



June 8, 2026

Office of Refugee Resettlement Unaccompanied Children Bureau
Administration for Children and Families
U.S. Department of Health and Human Services

Submitted via email to infocollection@acf.hhs.gov

Re: Proposed Information Collection Activity; Office of Refugee Resettlement Unaccompanied Refugee Minors Program Application and Withdrawal of Unaccompanied Refugee Minors Program Application or Declination of Unaccompanied Refugee Minors Program Placement Forms (#: 0970-0550)

To Whom It May Concern:

We write on behalf of the National Center for Youth Law to comment on ORR's proposed changes to the Unaccompanied Refugee Minors Program Application, which ORR reviews to determine whether a child meets the eligibility requirements to enter the Unaccompanied Refugee Minors ("URM") program. See ORR Guide to Eligibility, Placement, and Services for Unaccompanied Refugee Minors (URM) § 1.3.

The National Center for Youth Law ("NCYL") is a non-profit law firm that has fought to protect the rights of children and youth for over fifty years. Headquartered in Oakland, California, NCYL leads high impact campaigns that weave together litigation, research, policy development, and technical assistance. NCYL also collaborates with public agencies to develop policies and practices to better support children and families. NCYL's Immigration Team works to ensure that immigrant children are able to live in communities rather than in government custody and have the resources they need to heal and thrive. NCYL is counsel for Plaintiffs in *Flores v. Blanche*, *Lucas R. v. Kennedy*, *Angelica S. v. HHS*, *LGML v. Mullin*, and *Diego N. v. HHS*.

As described below, ORR's proposed Unaccompanied Refugee Minors ("URM") Program Application must be revised to avoid unlawfully excluding children with disabilities from participation in the URM program in violation of federal statute and regulations.

I. Legal Framework

Under Section 504 of the Rehabilitation Act, children with disabilities cannot be excluded from a federally funded program, denied the benefits associated with the program, and/or be subjected to other discrimination because of their disabilities. 29 U.S.C. § 794(a). Participation in the URM program offers children multiple significant benefits, including housing, healthcare, support services, and the opportunity to live and attend school in the community. See 45 C.F.R. § 400.112(a); 45 C.F.R. § 400.113(b); 45 C.F.R. § 400.116(a).

As such, ORR's eligibility criteria cannot exclude children with disabilities from the URM program. 29 U.S.C. § 794(a). Specifically, ORR is prohibited from using "criteria or methods of administration the purpose or effect of which would—(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or (ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps." 45 C.F.R. § 85.21(b)(3).

Similarly, URM programs cannot "impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any program or activity, unless such criteria can be shown to be necessary for the provision of the program or activity being offered." 45 C.F.R. § 84.68(b)(8); see also 45 C.F.R. § 84.60(a)(2)(ii) (prohibiting decisions in child welfare programs "based on speculation, stereotypes, or generalizations about a child with a disability"). ORR is prohibited from discriminating against children with disabilities "directly or through contractual, licensing, or other arrangements." 45 C.F.R. § 85.21(b)(1).

Additionally, ORR must serve children in the most integrated setting appropriate to their needs, and it must consider reasonable accommodations that could enable children's participation in the URM program. 29 U.S.C. § 794(a); see also 45 C.F.R. § 85.21(d); 45 C.F.R. § 410.1311(b). For children in ORR custody who lack an available sponsor, the most integrated setting may be release to the URM program, where children have additional opportunities to live a normal life in the community. See 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1311(e)(2).

As proposed, the URM Program Application fails to comply with ORR's obligations under federal law and regulations. We suggest the following changes to reduce the risk of unlawful discrimination and improve the form's utility.

II. Section 2: Minor's Biographical Information

As discussed above, ORR cannot impose eligibility criteria in its programs that serve as proxies for disability discrimination. See 45 C.F.R. § 85.21(b)(3); 45 C.F.R. § 84.68(b)(8); 45 C.F.R. § 84.60(a)(2)(ii). As such, ORR must provide additional clarification to "Section 2: Minor's Biographical Information" of the application.

