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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 B.E.C.L., a minor; J.E.M.C., a minor;
A.I.L.D., a minor; M.G.R.P., a minor;
15 A.I.R.P, a minor; by and through Erica
Santamaria, as Next Friend of Minors

16 Petitioners,

17 v.

18 ANGIE SALAZAR, ET AL,
19 Respondents.
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No. 2:26-cv-7272-FWS-DTB

**RESPONDENTS' ANSWER TO
PETITION FOR WRIT OF HABEAS
CORPUS**

(Declaration of Toby Biswas filed
concurrently herewith.)

Honorable David T. Bristow
United States Magistrate Judge

I. INTRODUCTION

The minor Petitioners in this matter are five unaccompanied alien children (UACs), in two family/sibling groupings (A.I.L.D. is the uncle of siblings B.E.C.L. and J.E.M.C., and M.G.R.P. and Petitioner A.I.R.P. are siblings), and who entered the United States at different times. *See generally* Dkt. 1 (“Pet.”). The Court, on July 6, 2026, entered the Notice of General Order 26-05 and Briefing Schedule, thereby adopting the standard procedures and briefing schedule under the General Order. Dkt. 12.

Reflecting the different entrances and circumstances of each of the two family/sibling groups, Petitioners B.E.C.L., J.E.M.C., and A.I.L.D. were referred into the care and custody of the Office of Refugee Resettlement (ORR) and placed together into an ORR care provider facility on November 11, 2025, and Petitioner M.G.R.P. and Petitioner A.I.R.P. were placed together in a different facility on November 7, 2025. *See* Declaration of Toby Biswas (“Biswas Decl.”) ¶¶ 35, 70.

As an overarching threshold problem, it is improper to aggregate habeas petitions for the five children in two family/sibling groups all together in the manner attempted in this action. There is not a clear single issue cutting across both family/sibling groups here, who entered at different times, have different parents, and different sponsorship applications. Rather, as discussed below, the two family/sibling groups have disparate factual and legal circumstances. Simply asserting that they are minors, and contending their sponsorship applications should be granted, is not sufficient to justify the improper joinder attempted here. If it were, we would see aggregated habeas petitions across numerous contexts—but that is not proper.

Finally, as to the merits, as discussed at length in the declaration of Toby Biswas, filed herewith, there are outstanding issues with sponsorship applications for all the children in each family/sibling group that must be addressed. *See* Biswas Decl. ¶¶ 69, 110-111. These essential pending sponsor vetting requirements—such as DNA testing and home studies meant to ensure that children are only released to sponsors deemed suitable—cannot be dispensed with in the name of immediate family reunification.

1 For unaccompanied alien children, ORR cannot presume that a subsequent
2 sponsor applicant, even when a parent or close relative, is able to adequately and
3 properly take care of their needs. ORR must follow the proper processes and
4 investigation. And while Ms. Santamaria insists that these minors must be released
5 *immediately* to their parents who are sponsor applicants, these children were
6 unaccompanied when they entered the country and were already separated from those
7 applicants for a lengthy period before they first applied as sponsors to take them into
8 their respective custody.

9 The applicable sponsor suitability assessment process needs to be followed to
10 ensure that Petitioners are released to sponsors who are capable of providing for their
11 physical and emotional needs. Having failed to establish unlawful custody, the Petition
12 should be denied.

13 **II. LEGAL FRAMEWORK**

14 **A. The Homeland Security Act of 2002 (“HSA”)**

15 In 2002, Congress enacted the HSA, Pub. L. No. 107-296, 116 Stat. 2135 (2002)
16 (codified in relevant part at 6 U.S.C. § 279), which abolished the Immigration and
17 Naturalization Service (“INS”) and transferred responsibility for the care and placement
18 of UACs from INS to ORR. 6 U.S.C. §§ 279(a), (b)(1)(A), (g)(2). The HSA defines a
19 UAC as “a child who—(A) has no lawful immigration status in the United States; (B)
20 has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or
21 legal guardian in the United States; or (ii) no parent or legal guardian in the United
22 States is available to provide care and physical custody.” 6 U.S.C. § 279(g)(2). Further,
23 it assigns ORR broad authority over the care and custody of UACs while they are in
24 federal custody due to their immigration status, including coordinating their care and
25 placement, ensuring their best interests in custodial decisions and that they are protected
26 from smugglers, traffickers, and others who might seek to victimize and exploit UACs. 6
27 U.S.C. § 279(b)(1)(A) & (b)(2)(A)(ii).

B. The Trafficking Victims Protection Reauthorization Act of 2008

Congress enacted the TVPRA in 2008 to strengthen protections for UACs and support their safe repatriation or appropriate placement within the United States. The statute, consistent with the HSA, makes HHS responsible for the care and custody of UACs. 8 U.S.C. § 1232(b)(1). It also requires the HHS Secretary to decide that a sponsor “is capable of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must “at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” *Id.* The TVPRA also requires ORR to prioritize the safety and well-being of UACs while in its care and upon release. One of the methods of doing so as contemplated by the statute is to coordinate with the United States Department of Homeland Security (“DHS”) for available vetting information—including from immigration databases: “Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.” 8 U.S.C. § 1232(c)(3)(C). These responsibilities are carried out through cooperative agreements and contracts with care providers under ORR policies and oversight. *See* 8 U.S.C. § 1232(i); 31 U.S.C. § 6305.

C. The Foundational Rule

In April 2024, ORR promulgated the Unaccompanied Children Program Foundational Rule (hereinafter, “Foundational Rule”), codified at 45 CFR part 410, to establish comprehensive regulations governing its UAC program. The Foundational Rule also implements provisions of the Flores Settlement Agreement (“FSA”) relevant to ORR’s care and custody of UAC and thus led to the conditional and partial termination

1 of the FSA as to ORR in June 2024.¹ *Cf. Reno v. Flores*, 507 U.S. 292 (1993) (upholding
2 INS regulations about the release of UACs to properly vetted sponsors). Effective July 1,
3 2024, the Foundational Rule formalized previously informal procedures, including those
4 related to ORR's release policies and practices.

5 The Foundational Rule provides that ORR identifies a standard program
6 placement for the UACs upon notification from any federal department or agency that a
7 child in its custody is a UAC and therefore must be transferred to ORR custody. 45
8 C.F.R. § 410.1101(b). ORR then works with the referring federal government
9 department or agency to accept transfer of custody of the UAC, consistent with the
10 statutory and regulatory requirements at 8 U.S.C. § 1232(b)(3) and 45 C.F.R. §
11 410.1101(c). ORR places each UAC in the least restrictive setting that is in the best
12 interest of the child and appropriate to the unaccompanied alien child's age and
13 individualized needs. 45 C.F.R. § 410.1103(a). ORR may place a child in a shelter
14 facility, foster home or group home (which may be therapeutic), heightened supervision
15 facility or secure facility (including residential treatment centers), or other care facility
16 that can provide for their specific individualized needs, including an out-of-network
17 ("OON") placement (which may be restrictive or non-restrictive). 45 C.F.R. § 410.1102;
18 *see also* ORR UACB Policy Guide § 1.2, [https://acf.gov/orr/policy-](https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide)
19 [guidance/unaccompanied-children-bureau-policy-guide](https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide) (last accessed June 20, 2026).
20 ORR also considers several factors relevant to the UAC's placement, including but not
21 limited to: danger to self; danger to the community/others; runaway risk; trafficking in
22 persons or other safety concerns; age; and gender. 45 C.F.R. § 410.1103(b).

23 ORR is required to make and record the prompt and continuous efforts on its part
24 towards release of children in its custody to appropriately vetted sponsors. *See* 45 C.F.R.
25 § 410.1203(a). All individuals seeking to sponsor a child in ORR custody (notably, even
26

27 ¹ *See Flores v. Garland*, No. 85-cv-4544, 2024 WL 3467715, at *9 (C.D. Cal.
28 June 28, 2024).

1 a UAC's parent or legal guardian) must undergo the sponsor assessment process,
2 consistent with ORR's statutory responsibilities. *See* 8 U.S.C. § 1232(c)(3)(A) ("an
3 unaccompanied alien child may not be placed with a person or entity unless the
4 Secretary of Health and Human Services makes a determination that the proposed
5 custodian is capable of providing for the child's physical and mental well-being"); 45
6 C.F.R. §§ 410.1201(a), 1202(b). This understanding was further reinforced in the One
7 Big Beautiful Bill Act of 2025, Pub. L. No. 119-21, title VIII, subtitle H, section
8 87001(c)(1) (2025) (defining "potential sponsor" as "an individual or entity who applies
9 for the custody of an unaccompanied alien child").

10 The suitability assessment includes "verification of the potential sponsor's
11 identity," 45 C.F.R. § 410.1202(b), "verification of the employment, income, or other
12 information provided by the potential sponsor as evidence of the ability to support the
13 child," 45 C.F.R. § 410.1202(c), and "[i]n all cases, ORR shall require background and
14 criminal records checks," *id.*, which may include a criminal history check based on
15 fingerprints. The Foundational Rule thus reinforces congressional intent articulated in
16 the HSA and TVPRA that HHS ensure UAC protection from human traffickers and
17 release UACs only to those sponsors capable of protecting their well-being. *See* 45
18 C.F.R. § 410.1003; *see also* 8 U.S.C. § 1232(c)(3)(A)–(C) (requiring such vetting be
19 conducted, along with potential home studies and further information sharing with DHS
20 to effectuate that process).

