Center

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Legal Associate
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⁶ *United States v. Virginia*, 518 U.S. 515, 533 (1996) (quoting *Ballard v. United States*, 329 U.S. 187, 193 (1946)).

⁷ 89 Fed. Reg. 34384 (Apr. 30, 2024), <https://www.federalregister.gov/d/2024-08329>.

⁸ See Eric Kniffin, Mary Rice Hasson, & Rachel N. Morrison, Terminology and Definition: Replacing “Gender-Affirming Care” with “Sex-Rejecting Procedures,” EPPC, May 9, 2025, <https://eppc.org/publication/terminology-and-definition-replacing-gender-affirming-care-with-sex-rejecting-procedures/> (explaining why the term “sex-rejecting procedures” is more accurate and helpful than “gender-affirming care” and other alternatives).

⁹ EPPC Public Comment on OMB Interim Final Rule “Unaccompanied Children Program Foundational Rule,” RIN 0970-AD16, May 27, 2025, <https://eppc.org/wp-content/uploads/2025/07/EPPC-Comment-HHS-Unnaccomp-Child-Program-Foundational-Rule-Update-RIN-0970-AD16.pdf>. See also EPPC Public Comment on HHS Proposed Rule “Unaccompanied Children Program Foundational Rule,” RIN: 0970-AC93, Dec. 4, 1023, <https://eppc.org/wp-content/uploads/2023/12/EPPC-Comment-on-UC-Program-Proposed-Rule-1.pdf> (raising concerns with the proposed rule that became the Foundational Rule); EPPC Comment, EO 12866 Meeting, “Unaccompanied Children Program Foundational Rule,” RIN: 0970-AC92, Apr. 1, 2024, <https://eppc.org/wp-content/uploads/2024/04/EPPC-Comment-EO-12866-Meeting-on-UC-Program-Rule-2.pdf> (same).