Specifically, on Page 5, the proposed application states, "For minors in ORR custody, upload the minor's most recent UAC Assessment and Case Review." According to ORR's UC Policy Guide, the UAC assessment "covers biographic, family, legal/migration, medical, substance use, and mental health history[.]" See ORR UC Policy Guide § 3.3.1.¹

To mitigate the risk of unlawful discrimination, ORR should explain how the UAC assessment is being factored into ORR's determination of the child's suitability for URM program services and benefits. The form should also remind staff members that children cannot be denied entry in the URM program based on the child's medical and mental health history from the UAC assessment, unless the information establishes that the child poses "a significant risk to the health or safety of others that cannot be ameliorated by means of a reasonable modification." *Bay Area Addiction Research and Treatment v. City of Antioch*, 179 F.3d 725, 735 (9th Cir. 1999); see also *School Bd. of Nassau Cnty. v. Arline*, 480 U.S. 273, 282 (1987) ("It would be unfair to allow an employer to seize upon the distinction between the effects of a disease on others and the effects of a disease on a patient and use that distinction to justify discriminatory treatment."); 45 C.F.R. § 84.75(b) ("in determining whether an individual poses a direct threat, a recipient must make an individualized assessment, based on reasonable judgment that relies on *current* medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk") (emphasis added). In the alternative, ORR should provide the option

¹ The version of the ORR UC Policy Guide discussed here was last accessed on May 28, 2026. ORR frequently amends the policy guide and provides a list of revisions and updates on its website. See Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and Revision Dates* (current as of May 20, 2026), <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates>.

of excluding the portions of the UAC assessment that discuss the child's medical and mental health history.

III. Section 4: Placement Information

ORR should make several changes to "Section 4: Placement Information" of the proposed application to better comply with its statutory and regulatory obligations. See 45 C.F.R. § 85.21(b)(3); 45 C.F.R. § 84.68(b)(8); 45 C.F.R. § 84.60(a)(2)(ii).

On Page 7, the proposed application asks for the child's current level of care and placement type, and it provides a list of checkboxes. The application should remind ORR staff that a child cannot be disqualified from the URM program based on their current level of placement. States are required to provide the same range of benefits and services to children in the URM program as children in their own child welfare systems. 45 C.F.R. § 400.112(a); 45 C.F.R. § 400.116(a). States care for children with higher level needs in their domestic foster care systems, so a child's current placement in a therapeutic or restrictive placement should not preclude eligibility for URM placement.

On Page 8, under the "Placement in URM Program" subsection, the application states, "Eligible minors are referred to all URM Program placement locations and placement types, unless there is a reason not to." To promote greater transparency and accessibility, ORR should provide examples of reasons why eligible children may not be referred to all placement types and/or link to publicly available ORR guidance that provides additional examples or explanations.

Additionally, the proposed application has removed the "Minor's Preferences" subsection that was included in the former application. We recommend adding the "Minor's Preferences" subsection back into the application. Doing so would help ensure that the child's perspective is considered in decisions that directly affect their safety and well-being. Taking into account the child's preferences would also ensure that the URM program more fully meets the child's cultural and linguistic needs when making placements.

Likewise, we recommend adding a subsection to the proposed application that considers a child's counsel of record's input and/or their recommendations regarding preferred locations for placement. This would help ensure a placement that is in the

child's best interests, consistent with current ORR policy regarding Long-Term Foster Care Placements. See 8 U.S.C. § 1232(c)(2)(A); ORR UC Policy Guide § 1.2.6.

IV. Section 7: Physical, Behavioral, and Mental Health Information

ORR's proposed changes to Section 7 of the application, particularly the introduction of new checkboxes related to the child's mental health and behavioral history, pose a serious risk of unlawfully excluding children with disabilities from accessing the benefits of the URM program and substantially impairing the objectives of the URM program with respect to children with disabilities. See Office of Refugee Resettlement, *Unaccompanied Refugee Minors Program*, <https://acf.gov/orr/programs/refugees/urm> (last visited May 29, 2026) (describing the URM program as "serv[ing] some of the most vulnerable minors in the world" and "uniquely shaped to care for minors with forced migration and traumatic experiences").

On Page 13, the proposed application currently states, "Check all that apply for this minor for behavioral and mental health history. Check the box even if it was a one-time incident and regardless of where events occurred (i.e., home country, travelling, or within the United States)." It then sets out a list of checkboxes under this instruction.

It is not clear how any of these checkboxes is relevant to eligibility for the URM program. Asking for detailed mental and behavioral health-related information at the initial application phase inappropriately invites URM staff and programs to discriminate against children based on their heightened behavioral and mental health needs, contrary to federal law and regulations. See 45 C.F.R. § 85.21(b)(3); 45 C.F.R. § 84.68(b)(8); 45 C.F.R. § 84.60(a)(2)(ii). Most of these questions should be reserved instead for the post-placement process, where a child has been accepted to a URM program and the focus is on what services and reasonable accommodations the child needs to be successful in that program. Deferring detailed mental and behavioral health questions until the placement stage, rather than including them in the initial application, would also reduce the paperwork burden of filling out the URM application. This ensures better compliance with the Paperwork Reduction Act of 1995. See 44 U.S.C. §§ 3501–3521.