21 **D. Human Trafficking and UAC Sponsorship Fraud**

22 In December 2022, the U.S. Senate's Committee on Homeland Security and
23 Governmental Affairs published a report detailing the inadequate treatment of UACs in
24 federal care and the insufficient safeguards to ensure they are not trafficked or abused
25 following their release. *See* United States Senate Committee on Homeland Security and
26 Governmental Affairs, Minority Staff Report, Federal Care of Unaccompanied Children:
27 Minors Remain Vulnerable to Trafficking and Abuse ("Minority Report"),
28 https://www.govinfo.gov/content/pkg/GOVPUB-Y4_G74_9-PURL-

1 gpo190271/pdf/GOVPUB-Y4_G74_9-PURL-gpo190271.pdf (last accessed May. 20,
2 2026). A congressional subcommittee launched its investigation in 2015, following
3 reports that ORR placed eight children with members of a human trafficking ring that
4 forced the children to work on an egg farm for 12 hours a day, six or seven days a week.
5 *See id.* at 26.

6 In the December 2022 report, it was noted that despite the increased number of
7 UACs entering the United States in 2021 and 2022, ORR's completion of background
8 checks significantly declined from FY 2019. *See id.* at 35–37. Moreover, the report
9 identified the lack of adequate background checks for potential sponsors and the waiver
10 of background check requirements on household members, even when releasing a child
11 to their parent, as areas where additional safeguard measures were necessary. *See id.* at
12 37–45. It was therefore recommended that ORR update the UACB Policy Guide to
13 indicate that if a potential sponsor or household member refuses to comply with required
14 background checks, ORR should prohibit further consideration of the release of a child
15 into their custody until such a check could be completed. *See id.* at v.

16 In March 2023, after a Florida grand jury published a report outlining over 100
17 allegations concerning deficiencies in ORR's UAC Program, ORR established an
18 Integrity & Accountability ("I&A") Team to detect, prevent, mitigate, and report fraud
19 and exploitation perpetrated by sponsors, parents, and UACs. *See* Office of Refugee
20 Resettlement, Administration for Children and Families, Recommendations to Combat
21 Trafficking and Fraud in the UAC Program ("ORR Recommendations") at 1–3 (Feb. 4,
22 2025), <https://www.scribd.com/document/830798358/HHS-ORR-Report> (last accessed
23 May 20, 2026).

24 The I&A Team identified several instances of fraudulent sponsorship applications,
25 document falsifications, and patterns of human trafficking and exploitation. *See id.* at 3–
26 8. For example, the I&A Team identified instances of children and sponsors using
27 altered birth certificates or unaltered birth certificates belonging to another person. *See*
28 *id.* at 7. The I&A Team also found that such fraud often involved collusion with others,

1 including a family member in the child's country of origin. *See id.* In one instance, the
2 I&A Team identified 10 UACs who were released to sponsors who committed
3 intentional document fraud in October 2024. *See id.*

4 The I&A Team also found cases of fraud, abuse, and extortion by prospective
5 sponsors. For example, the I&A Team reported that in late February 2024, an individual
6 sponsor using multiple identities and addresses to sponsor or attempt to sponsor multiple
7 children in Cleveland, Ohio was discovered after an investigation of potential child
8 abuse and trafficking. *See id.* at 7–8. The individual successfully sponsored a 15-year-old
9 female UAC whose allegations of sexual abuse and trafficking led to charges of rape
10 against the sponsor. *See id.* at 7. In another case, the I&A Team found that a woman and
11 her partner attempted to sponsor a total of 15 UACs over a five-year period by using
12 multiple aliases, with the aliases only discovered when the sponsor underwent
13 fingerprinting. *See id.* The I&A Team also found cases of individuals demanding
14 payment to sponsor a UAC. *See id.* at 8. In one scheme, there were 17 reported instances
15 of successful extortion totaling \$27,694. *See id.* Despite this background, ORR's data
16 revealed that less than 1% of sponsorship applications had been denied in recent years.
17 *See id.*

18 **E. ORR Release Policies and Practices**

19 To carry out its statutory mandate under the HSA and TVPRA, and consistent
20 with the Foundational Rule, ORR has developed policies and procedures for identifying,
21 and conducting suitability assessments of, potential sponsors. These procedures are
22 generally set out in ORR's publicly available UACB Policy Guide (mentioned above). A
23 full assessment of a potential sponsor's suitability is particularly appropriate because
24 ORR is not a law or immigration enforcement agency and lacks the authority to hold
25 individuals accountable by reassuming care if the sponsor abuses or neglects a child after
26 a UAC has been released from ORR custody. Biswas Decl. ¶ 14. Rather, ORR only takes
27 children into its custody upon referral by another federal agency, as described in statute.
28 *See* 8 U.S.C. § 1232(b)(3) (requiring, absent exceptional circumstances, that any agency

1 of the federal government transfer the custody of a child to HHS no later than 72 hours
2 after determining that the child is a UAC). In this regard, ORR is also very different
3 from state child welfare agencies, which typically retain such authority post-placement.
4 *Id.* ¶ 14.

5 Accordingly, ORR must front-load child safety considerations in its identity
6 verification and sponsor-vetting policies. *Id.*

7 In light of ORR's obligation to protect UACs from smugglers, traffickers, and
8 others who may seek to victimize them, "safe and timely release . . . involves several
9 steps, including: the identification of sponsors; sponsor application; interviews; the
10 assessment (evaluation) of sponsor suitability, including verification of the sponsor's
11 identity and relationship to the child (if any), background checks, and in some cases
12 home studies; and post-release planning." UACB Policy Guide § 2.1; Biswas Decl. ¶ 15.
13 There are four categories of potential sponsors: (1) Category 1, consisting of parents or
14 legal guardians; (2) Category 2, consisting of siblings, half-siblings, grandparents, or
15 immediate relatives (such as aunts, uncles, and cousins), and other biological relatives
16 and relatives through marriage; and (3) Category 3, consisting of other sponsors, such as
17 distant relatives and unrelated adult individuals. UAC Policy Guide § 2.2.1; Biswas
18 Decl. ¶ 15. ORR (through its care providers) conducts a suitability assessment of the
19 potential sponsor, including a review of the sponsor's strengths, resources, risk factors,
20 and special concerns within the context of each child's needs, strengths, resources, risk
21 factors, and relationship to the sponsor. UAC Policy Guide §§ 2.2.2, 2.4; Biswas Decl. ¶
22 18.

23 A potential sponsor must complete a sponsorship application, provide unexpired
24 government-issued identification documentation for the sponsor and any other adults
25 living in the household or identified in a sponsor care plan, and, along with any adult
26 living in his household, undergo a background check. UACB Policy Guide §§ 2.2.4, 2.5;
27 Biswas Decl. ¶ 16. All potential sponsors must also submit proof of address, income,
28 sponsor-child relationship, and criminal history documents (if applicable). UACB Policy

1 Guide § 2.2.4; Biswas Decl. ¶ 16.

2 Additionally, in certain circumstances a home study, which consists of interviews,
3 a home visit, and a written report containing a case worker's findings, is performed.

4 UACB Policy Guide § 2.4.2; Biswas Decl. ¶¶ 18-21.

5 Once the assessment of the potential sponsor is complete, the care provider makes
6 a release recommendation to ORR. UACB Policy Guide § 2.7; Biswas Decl. ¶ 22. The
7 recommendation must take into consideration all relevant information, including the
8 report and recommendations from a home study, if conducted, laws governing the
9 process, and other facts in the case. Biswas Decl. ¶ 22. ORR makes the final release
10 decision. UACB Policy Guide § 2.7; Biswas Decl. ¶ 22. Release decisions include:
11 (1) approve release to sponsor; (2) approve release with post-release services; (3)
12 conduct a home study before a final release decision; (4) deny release; or (5) remand for
13 further information. UACB Policy Guide § 2.7; Biswas Decl. 22. The Policy Guide
14 describes various circumstances under which ORR will or may deny release.

15 Generally, ORR denies release if: (1) the potential sponsor is not willing or able to
16 provide for the child's physical or mental well-being; (2) the potential sponsor is not
17 willing to complete the mandatory fingerprint check; (3) the physical environment of the
18 home presents a risk to the child's safety or well-being; or (4) release of the UAC would
19 present a risk to him or herself, the sponsor, household, or community. UACB Policy
20 Guide § 2.7.4; Biswas Decl. ¶ 23; *see also* 45 C.F.R. § 410.1205 (Release decisions;
21 denial of release to a sponsor).

22 **F. The One Big Beautiful Bill Act ("OBBA") Section 87001**

23 Concerned about the past abuses of the sponsorship program discussed above,
24 ORR's release policies regarding background checks were effectively ratified by
25 Congress in July 2025. Specifically, OBBA's Section 87001 includes the following list
26 of things that ORR "shall" review when determining appropriateness of release using
27 appropriated funds:

28 (1) background checks on potential sponsors, which shall include—

1 A. the name of the potential sponsor and of all adult residents of the potential
2 sponsor's household;

3 B. the social security number or taxpayer identification number of the potential
4 sponsor and of all adult residents of the potential sponsor's household;

5 C. the date of birth of the potential sponsor and of all adult residents of the
6 potential sponsor's household;

7 D. the validated location of the residence at which the unaccompanied alien
8 child will be placed;

9 E. an in-person or virtual interview with, and suitability study concerning, the
10 potential sponsor and all adult residents of the potential sponsor's household;

11 F. contact information for the potential sponsor and for all adult residents of
12 the potential sponsor's household; and

13 G. the results of all background and criminal records checks for the potential
14 sponsor and for all adult residents of the potential sponsor's household, which shall
15 include, at a minimum, an investigation of the public records sex offender registry, a
16 public records background check, and a national criminal history check based on
17 fingerprints.

