

March 19, 2026

Submitted via <https://www.reginfo.gov/>

Mary C. Jones
ACF/OPRE Certifying Officer
Administration for Children and Families
U.S. Department of Health and Human Services
300 C St. SW
Washington, DC 20201

RE: ACF Request for Public Comment, “Submission for Office of Management and Budget Review; Placement and Transfer of Unaccompanied (Alien) Children Into Office of Refugee Resettlement Care Provider Facilities”; OMB #: 0970-0554

Dear Office Jones:

We are scholars at the Ethics and Public Policy Center, and we write to offer brief comment on the Administration for Children and Families’ (ACF) request for public comment, “Submission for Office of Management and Budget Review; Placement and Transfer of Unaccompanied (Alien) Children Into Office of Refugee Resettlement Care Provider Facilities.”¹

ACF’s Office of Refugee Resettlement (ORR) invites public comment on a request to extend approval of changes made to forms related to “the Placement and Transfer of Unaccompanied [Alien] Children into ORR Care Provider Facilities.”² One of these changes was “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.”³ We supported this change in a November 2025 public comment.⁴

We applaud ACF for opposing gender ideology and recognizing biological truth in its forms. 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,” “inherent,” and “remain cause for celebration”: “[T]he two sexes are not fungible.”⁵

We agree with ACF that the terminology change helps “ensure that ORR can continue to properly enact its mandates and comply with all applicable authorities related to the placement of unaccompanied

¹ 91 Fed. Reg. 7992 (Feb. 19, 2026), <https://www.federalregister.gov/d/2026-03282>.

² 91 Fed. Reg. at 7992.

³ 91 Fed. Reg. at 7993.

⁴ See EPPC Comment on 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 (Nov. 21, 2025), <https://media.eppc.org/2025/11/EPPC-Comment-on-ACF-UAC-Placement-Notice.pdf>.

⁵ *United States v. Virginia*, 518 U.S. 515, 533 (1996) (second alteration in original) (quoting *Ballard v. United States*, 329 U.S. 187, 193 (1946)).

alien children.”⁶ EO 14168 recognized that there are “two sexes, male and female,” “these sexes are not changeable,” and the sexes are “grounded in fundamental and incontrovertible reality.”⁷ The order further directed agencies, like HHS, to “enforce all sex-protective laws to promote this reality” and to use the term “sex” and not “gender” in relevant polices, documents, and regulations.⁸ As Rachel Morrison told the *Washington Times*, “Using the term ‘sex’ instead of ‘gender’ provides clarity, improves the quality and utility of information collected, protects sex-based rights, and reflects biological reality, not subjective self-perception.”⁹

In our November 2025 comment we also flagged aspects of ACF’s April 30, 2024 “Unaccompanied Children Program Foundational Rule” (“Foundational Rule”)¹⁰ that are likewise at odds with EO 14168 and President Trump’s policy priorities. For example, the Foundational Rule directs ORR to consider “LGBTQI+ status” for placements and facilitate abortions and sex-rejecting procedures 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.”¹¹ In light of these concerns, we encourage ACF to also update the Foundational Rule in light of EO 14168 and President Trump’s policy priorities.

Thank you for the opportunity to provide public comment.

Sincerely,

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Ethics & Public Policy Center

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⁶ 91 Fed. Reg. at 7992.

⁷ 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”).

⁸ *Id.*

⁹ Stephen Dinan, *Trump’s First Year Has Changed the Way Government Speaks*, Wash. Times (Dec. 24, 2025), <https://www.washingtontimes.com/news/2025/dec/24/trumps-first-year-changed-way-government-speaks/>.

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

¹¹ 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).