Additionally, asking these questions in checkbox form without any context or attention to reasonable accommodations creates an even higher risk of unlawful discrimination. See also *Arline*, 480 U.S. at 284–85 (explaining that the Rehabilitation

“Act is carefully structured to replace ... reflexive reactions to actual or perceived handicaps with actions based on reasoned and medically sound judgments”).

To avoid this risk, the application should remove the checkbox format and clarify that a child’s behavioral and mental health history cannot be used to categorically deny or bar children with heightened needs from acceptance to the URM program. As already discussed above, federal regulations require participating states to provide children in the URM program with “the same child welfare services and benefits to the same extent” as children in their own welfare systems. 45 C.F.R. § 400.112(a); 45 C.F.R. § 400.116(a). States cannot discriminate against children with disabilities in the provision of a federally funded benefit, and children with disabilities should not be denied URM placement because of their higher needs when states routinely accept such children into their state welfare systems.

For example, the form includes a series of checkboxes that ask whether the child has “ever” self-harmed, experienced suicidal ideation, attempted suicide, or “ever been transported to the ER, hospitalized, or received residential treatment for a mental health reason.” Asking for this information in checkbox form creates a serious risk that a child’s URM application will be negatively impacted based solely on a history of past disability or mental health concerns, in violation of ORR’s statutory and regulatory obligations. It is also not relevant to what the child *currently* needs to receive the necessary care and services from the URM program.

Likewise, on Page 13, the application states, “Check all that apply for this minor for current health information,” and it sets out a list of checkboxes that ask for information such as whether the child currently requires accommodations for a disability. This list presents several concerns.

First, some of the information requested here should be requested only *after* the URM program accepts a child, as such information has no bearing on whether the child is *eligible* for the URM program in the first place. Specifically, we recommend removing the following checkboxes from the application:

- The checkbox asking whether the “[m]inor *currently* has a diagnosis for a mental health condition.”
- The checkbox asking whether the “[m]inor *currently* has physical health needs (including needs that only require occasional medical care such as using glasses, having braces, or a food allergy).”

- The checkbox asking whether the “[m]inor *currently* requires accommodations for a disability.”
- The checkbox asking whether the “[m]inor *currently* takes prescription medication (for any reason).”

Further, these checkboxes are inappropriately grouped together with the checkboxes that ask whether a child is “a run risk” or “danger to self or others,” which invites ORR staff to view a child’s disability as a factor that could disqualify them from acceptance into the URM program. As discussed above, ORR cannot impose standards that effectively screen out children with disabilities. 45 C.F.R. § 85.21(b)(3); 45 C.F.R. § 84.68(b)(8); 45 C.F.R. § 84.60(a)(2)(ii). By facilitating the exclusion of children with disabilities from the URM program, ORR fails to “administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.” 45 C.F.R. § 85.21(d).

Additionally, on Page 13, there is a checkbox that states, “Minor is *currently* a danger to self or others, as determined by a clinician or other qualified evaluator.” These should be separated out into two different questions, since determining whether the child is a danger to self and whether the child is a danger to others involves distinct factual and clinical considerations. Separating these inquiries promotes individualized assessment and reduces ambiguity.

On Page 14, the application requires the applicant to “[u]pload all Child Level Events or Significant Incident Reports for the minor.” Similar to the above suggestion, ORR should clarify that a child cannot be disqualified from the URM program based on their disability or behavioral manifestations of their disability, that the URM program must consider what reasonable accommodations could allow the child to succeed in the program, and that these reports are being factored into ORR’s determination of where the child is placed, not whether the child is eligible to be accepted into the URM program at all. The application should also only require recent Child Level Events, since these would be most relevant to understanding what the child currently needs to receive appropriate care and services from the URM program.

Additionally, on Page 14, there are two questions asking about “the minor’s history of significant trauma and/or impactful life events” and “any recommended therapeutic supports that the minor should receive if he/she enters the URM Program.” These questions are primarily relevant to ensuring a child’s needs are met once they are already in a placement, and should be reserved for post-placement forms rather than

an initial application. Asking these questions at the application stage risks inviting programs to exclude children based on their disability or history of mental health concerns.

Lastly, there should be another subsection on this page where the child advocate and/or counsel of record can upload their best interest recommendations to explain the context of the child's case. This would help ensure a placement that is in the child's best interests and that a child's behavioral and mental health history is placed in appropriate context with attention to the services and accommodations that could enable the child to succeed in the URM program. See 8 U.S.C. § 1232(c)(2)(A).

Thank you for your consideration of these comments. Please contact us if you would like any additional information.

Best regards,

A handwritten signature in black ink, appearing to read 'Diane de Gramont', with a stylized, cursive script.

Diane de Gramont
Senior Attorney
National Center for Youth Law