18 OBBBA, Public Law 119-21, 139 Stat. 72. Section 87001 (July 4, 2025); *see also*
19 Biswas Decl. ¶ 17. These requirements ensure that ORR's obligation to undertake a full
20 assessment of each potential sponsor's suitability is completed before ORR releases the
21 child from its custody.

22 **G. Appeals of ORR Decisions**

23 If ORR denies the application of a parent, legal guardian, or close relative
24 potential sponsor, the denied potential sponsor may appeal that decision through an
25 administrative process. 45 C.F.R. § 410.1206; Biswas Decl. ¶ 26. ORR policy requires
26 that, if ORR denies the sponsor application of a parent, legal guardian, or close relative,
27 the ORR Director, or their neutral and detached designee must send the potential sponsor
28 a Notification of Denial Letter, after receiving all the required information and

1 documentation in a specific case. *See* 45 C.F.R. § 410.1205(c); UACB Policy Guide §
2 2.7.7; Biswas Decl. ¶ 26. Denied potential sponsors who receive this letter may seek an
3 appeal of ORR's denial decision, with a hearing or without a hearing. *Id.* § 2.7.8; *see*
4 *also* Biswas Decl. ¶ 26.

5 In deciding an appeal of a release denial, the Departmental Appeal Board's
6 ("DAB's") role (as the Assistant Secretary's neutral and detached designee who was not
7 involved in the denial decision) is not to substitute its judgment for that of ORR, but to
8 determine whether ORR acted within its statutory authority and applied its regulations
9 and policies reasonably, and whether its decision to deny the Petitioner sponsorship of
10 the UAC was supported by substantial evidence. *See* 45 C.F.R. § 410.1206; UACB
11 Policy Guide § 2.7.4; Biswas Decl. ¶ 26.

12 The burden of proof is on the Petitioner to demonstrate that ORR's decision to
13 deny release was not based on substantial evidence and the standard that the DAB is to
14 apply is a preponderance of the evidence. *See Lucas R v. Becerra*, No. CV 18-5741-
15 DMG (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022) ("The Court will not
16 require the case management team to determine that a sponsor is suitable by a clear and
17 convincing evidentiary standard . . . Due process does not demand that the Court impose
18 procedures that shift the burden to ORR to prove that the sponsor is unfit. Instead, a
19 minor's rights are adequately protected so long as the minor and sponsor have the
20 opportunity to appeal a denial and submit additional evidence of a sponsor's fitness, if
21 necessary.").

22 The DAB's decision to affirm or overrule ORR's decision to deny release to a
23 potential sponsor is the final administrative decision of the agency on the application that
24 had been under consideration. UACB Policy Guide § 2.7.8; Biswas Decl. ¶ 27. However,
25 if there is new information or a change in circumstances regarding the reunification
26 application, or regarding the unaccompanied alien child's circumstances, a new
27 reunification application may be submitted that highlights the change(s) and explains
28 why such changes should alter the initial decision. UACB Policy Guide § 2.7.8; Biswas

Decl. ¶ 27. Similarly, if ORR discovers new information or becomes aware of a change in the circumstances of the potential sponsor and/or the unaccompanied alien child, ORR may assess the case anew. UACB Policy Guide § 2.7.8; Biswas Decl. ¶ 27.

H. Children with Disability in ORR Custody

In notice-and-comment rulemaking, ORR acknowledged that Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, is applicable to ORR and its care providers and codified key provisions of the then-anticipated Disability Settlement in the *Lucas R* litigation² in the Foundational Rule. *See* 45 CFR § 410.1311; *see also* 45 CFR parts 84 (implementing regulations applicable to ORR care providers), and 85 (implementing regulations applicable to ORR); Biswas Decl. ¶ 29. Thus, ORR affirmed its commitment to ensuring UACs are protected from discrimination and have equal access to the UAC program, consistent with Section 504. *See* 89 FR 34388; *see also* ORR UACB Policy Guide, § 3.8 (incorporating all requirements of the *Lucas R* Disability Settlement); Biswas Decl. ¶ 29.

Per the Foundational Rule and ORR policy, ORR must administer the UAC Program in the most integrated setting appropriate to the needs of UACs with disabilities as is consistent with 45 C.F.R. § 85.21(d), unless ORR can demonstrate that this would fundamentally alter the nature of its UAC Program. 45 C.F.R. § 410.1311(b); ORR UACB Policy Guide, § 3.8; Biswas Decl. ¶ 30. ORR must also make reasonable modifications to its programs, including the provision of services, equipment, and

² The *Lucas R* Disability Settlement is available online on ORR's website here: <https://acf.gov/system/files/documents/orr/Lucas-R-Disabilities-Settlement-Agreement.pdf>. *See also* *Lucas R* Disability Implementation Plan, available at: https://acf.gov/sites/default/files/documents/orr/Implementation-Plan-for-the-Lucas-R.-Disabilities-Settlement-Agreement_0.pdf. Among other claims, Plaintiffs in that litigation alleged ORR's placement/release practices discriminated against children with behavioral, mental health, intellectual, and/or developmental disabilities in violation of Section 504 (29 U.S.C. § 794). *See* First Amended Complaint, *Lucas R v. Azar*, Case No. 2:18-cv-05741-DMG-PLA (C.D. Cal. Sept. 7, 2018), at ¶¶ 153-177, 191-194.

1 treatment, so that a UAC with one or more disabilities can have equal access to the UAC
2 Program in the most integrated setting appropriate to their needs. *Id.* at § 410.1311(c);
3 ORR UACB Policy Guide, § 3.8; Biswas Decl. ¶ 31. “ORR is not required, however, to
4 take any action that it can demonstrate would fundamentally alter the nature of a
5 program or activity.” 45 C.F.R. § 410.1311(c); *see also* ORR UACB Policy Guide, §
6 3.8; Biswas Decl. ¶ 31.

7 For a child with one or more disabilities, ORR policy requires the development of
8 an Individualized Section 504 Service Plan to “assist care providers in identifying and
9 documenting the child’s disability-related needs as well as the services, supports, and
10 reasonable accommodations that must be provided to enable the child to reside in the
11 least restrictive setting in their best interests and the most integrated setting appropriate
12 to their needs.” ORR UACB Policy Guide, § 3.8.3; Biswas Decl. ¶ 32. “The
13 Individualized Section 504 Service Plan also incorporates disability-related requirements
14 necessary for the completion of the reunification process (i.e., a home study), which
15 allows the care provider to plan and commence crucial steps early in the process (i.e.,
16 identification of post-release services).” ORR UACB Policy Guide, § 3.8.3; Biswas
17 Decl. ¶ 32.

18 Regarding the release of children with disabilities from ORR custody to a sponsor,
19 ORR’s regulations and policies require:

- 20 • “ORR’s assessment under § 410.1202 of a potential sponsor’s capability to
21 provide for the physical and mental well-being of the child must necessarily
22 include explicit consideration of the impact of the child’s disability or
23 disabilities. Correspondingly, ORR must consider the potential benefits to
24 the child of release to a community-based setting.”
- 25 • “In planning for a child’s release and conducting post-release services
26 (PRS), ORR and any entities through which ORR provides PRS shall make
27 reasonable modifications in their policies, practices, and procedures if
28 needed to enable released unaccompanied children with disabilities to live

1 in the most integrated setting appropriate to their needs, such as with a
2 sponsor.”³

- 3 • “ORR will affirmatively support and assist otherwise viable potential
4 sponsors in accessing and coordinating appropriate post-release community-
5 based services and supports available in the community to support the
6 sponsor’s ability to care for a child with one or more disabilities, as
7 provided for under § 410.1210.”
- 8 • “ORR shall not delay the release of a child with one or more disabilities
9 solely because post-release services are not in place before the child’s
10 release.”

11 45 C.F.R. § 410.1311; *see also* UACB Policy Guide, § 3.8.4; Biswas Decl. ¶ 33.

12 **III. FACTUAL AND PROCEDURAL BACKGROUND**

13 As noted above, the five minor Petitioners in two family/sibling groups entered
14 the United States as unaccompanied children at different times.

15 As set forth in the Declaration of Toby Biswas, filed herewith:

16 **A.I.L.D., B.E.C.L., and J.E.M.C. Case Status**

17 Based on information provided by the Department of Homeland Security (DHS),
18 Customs and Border Protection (CBP), A.I.L.D., B.E.C.L., and J.E.M.C. were
19 apprehended in Harlingen, Texas on November 9, 2025. Biswas Decl. ¶ 35. A.I.L.D. is
20 the uncle of siblings B.E.C.L. and J.E.M.C. *Id.* They were subsequently referred to
21 ORR on November 10, 2025, and admitted to Youth for Tomorrow shelter in Bristow,
22 Virginia, on November 11, 2025. *Id.*

23 On November 12, 2025, the case manager at Youth for Tomorrow contacted the
24 potential sponsor, B.C.L., the purported mother of B.E.C.L. and J.E.M.C. and sister of
25 A.I.L.D. B.C.L. confirmed her interest in sponsoring the children. *Id.* ¶ 36.

26
27 ³ “ORR is not required, however, to take any action that it can demonstrate would
28 result in a fundamental alteration in the nature of a program or activity.” 45 CFR §
410.1311(e)(2).

1 On November 18, 2025, the case manager notified the Federal Field Specialist
2 (“FFS”) assigned to the case that B.C.L. only had a foreign identification document that
3 did not meet the policy requirements and that she did not possess a social security
4 number or ITIN. *Id.* ¶ 37.

5 On November 22, 2025, ORR made contact with B.C.L. and reviewed the sponsor
6 application process with her. *Id.* ¶ 38. She confirmed her interest in sponsoring the
7 children. *Id.* The FFS provided the potential sponsor with a link to begin the sponsor
8 application and a list of required documents. *Id.* The sponsor also identified an alternate
9 adult caregiver for the children. *Id.* On November 24, 2025, the alternate adult caregiver
10 provided an email address, and the Authorization for Release of Information (“ARI”) form
11 was sent to her for completion. *Id.* ¶ 39. All sponsors, adult household members,
12 and alternate adult caregivers are required to complete the ARI to initiate required
13 background checks. *Id.* On December 1, 2025, B.C.L. submitted her ARI, but reported
14 she was having difficulties with the sponsor application due to reading and technology
15 limitations. *Id.* at ¶ 40. She reported that she was receiving assistance from a community
16 organization worker to upload supporting documents. *Id.* The FFS once again reviewed
17 the list of outstanding documents with her. *Id.*

18 On December 15, 2025, ORR contacted B.C.L. regarding the status of her
19 application. *Id.* ¶ 41. She reported that she was still working on filling out and uploading
20 documentation to the application. *Id.* At that time, she provided her Guatemalan
21 identification document, birth certificates for the children and herself, proof of address,
22 and proof of income. *Id.* She also reported that the alternate adult caregiver had
23 completed the ARI form and would be sending it soon. *Id.* She also stated that she and
24 the alternate adult caregiver would be applying for a state identification document. *Id.*

25 On January 6, 2026, ORR contacted B.C.L. At that time, she reported that she and
26 the alternate caregiver applied for state identification documents and ITINs. *Id.* ¶ 42.
27 ORR followed up on the status of the ARIs. *Id.* B.C.L. requested that both appointments
28 be scheduled for the same time. *Id.*

1 On January 15, 2026, B.C.L. reported that she was able to complete the
2 sponsorship application. *Id.* ¶ 43. However, she informed ORR that she was still missing
3 some supporting documents. *Id.* Her driver's license and ITIN remained pending. B.C.L.
4 also reported that she was considering changing the alternate caregiver to her cousin. *Id.*
5 The sponsor was reminded that any alternate caregiver would need to submit the ARI,
6 identification, and a social security number or ITIN and undergo fingerprinting. *Id.*

7 On January 23, 2026, ORR contacted B.C.L. who confirmed the person that she
8 originally designated would be continuing as the alternate caregiver. *Id.* ¶ 44. On
9 February 3, 2026, B.C.L. submitted her state driver's license. *Id.* ¶ 45. She reported that
10 the alternate adult caregiver was still pending her driver's license and ITIN. *Id.* The
11 alternate adult caregiver submitted her ARI. *Id.* On February 4, 2026 ORR requested that
12 the alternate adult caregiver correct the address on the ARI and resubmit it. *Id.* ¶ 46. The
13 address had been incorrectly entered. *Id.* On February 6, 2026, the sponsor submitted
14 her ITIN as well as the alternate adult caregiver's driver's license and ITIN. *Id.* ¶ 47.
15 ORR followed up on the status of the ACG's corrected ARI. *Id.* On February 9, 2026,
16 ORR requested revisions to the sponsor's ARI as it did not include the Sponsor's full
17 address history since she turned 18. *Id.* ¶ 48. This required the sponsor to update the
18 information, re-sign, and then resubmit it. *Id.* On February 11, 2026, B.C.L. reported that
19 she was having difficulty uploading documentation to her sponsor application and
20 submitting one section of the application. *Id.* ¶ 49.

21 On February 18, 2026, B.C.L. provided her and the alternate adult caregiver's
22 availability for their fingerprint-based background check appointments. *Id.* ¶ 50. ORR
23 also followed up on the status of the revised ARI form for the sponsor. *Id.* At this time
24 the alternate adult caregiver's ARI was also outstanding. *Id.* On February 27, 2026, the
25 FFS reviewed B.C.L.'s ARI and followed up on the status of the alternate adult
26 caregiver's ARI. *Id.* ¶ 51. While the potential sponsor had provided the requested
27 information, the ARI still needed to be signed by the potential sponsor. *Id.*

28 On March 5, 2026, ORR contacted B.C.L. to confirm that the children had been

1 moved to Building Bridges Foster Family Agency, located in Ontario, California, where
2 they could be closer to B.C.L. *Id.* ¶ 52.

3 On March 9, 2026, ORR scheduled the fingerprint-based background checks for
4 B.C.L. and the alternate adult caregiver. *Id.* ¶ 53. On March 10, 2026, B.C.L. confirmed
5 that both she and the alternate adult caregiver had attended their appointments. *Id.* ¶ 54.
6 Results were received the same day and came back as “clear”. *Id.*

7 On March 18, 2026, ORR contacted the potential sponsor and reminded her to
8 submit the remaining portions of the sponsor application so that the home study could be
9 initiated. *Id.* ¶ 55. This included updating the address in her application, submitting
10 updated proof of address, and resigning the application to reflect those changes. *Id.*

11 On March 26, 2026, ORR submitted the birth certificates for authentication by the
12 Guatemalan consulate. *Id.* ¶ 56. ORR contacted B.C.L. to review the open (incomplete)
13 portions of the sponsor application and provide technical assistance to complete it so that
14 the home study could be initiated. *Id.* At this time, B.C.L. admitted that her cousin and
15 his friend had been living in the home for five years but that they had not been reported
16 on the sponsorship application. *Id.* ORR advised the potential sponsor that these
17 additional household members would need to provide identification documents, social
18 security numbers or ITINs, and participate in background checks, including fingerprint-
19 based background checks. *Id.* B.C.L. reported that they declined to participate. *Id.*

20 On March 27, 2026, the Guatemalan Consulate authenticated the birth certificates.
21 *Id.* ¶ 57. At this point, the potential sponsor’s application was pending an in-person ID
22 verification appointment, a DNA test, and a home study as well as relevant information
23 for the new household members. *Id.* The potential sponsor reported that she would be
24 moving to another apartment. *Id.*

25 On March 30, 2026, B.C.L. reported that she would be moving in April and
26 provided a rental agreement for another apartment that also listed her purported brother.
27 *Id.* ¶ 58. ORR advised that her brother would need to provide identification, a social
28 security number or ITIN, and participate in background checks. *Id.* On April 8, 2026,

1 B.C.L. reported that her brother would be moving into her old home and that her teenage
2 son would live with her. *Id.* ¶ 59. ORR requested a new rental agreement without her
3 brother's name or proof of address and with her name only. *Id.* On April 15, 2026,
4 B.C.L. provided a new proof of address. *Id.* ¶ 60. She was advised that she would need
5 to update her sponsor application. *Id.*

6 On April 24, 2026, an updated ARI was requested for the alternate adult caregiver.
7 *Id.* ¶ 61. On May 6, 2026, the potential sponsor provided an updated and corrected ARI
8 for the alternate adult caregiver. *Id.* ¶ 62.

9 On May 21, 2026, B.C.L. reported that was settled in the new apartment and had
10 personal items and furniture for the children in their bedrooms and the living area. *Id.* ¶
11 63. B.C.L. also provided updated proof of income and school information for all three
12 children. *Id.* She said that she would enroll them in the same school where her son
13 currently attends. *Id.*

14 On May 26, 2026, the FFS continued to assist B.C.L. in completing the
15 sponsorship application. *Id.* ¶ 64. At this point, only one section – section 10 – of the
16 application remained uncompleted. *Id.* On June 5, 2026, ORR contacted B.C.L. and
17 completed the remaining portion of the sponsor application. *Id.* ¶ 65. The sponsor was
18 able to sign the remaining portions of the sponsor application. *Id.* At this point, ORR
19 considered the sponsor application complete and was able to refer the case for a home
20 study. *Id.*

21 On June 9, 2026, the case was referred for a home study. *Id.* ¶ 66. The home study
22 was TVPRA-mandated for all three children and included a home visit that occurred on
23 June 12, 2026. *Id.* B.E.C.L. was referred for a home study because she has been
24 diagnosed with PTSD, and has been identified as a child with a disability. *Id.* The other
25 children's home studies were also mandatory under the TVPRA based on disclosures of
26 abuse by a previous caregiver. *Id.* On June 24, 2026, ORR received the results of the
27 home study, it returned with a positive recommendation. *Id.* ¶ 67.

28 On July 6, 2026, ORR received the results of the Division of Vetting (DOV)

1 report. *Id.* ¶ 68. This step in the sponsor vetting process involves outreach to law
2 enforcement agencies to confirm there are no pending or active investigations against the
3 potential sponsor, household members, or alternate adult caregivers. *Id.*

4 On July 7, 2026, the sponsor attended her in-person ID verification appointment
5 where a DNA sample was collected to confirm the biological relationship with the
6 children. *Id.* ¶ 69. This is the last thing required to complete sponsor vetting. *Id.* Once
7 ORR receives the results of the DNA test, it will promptly adjudicate the children's cases
8 and issue a final sponsor suitability determination and release decision. *Id.*

9 **M.G.R.P. and A.I.R.P. Case Status**

10 Based on information provided by the DHS CBP, A.I.R.P. and M.G.R.P. were
11 apprehended in Nogales, Arizona on November 4, 2025. Biswas Decl. ¶ 70. They were
12 referred to ORR custody on the same day. *Id.* On November 7, 2025, they were
13 admitted to USCRI – Rinconcito del Sol, located in Lakeworth, Florida. *Id.*

14 On November 14, 2025, ORR attempted to contact the first sponsor, Jesus. *Id.* ¶
15 71. On November 21, 2025, ORR contacted Jesus, who identified himself as a distant
16 family member. Jesus confirmed his interest in sponsoring the children. *Id.* ¶ 72. The
17 sponsorship application was provided to Jesus. *Id.* On November 26, 2025, ORR
18 contacted Jesus to check on the status of the application. *Id.* ¶ 73. He reported that he
19 was continuing to work on the application. *Id.*

20 On December 5, 2025, ORR contacted Jesus and reminded him that the
21 application remained outstanding. *Id.* ¶ 74. Jesus reported he had been busy with work
22 obligations but stated he would begin the process. *Id.* On December 12, 2026, the
23 Federal Field Specialist ("FFS") assigned to vetting the sponsor contacted Jesus and
24 provided technical assistance with initial login and set up. *Id.* ¶ 75. On December 19,
25 2026, ORR attempted to contact Jesus but was unsuccessful. *Id.* ¶ 76.

26 On December 23, 2025, ORR contacted Jesus to remind him of the outstanding
27 application. *Id.* ¶ 77. The potential sponsor reported he was busy during the holidays.
28 *Id.* On December 30, 2025, Jesus contacted ORR for assistance with the online sponsor

1 application. *Id.* ¶ 78. On January 6, 2026, ORR attempted to contact Jesus to follow up
2 on the status of the sponsor application. At that time, Jesus did not answer. *Id.* ¶ 79. On
3 January 15, 2026, the case manager at the ORR care provider informed the FFS that
4 Jesus had declined to continue with the sponsor vetting process. *Id.* ¶ 80. The FFS
5 attempted to contact Jesus to confirm without success. *Id.*

6 On February 4, 2026, the program obtained the phone number for the children's
7 mother, M.J.P.T. *Id.* ¶ 81. At that time, based on this initial contact, the case manager
8 informed ORR that M.J.P.T. had expressed interest in sponsoring the children. *Id.*

9 On February 6, 2026, M.G.R.P. was diagnosed with depression. *Id.* ¶ 82. Her
10 symptoms included insomnia, loss of concentration, and a decreased appetite. *Id.*

11 On February 10, 2026, ORR contacted M.J.P.T. to review the sponsor
12 application process. *Id.* ¶ 83. She confirmed that she was interested in sponsoring the
13 children. *Id.* The link to access the sponsor application was provided to M.J.P.T. *Id.* On
14 February 12, 2026, M.J.P.T. completed the first two parts of the sponsor application.
15 *Id.* ¶ 84.

16 On February 17, 2026, an Individualized Section 504 Service Plan was created
17 for M.G.R.P. to support the child's disability-related needs. *Id.* ¶ 85. The Plan included
18 various services, supports, and accommodations to ensure the child was able to
19 participate equally in the UAC program. *Id.*

20 On February 23, 2026, the FFS assigned to vet M.J.P.T.'s suitability as a sponsor
21 attempted to contact her to review the remaining steps in the sponsor application
22 process. *Id.* ¶ 86. She did not answer. *Id.* On February 26, 2026, ORR successfully
23 contacted M.J.P.T. and reviewed pending items. *Id.* ¶ 87. At that time, M.J.P.T. shared
24 that there were five adults residing in the home. *Id.* On March 6, 2026, ORR contacted
25 M.J.P.T. regarding the status of the sponsor application, proof of identity documents,
26 and ARI forms for M.J.P.T. as the potential sponsor, all adult household members, and
27 the alternate adult caregiver. *Id.* ¶ 88.

28 On March 13, 2026, ORR again attempted to contact M.J.P.T. to follow up on

1 the status of the sponsor application. *Id.* ¶ 89. She did not answer. *Id.* On March 20,
2 2026, ORR successfully contacted M.J.P.T. *Id.* ¶ 90. At that time, she reported
3 difficulty in obtaining the required documents to show her proof of address. *Id.* She
4 also requested assistance with completing the sponsor application and provided her
5 availability. *Id.*

6 On March 27, 2026, M.J.P.T. reported that she might be relocating because the
7 household members had submitted their passports for ITIN applications and did not
8 have alternative forms of identification. *Id.* ¶ 91. She stated that she would be providing
9 an update within a week. *Id.* On April 1, 2026, M.J.P.T. advised that she was actively
10 seeking a new residence to continue the sponsorship process. *Id.* ¶ 92. On April 9, 2026,
11 M.J.P.T. reported she had not yet secured an apartment. *Id.* ¶ 93.

12 On April 10, 2026, the children were transferred to Marsell Wellness Center –
13 Riverside, located in Riverside, California. *Id.* ¶ 94.

14 On April 16, 2026, M.J.P.T. again reported that she would be moving because
15 the household members were not willing to participate in the sponsor application
16 process. *Id.* ¶ 95.

17 On April 20, 2026, M.G.C.P. was diagnosed with Post Traumatic Stress Disorder
18 (PTSD). *Id.* ¶ 96.

19 On April 29, 2026, M.J.P.T. requested that her application be placed on hold
20 while she searched for housing. *Id.* ¶ 97. On May 1, 2026, M.J.P.T. confirmed via text
21 message that she wanted to pause her sponsorship application. *Id.* ¶ 98.

22 On May 1, 2026, the 504 Plan for M.G.R.P. was updated to reflect her new
23 diagnosis (PTSD) and ensure the services and accommodations already implemented
24 aligned with the child's needs. *Id.* ¶ 99. This 504 Plan also includes transition planning
25 for the child's eventual release. *Id.* A resource list near M.J.P.T.'s home was also
26 prepared, which includes resources for mental health support and low cost healthcare
27 clinics. *Id.*

28 On June 3, 2026, M.J.P.T.'s application was recommended for denial until she

1 was able to secure housing and reapply. *Id.* ¶ 100. On June 11, 2026, prior to the case
2 being denied, the case manager reported M.J.P.T. had obtained housing. *Id.* ¶ 101. On
3 June 14, 2026, the ORR care provider developed an updated transition plan tailored to
4 M.J.P.T.'s new address. *Id.* ¶ 102.

5 On June 16, 2026, ORR contacted M.J.P.T. *Id.* ¶ 103. She advised that she would
6 not be able to complete the sponsor application until June 22, 2026. *Id.* On June 22,
7 2026, the potential sponsor completed the sponsor application. *Id.* ¶ 104. She reported
8 that her aunt would be the alternate adult caregiver; however, after learning this
9 required fingerprinting, the aunt declined to serve as the alternate adult caregiver. *Id.*
10 On June 23, 2026, the sponsor confirmed her aunt would not serve as the alternate adult
11 caregiver and reported that she did not have another option. *Id.* ¶ 105.

12 On June 26, 2026, ORR requested internet background checks for the sponsor,
13 including a public records check and sex offender registry check. *Id.* at ¶ 106. Results
14 returned on June 30, 2026, as "clear". *Id.*

15 On June 30, 2026, the potential sponsor attended her fingerprinting appointment.
16 *Id.* ¶ 107. Results were received the same day and came back as "clear". *Id.*

17 An expedited home study was requested on June 30, 2026. *Id.* ¶ 108. The home
18 study resulted in a negative recommendation based on concerns relating to the
19 inconsistencies noted in the frequency of communication between the children and
20 their mother while the children remained in home country. *Id.*

21 On July 6, 2026, the sponsor reported she had submitted her ITIN application.
22 *Id.* ¶ 109.

23 To date, the sponsor has not identified an alternate adult caregiver, which is
24 required under UACB Policy Guide, § 3.8.4 to ensure there is an available caregiver in
25 the event that complications arise after a child is released to their sponsor. *Id.* ¶ 110.
26 ORR continues to work with the sponsor to identify an alternate adult caregiver, who
27 will need to provide proof of identity, social security or ITIN information, and
28 participate in background checks. *Id.*

1 ORR is currently pending results of the DNA test and medical clearance of both
2 children. *Id.* ¶ 111. A.I.R.P. is pending medical clearance following a dental procedure
3 and M.G.R.P. is pending medical clearance following an appointment with a
4 neurosurgeon for evaluation of the child’s arachnoid cyst. *Id.*

5 **IV. LEGAL STANDARD**

6 Section 2241 confers jurisdiction on this court to order the release of any person
7 who is held in the custody of the United States in violation of the “laws . . . of the United
8 States” or the United States Constitution. 28 U.S.C. § 2241(c). The burden rests on the
9 person in custody to prove their detention is unlawful. *See, e.g., Walker v. Johnston*, 312
10 U.S. 275, 286 (1941).

11 **V. ARGUMENT**

12 **1. The Petition Improperly Joins Petitioners In Two Family/Sibling** 13 **Groups With Disparate Factual Circumstances Into A Mass Petition, And** 14 **They Should Be Severed Under The FRCP.**

15 As a foundational matter, Rule 21 is explicit that the Court “may at any time, on
16 just terms, add or drop a party” or “may also sever any claim against a party.” Fed. R.
17 Civ. P. 21; *Am. Oversight v. Dep’t Veterans Affairs*, 326 F.R.D. 23, 27 (D.D.C. 2018)
18 (noting that Rule 21 “authorizes the severance of any claim, even without a finding of
19 improper joinder, where there are sufficient other reasons for ordering a severance”);
20 *Asgari v. USCIS*, No. 22-cv-01888-FWS-KES, 2023 WL 6785801, at *4 (C.D. Cal. July
21 31, 2023) (holding that joinder of multiple immigration petitions filed at different times
22 and resulting in different interactions with the agency was improper).

23 As discussed above, the minor Petitioners in each of two family/sibling groups are
24 not similarly situated, including (among other things), having different entrances into the
25 United States, different custody locations, different applications by different potential
26 sponsors, different pending sponsor vetting requirements, and different lengths of time at
27 issue, as well as different status of the vetting process to determine the suitability of the
28 potential sponsor for each child. Joinder is inappropriate.

Judicial economy also favors severance because “joining such diverse and varied claims would also severely prejudice Defendants and work a disservice to the Court,” *Padron v. Onewest Bank*, No. 2:14-CV-01340-ODW, 2014 WL 1364901, at *2 (C.D. Cal. Apr. 7, 2014). Under such circumstances, judicial economy militates in favor of severance. *Cf. D’Angelis v. Bank of Am., N.A.*, 2014 WL 202567, at *3 (E.D.N.Y. Jan. 16, 2014) (holding that “joinder of over 100 different claims . . . does not serve the interest of judicial economy” because “each Plaintiff’s individual claims will require distinct . . . documentary proof”).

Respondents thus respectfully request that the two family/sibling groups: 1) B.E.C.L., J.E.C.M., and A.I.L.D.; and 2) M.G.R.P. and A.I.R.P., collectively comprising five Petitioners, be severed.

2. Administrative Exhaustion Is Appropriate Here

Petitioners’ habeas action is untimely where, as here, the sponsorship applications for the two family/sibling groups, (1) B.E.C.L., J.E.M.C., and A.I.L.D.; and 2) M.G.R.P. and A.I.R.P., are still incomplete. *See, e.g., Richmond v. Scibana*, 387 F.3d 602, 604 (7th Cir. 2004) (discussing the “common-law exhaustion rule [that] applies to § 2241 actions”); *Baker v. Warden*, No. 23 C 50028, 2025 WL 1398979, at *3 (N.D. Ill. May 14, 2025) (petitioners “must exhaust their federal administrative remedies before seeking habeas relief in court”). Still, when Congress has not imposed a statutory administrative exhaustion requirement, “sound judicial discretion governs” whether exhaustion should be required. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1016 (7th Cir. 2004). The exhaustion doctrine both allows agencies to apply their special expertise in interpreting relevant statutes and promotes judicial efficiency. *Id.* But in making such an assessment, courts must balance the individual and institutional interests involved, considering “the nature of the claim presented and the characteristics of the particular administrative procedure provided.” *McCarthy*, 503 U.S. at 146.

The general rule is that parties must exhaust “prescribed administrative remedies

1 before seeking relief from the federal courts.” *Id.* at 144-45. This case falls well within
2 this general rule because the sponsorship applications for the children’s potential
3 sponsors remain pending and several important vetting requirements necessary to ensure
4 Petitioners’ safety and well-being upon release have not yet been completed. *See* Biswas
5 Decl. ¶¶ 69, 110-111. There are “two exceptions to the exhaustion requirement . . . First,
6 exhaustion will be excused when resort to such procedures would be futile, and second,
7 the exhaustion requirement is excused when a claimant is wrongfully denied meaningful
8 access to administrative procedures.” *Lieske v. Morlock*, 570 F. Supp. 1426, 1429 (N.D.
9 Ill. 1983).

10 Neither of these exceptions apply. ORR is actively engaging with the potential
11 sponsors for the two family/sibling groups (1) B.E.C.L., J.E.C.M., and A.I.L.D.; and, 2)
12 M.G.R.P. and A.I.R.P.), and is assisting them with the sponsorship process which
13 remains ongoing. *See generally* Biswas Decl. ¶¶ 35-110. Further, there is no allegation
14 whatsoever that ORR is preventing the potential sponsors for these children from
15 completing outstanding sponsorship requirements, in fact, the record shows that
16 specialists met with each potential sponsor on multiple occasions to help them complete
17 them. *Id.*; *see also Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (“Proper exhaustion
18 demands compliance with an agency’s deadlines and other critical procedural rules
19 because no adjudicative system can function effectively without imposing some orderly
20 structure on the course of its proceedings.”).

21 The statutory and regulatory framework described above contemplates a robust
22 administrative process to allow ORR to vet sponsorship applicants. *See supra* at 4.
23 Bypassing that process entirely via habeas relief would directly undermine the review-
24 process that the HHS Secretary “shall, at a minimum, verif[y] the custodian's identity
25 and relationship to the child, if any, as well as [make] an independent finding that the
26 individual has not engaged in any activity that would indicate a potential risk to the
27 child.” 8 U.S.C. § 1232(c)(3)(A) (emphasis added). There is thus little reason why
28 exhaustion should not be required here.

1 **3. ORR’s Custody of Petitioners Is Required By Statute.**

2 In addition, it is worth noting that this case is fundamentally different from a
3 typical habeas petition because “juveniles, unlike adults, are always in some form of
4 custody.” *Flores*, 507 U.S. at 302. Accordingly, “where the custody of the parent or legal
5 guardian fails,” the Supreme Court has held that the “government may (indeed, we have
6 said must) either exercise custody itself or appoint someone else to do so.” *Id.*; *see also*
7 *Schall v. Martin*, 467 U.S. 253, 265 (1984) (noting that a “juvenile’s interest in freedom
8 from institutional restraints . . . must be qualified by the recognition that juveniles, unlike
9 adults, are always in some form of custody” because they “are not assumed to have the
10 capacity to take care of themselves”).

11 In this case, the contrast is even more stark, as Petitioners entered the United
12 States designated as unaccompanied alien children by DHS. This means that ORR took
13 custody of B.E.C.L., J.E.C.M., A.I.L.D., M.G.R.P. and A.I.R.P. under the HSA. And in
14 that circumstance, the TVPRA reinforces and expands upon the government’s
15 responsibility for the care of UACs. Unlike adults in the custody of other agencies, ORR
16 cannot simply release children in its care on their own recognizance, or to just anyone
17 who is willing to sponsor them. *See* 6 U.S.C. § 279(b)(2)(B). Rather, the TVPRA
18 requires that ORR make a considered decision about each child’s placement based upon
19 all the circumstances. *See* 8 U.S.C. § 1232(c)(2)(A), (c)(3)(A).

20 As discussed above, the Petition should be denied because each child’s potential
21 sponsor has a pending application with ORR to take custody of them so that ORR can
22 make a considered decision of any kind. Biswas Decl. ¶¶ 69, 110-111.

23 Instead of going the direct route contemplated under the statute and regulations,
24 the ‘next friend’ has attempted to short-circuit that process by going to district court and
25 filing a habeas petition to have the court make its own “best interests” determination. But
26 considering that the sponsorship applications for each child’s potential sponsor are
27 currently in the sponsor-assessment process, ORR’s actions in this matter strictly follow
28 the statutory requirements. As discussed above, ORR is prohibited from releasing

Petitioners to a sponsor's custody until it makes "a determination that the proposed custodian is capable of providing for the child's physical and mental well-being." 8 U.S.C. § 1232(c)(3)(A). Accordingly, ORR is acting in accordance with the TVPRA's requirements, and the Petitioners (B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P.) should not be released to their potential sponsors unless and until ORR deems them suitable.

4. Nothing About ORR's Continued Care for Petitioners Violates the Fifth Amendment.

A. Procedural Due Process.

Petitioners argue in their Third Claim for Relief that ORR's custody of them constitutes a procedural due process violation because they have a liberty interest under the Due Process Clause, asserting that Respondents' policies and actions have deprived them of freedom from confinement without constitutionally sufficient due process and that their further detention bears no reasonable relation to a legitimate government purpose. Pet. ¶¶ 97-104, 121-127. These arguments are unavailing, however, because they are contrary to well-established precedent.

A procedural due process analysis typically considers the three factors articulated by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976). That framework requires consideration of the following factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

The first *Mathews* factor addresses "the private interest that will be affected by the official action." *Id.* at 334. Petitioners identify two constitutional interests: that of B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P. being free from custody and that of a right to family integrity or familial association between the children and their

1 parents or close relatives who sought to sponsor them. Pet. ¶ 118. Neither interest
2 outweighs the remaining *Mathews* factors under the circumstances of these cases where
3 the sponsorship applications for the five Petitioners, B.E.C.L., J.E.M.C., A.I.L.D.,
4 M.G.R.P., and A.I.R.P. remain pending, and the potential sponsors for those children
5 have yet to complete several essential vetting requirements. Biswas Decl. ¶¶ 69, 110-
6 111. Moreover, ORR is actively assisting each potential sponsor in completing them. *Id.*

7 As the Supreme Court has recognized, children “unlike adults, are always in some
8 form of custody” and do not have “a right to come and go at will[.]” *Reno v. Flores*, 507
9 U.S. 292, 302 (1993) (quoting *Schall v. Martin*, 467 U.S. 253, 265 (1984)). As such, a
10 UAC’s “interest in freedom from institutional restraints” may be subordinated to a
11 state’s interest in the child’s welfare.” *Schall*, 467 U.S. at 265. Additionally, a parent’s
12 interest in raising their child is “neither absolute nor unqualified.” *Martin v. St. Mary’s*
13 *Dep’t of Soc. Servs.*, 346 F.3d 502, 506 (4th Cir. 2003); *see also D.B. v. Cardall*, 826
14 F.3d 721, 741 (4th Cir. 2016) (“[A]lthough ‘the interest of parents in the care, custody,
15 and control of their children’ has been recognized as a ‘fundamental liberty interest[],’
16 *Troxel v. Granville*, 530 U.S. 57, 65 (2000), that right is qualified, and in most cases,
17 “the constitutionality of state actions that interfere with family integrity depends on the
18 adequacy of the procedures available to contest them.”). That interest must give way to
19 the state’s responsibility to investigate circumstances that could lead to neglect and
20 abuse, as required by the TVPRA for ORR. *See* 8 U.S.C. § 1232(c)(3)(A) (prohibiting
21 ORR from releasing a child to a sponsor unless ORR makes an affirmative determination
22 “that the proposed custodian is capable of providing for the child’s physical and mental
23 well-being”) (emphasis added).

24 The second *Mathews* factor looks to “the risk of an erroneous deprivation of such
25 interest through the procedures used,” as well as whether further or different process
26 would lead to a more accurate resolution. *Mathews*, 424 U.S. at 335. Notably, in a 2022
27 decision on cross summary judgment motions in the *Lucas R* litigation, a class action
28 challenging certain ORR policies and practices relating to the care and custody of

unaccompanied alien children, including the sufficiency of procedural protections governing children's release to sponsors, the court found that due process does not require ORR to determine that a sponsor who is a parent or close relative is suitable by a clear and convincing evidentiary standard. *Lucas R v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022).

As the *Lucas R* court recognized, "[d]ue process does not demand that the Court impose procedures that shift the burden to ORR to prove that the sponsor is unfit." *Id.* Instead, acknowledging unique interests and challenges in the immigration context and the broad statutory discretion provided to ORR by the TVPRA for conducting the mandated suitability determinations to ensure safe releases of UACs to potential sponsors, the court stated that, "a minor's rights are adequately protected so long as the minor and sponsor have the opportunity to appeal a denial and submit additional evidence of a sponsor's fitness, if necessary." *Id.*; 8 U.S.C. § 1232(c)(3)(A).⁴ The court found that ORR's then-existing hearing policies that at the time applied only to UACs with parent or legal guardian sponsors "provide the fundamental hallmarks of due process, including review by a neutral factfinder who is not involved in the original denial." *See Lucas R*, 2022 WL 2177454, at *26.⁵ The court only added that the notice

⁴ Petitioners misleadingly cite to the *Lucas R* decision for the proposition that the TVPRA at 8 U.S.C. § 1232(c)(2)(A) creates a substantive interest protected by the Due Process Clause by using mandatory language that imposes an obligation on ORR to promptly place a UAC "in the least restrictive setting that is in the best interest of the child." Pet. ¶ 79. While the *Lucas R* court did discuss the mandatory language in that TVPRA section, the court went on say that the statement "does not contain specific substantive limits on Defendants' discretion, and in fact uses non-mandatory language to delineate what factors Defendants 'may' consider in making placements." *See Lucas R.*, 2022 WL 3908829, at *21.

⁵ On August 30, 2022, in alignment with its partial summary judgment decision, the *Lucas R* court issued a preliminary injunction ordering ORR to extend its notice and appeal processes in the ORR Policy Guide which were previously afforded only to denied sponsors who are parents and legal guardians to close relatives, among other changes to its policies regarding release of children to sponsors. *See Lucas R.*, 2022 WL 3908829, at *1; *cf. J.E.C.M. by and Through His Next Friend Saravia v. Marcos*, 689 F.Supp.3d 180, 195 (E.D. Va. 2023). ORR incorporated those notice and appeal processes in its Foundational Rule. *See* 45 CFR §§ 410.1205, 1206.

1 must inform denied potential sponsors that they are entitled to be represented by counsel
2 (at no cost to the Government). *Id.* Notably absent from the *Lucas R* court’s reasoning,
3 however, was any mention of a requirement that due process demands a pre-
4 determination hearing before a sponsorship decision is ever made. *Id.* Here, the
5 sponsorship application for the potential sponsor for each child Petitioner is still
6 pending, and ORR has not made a final decision whether it is safe to release these
7 Petitioners to their relatives who seek to sponsor them. Biswas Decl. ¶¶ 69, 110-111.

8 Petitioners have likewise not made any showing of unreasonable delay. The record
9 demonstrates that ORR has engaged with the potential sponsor for each child Petitioner
10 (B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P.) regarding additional required
11 information for sponsoring them, and other necessary steps. *See generally id.* at ¶¶ 35-
12 111.

13 Critically, as the court in *JECM* explained, “[t]he potential exploitation of [UACs]
14 by sponsors underscores the strong interest that ORR has in ensuring the safe release of
15 children in its care.” 689 F.Supp.3d 180, 199 (E.D. Va. 2023) (discussing evidence of
16 incidents such as the trafficking of UACs by their assigned sponsors in Marion, Ohio
17 and a New York Times investigation that supported legitimate governmental concern
18 regarding mistreatment of UACs where children released by ORR across the country had
19 taken dangerous jobs in factories, which had in some cases been encouraged or even
20 required by sponsors).

21 In sum, an application of the *Mathews* factors to the specific circumstances of
22 Petitioners’ cases demonstrates that ORR has not violated their or their potential
23 sponsors’ procedural due process rights.

24 **B. Substantive Due Process.**

25 In their Second Claim for Relief, Petitioners assert a violation of the substantive
26 component of the Due Process Clause, arguing that ORR’s continued care of them
27 infringes on their and their parents’ liberty interest in family integrity and association.
28 Pet. ¶¶ 90-96, 115-120. “Substantive due process is far narrower in scope than

1 procedural due process” and requires Petitioner to show not only that he was deprived of
2 a constitutionally protected interest, “but also that the action causing the deprivation falls
3 so far beyond the outer limits of legitimate governmental action that no process could
4 cure the deficiency.” *J.E.C.M. by and Through His Next Friend Saravia v. Lloyd*, 352
5 F.Supp.3d 559, 586 (E.D. Va. 2018) (citing *Plyler v. Moore*, 200 F.3d 365, 374 (4th
6 Circ. 1996) (emphasis, internal quotation marks, and citations omitted in the original)
7 (holding that unaccompanied alien child plaintiffs failed to state a substantive due
8 process claim where they alleged that ORR’s policies and procedures made it
9 increasingly difficult for children to be released from ORR’s care and custody).
10 Petitioners simply cannot make that requisite showing here.

11 As discussed above, any constitutional liberty interest that the Petitioners’ parents
12 have in raising them is “neither absolute nor unqualified,” and ORR has countervailing
13 interests in protecting the children from risk of harm upon release, as required by the
14 TVPRA. *JECM*, 352 F.Supp.3d at 587–88 (citing *Martin*, 346 F.3d at 506) (internal
15 quotation marks omitted); 8 U.S.C. § 1232(c)(3)(A). Thus, “the constitutionality of state
16 actions that interfere with family integrity depends on the adequacy of the procedures
17 available to contest those actions.” *Id.* at 588 (citing *D.B.*, 826 F.3d at 741) (internal
18 quotation marks omitted). As shown above, ORR has put in place ample due process
19 procedures in its regulations and policy which enable denied potential sponsors to
20 contest ORR’s release decisions.

21 Further, to demonstrate that governmental conduct “shocks the conscience,”
22 “[Petitioner] must allege conduct that is ‘patently egregious’ or ‘outrageous,’ that
23 ‘violates the decencies of civilized conduct,’ or that fails to ‘comport with traditional
24 ideas of fair play and decency.’” *J.E.C.M.*, 352 F.Supp.3d at 586-87 (citing *County of*
25 *Sacramento v. Lewis*, 523 U.S. 833, 846–49 (1998)) (internal quotation marks and
26 citations omitted in the original). Moreover, “[t]o be sufficiently egregious, the official
27 conduct must do more than produce a harmful or unfortunate result . . . rather, the
28 conduct must be so out of step with contemporary norms and comparable governmental

1 practices that no decent society can tolerate it.” *Id.* (citation omitted). Under the
2 circumstances here, where vetting requirements for the potential sponsors for B.E.C.L.,
3 J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P. are still pending (*see* Biswas Decl. ¶¶ 69,
4 110-111) and ORR has actively assisted the Petitioners’ potential sponsors in completing
5 sponsorship requirements (*see generally* Biswas Decl. ¶¶ 35-111), ORR’s conduct
6 cannot be said to “shock the conscience.” *See D.B.*, 826 F.3d at 741 (“[W]hen a state’s
7 interference with parental control is predicated on a determination that the parent is
8 unable to provide adequate care for a child, such interference does not contravene
9 substantive due process, at least in the absence of governmental action that shocks the
10 conscience”). Thus, Petitioners’ substantive due process challenge is unavailing.

11 **5. Petitioners’ TVPRA Claim Fails.**

12 In their First Claim for Relief, Petitioners assert that ORR violated the TVPRA’s
13 requirement that B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P., as UACs, be
14 placed in the least restrictive setting that is in the child’s best interests. Pet. ¶¶ 86-89,
15 109-114. The TVPRA does not provide a standalone cause of action because it does not
16 contain an express waiver of the government’s sovereign immunity, and the government
17 has not otherwise consented to suit under that statute. *See* 8 U.S.C. § 1232; *Lane v. Pena*,
18 518 U.S. 187, 192 (1996); *cf. Adams v. Calhoun Cty.*, No. 18-1867, 2019 WL 3501815,
19 at *2 (6th Cir. 2019) (no waiver of state sovereign immunity); *Mjsilovic v. Okla. Ex rel.*
20 *Bd. of Regents for Univ. of Okla.*, 841 F.3d 1129, 1132–34 (10th Cir. 2016) (same).
21 Accordingly, any claim that ORR has violated the TVPRA must be evaluated under the
22 APA (§ 706(2)(A)) as a claim that the agency action was “arbitrary, capricious, an abuse
23 of discretion, or otherwise not in accordance with law.” *See Lucas R.*, 2018 WL
24 7200716, at *7 n.12.

25 Section 704 of the APA provides for judicial review of “[a]gency action made
26 reviewable by statute and final agency action for which there is no other adequate
27 remedy in a court.” 5 U.S.C. § 704. Here, however, where no statute makes ORR’s
28 preliminary sponsor vetting efforts reviewable, the sponsorship applications for the

1 potential sponsors of B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P. are being
2 processed, essential vetting requirements are still pending, and ORR has not made its
3 final agency decision regarding the suitability of each potential sponsor and the safety of
4 releasing Petitioners to them, judicial review of such a claim under the APA is not
5 available. Biswas Decl. ¶¶ 69, 110.

6 Further, Section 706(1) of the APA permits a reviewing court to “compel agency
7 action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).⁶ The Supreme
8 Court has held that a claim under 5 U.S.C. § 706(1) can only proceed where the plaintiff
9 asserts that an agency failed to take a discrete action that the agency is required to take.
10 *See Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64 (2004). Accordingly,
11 an agency’s purported delay in acting cannot be unreasonable with respect to action that
12 is not required. *See id.* Here, the TVPRA mandates that ORR release a child only to a
13 sponsor that ORR, in its child welfare experience and judgment, determines will safely
14 care for the UAC. 8 U.S.C. § 1232(c)(3)(A).⁷ ORR is actively engaged with the potential

15
16 ⁶While Petitioners do not cite § 706(1), that is the section applicable to claims
based on delay.

17 ⁷ Petitioners also argue that Respondents failed to timely process the sponsorship
18 applications of each Petitioner’s potential sponsor in accordance with Foundational Rule
19 requirements. *See, e.g.,* Pet. ¶ 94. This assertion has no merit. Under the *Accardi*
20 doctrine, a court may set aside agency action that is not in compliance with its own
21 regulations or internal procedures. *See Leslie v. Att’y Gen. of U.S.*, 611 F.3d 171, 175 (3d
22 Cir. 2010). But not every agency regulation or procedure falls under the doctrine. Rather,
23 to state a claim for an *Accardi* violation, Petitioners must plausibly allege that a
24 regulation or procedure “regulate[s] the rights and interests of others” and thus is
25 “controlling upon the agency.” *Id.* (citing *Columbia Broad. Sys., Inc. v. United States*,
26 316 U.S. 407, 422 (1942)); *see United States ex rel. Accardi v. Shaughnessy*, 347 U.S.
260, 268 (1954). When an agency regulation “does not protect fundamental
27 constitutional or statutory rights,” a violation of the regulation will only warrant judicial
28 relief when there is “a showing of prejudice.” *Leslie*, 611 F.3d at 178 (citing *Chong v.*
INS, 264 F.3d 378, 389 (3d Cir. 2001)).

ORR has followed applicable laws, policies, and regulations in processing each of
the sponsorship applications. These included laws requiring ORR to consider the safety
and suitability of any placement. Notably, 45 C.F.R. § 410.1205(b), cited by Petitioners

(footnote cont’d on next page)

sponsors for each Petitioner in the ongoing sponsorship process but has not yet made the determination whether the Petitioners may safely be released. Biswas Decl. ¶¶ 69, 110-111.

Finally, referencing their unsubstantiated supposition that ORR may have a “plan” to transfer UACs to Texas based upon media reports, Petitioners assert that ORR would be encumbering their right to access to counsel under the TVPRA at 8 U.S.C. § 1232(c)(5) by requiring them to move further away from their families and attorneys. Pet. ¶¶ 53-54, 60, 102, 113. ORR has no current plans to transfer Petitioners out of California to Texas (or any other state) unless warranted by specific circumstances, such as medical emergencies or security concerns, consistent with 45 C.F.R. 410.1601. Biswas Decl. ¶ 34. Any report to the contrary is false. *Id.*

6. Petitioner M.G.R.P. Does Not State A Viable Claim Under Section 504 Of The Rehabilitation Act.

Petitioner M.G.R.P. claims that by “failing to reasonably accommodate her disability and facilitate timely reunification, ORR denied M.G.R.P. the full and equal benefit of the release process in violation of Section 504 and its implementing regulations.” Pet. ¶ 108; *see also id.* ¶¶ 128-135.

As detailed above, ORR takes seriously its obligations under Section 504, the Foundational Rule, and ORR policy for the care of children with disabilities. *See* 29 U.S.C. § 794; 45 CFR part 85; ORR UACB Policy Guide, § 3.8; Biswas Decl. ¶ 29. Notwithstanding these requirements, however, ORR remains statutorily obligated under the TVPRA to assure the safety of the release of a child with a disability to a potential

(*see* Pet. ¶ 75) refers to adjudication of a “completed” sponsorship application. The record reflects that the pending applications for the potential sponsors of B.E.C.L., J.E.M.C., A.I.L.D., M.G.R.P., and A.I.R.P. are not yet complete, and several important vetting requirements remain pending. Biswas Decl. ¶¶ 69, 110-111.

Petitioners do not specifically assert a claim under *Accardi*, but any such claim would fail because the remedy for an *Accardi* violation would be “limited to compelling the agency to abide by” the regulation, which it has done here, not to order release. *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 227 n.44 (D.D.C. 2020).

1 sponsor. 8 U.S.C. § 1232(c)(3). In fact, recognizing the vulnerability of children with
2 disabilities and the potential for their exploitation, Congress mandated that a home study
3 be undertaken before a child with a disability may be released to a sponsor. *Id.* at §
4 1232(c)(3)(B).

5 Moreover, “ORR’s assessment under § 410.1202 of a potential sponsor’s
6 capability to provide for the physical and mental well-being of the child must necessarily
7 include explicit consideration of the impact of the child’s disability or disabilities.” 45
8 CFR § 410.1311(e); *see also* Biswas Decl. ¶ 33. This means that, while ORR also
9 considers “the potential benefits to the child of release to a community-based setting”,
10 before ORR may release a child with a disability to a sponsor, ORR must consider
11 whether that sponsor is capable of meeting the child’s disability-related needs. 45 CFR §
12 410.1311(e); *see also* Biswas Decl. ¶ 33. Part of ORR’s sponsor suitability determination
13 process for a child with a disability also entails “affirmatively support[ing] and
14 assist[ing] otherwise viable potential sponsors in accessing and coordinating appropriate
15 post-release community-based services and supports available in the community to
16 support the sponsor’s ability to care for a child.” 45 C.F.R. at § 410.1311(e)(2); *see also*
17 Biswas Decl. ¶ 33. To be deemed suitable, however, a sponsor must be capable of
18 providing for the child’s physical and emotional well-being with such services and
19 supports in place. 8 U.S.C. § 1232(c)(2)(A); *see also* Biswas Decl. ¶ 33.

20 As detailed above, on February 17, 2026, an Individualized Section 504 Service
21 Plan was created for M.G.R.P. to support the child’s disability-related needs. Biswas
22 Decl. ¶ 85. The Plan included various services, supports, and accommodations to ensure
23 the child was able to participate equally in the UAC program. *Id.* These accommodations
24 included expanded access to mental health services, psychoeducation to help the child
25 understand her symptoms, medication management, development of a safety plan, and
26 structured support to ensure she continued to practice proper hygiene and maintain a
27 healthy nutritional intake. *Id.*

28 On May 1, 2026, the 504 Plan for M.G.C.P. was updated to reflect her new

1 diagnosis, Post Traumatic Stress Disorder, and ensure the services and accommodations
2 already implemented aligned with the child's needs. *Id.* ¶ 96, 99. The services and
3 accommodations provided include psychotherapy, schedule modification to allow for
4 taking breaks or completing alternative activities as needed, access to quiet spaces and
5 calming activities, seating arrangements that reduce distraction and noise, scheduled
6 opportunities for quiet time, and medication management. *Id.* ¶ 99. This 504 Plan also
7 includes transition planning for the child's eventual release. *Id.* A resource list near
8 M.J.P.T.'s home was also prepared, which includes resources for mental health support
9 and low cost healthcare clinics. *Id.*

10 On June 14, 2026, the ORR care provider developed an updated transition plan
11 tailored to M.J.P.T.'s new address. *Id.* ¶ 102. The transition plan included a list of
12 resources for psychiatric emergencies, information for sliding scale health clinics to
13 support the child's medical needs until she could be added to M.J.P.T.'s employer-
14 sponsored insurance plan, mental health and counseling resources for teenagers, and
15 identification of benefit and funding resources, including information for government
16 assistance in determining Medi-Cal eligibility. *Id.*

17 Importantly, as a minor with a disability, M.G.R.P.'s case qualifies for a
18 mandatory home study under the TVPRA, 8 U.S.C. § 1232(c)(3)(B). *See Biswas Decl.* ¶
19 19. An expedited home study was requested on June 30, 2026. *Id.* ¶ 108. The home study
20 resulted in a negative recommendation based on concerns relating to the inconsistencies
21 noted in the frequency of communication between the children and their mother while
22 the children remained in home country. *Id.*

23 To date, the sponsor has not identified an alternate adult caregiver, which is
24 required under UACB Policy Guide, § 3.8.4 to ensure there is an available caregiver in
25 the event that complications arise after a child is released to their sponsor. *Id.* ¶ 110.
26 ORR continues to work with the sponsor to identify an alternate adult caregiver, who
27 will need to provide proof of identity, social security or ITIN information, and
28 participate in background checks. *Id.*

1 ORR is currently pending results of the DNA test and medical clearance of both
2 children. *Id.* ¶ 111. M.G.C.P. in particular is pending medical clearance following an
3 appointment with a neurosurgeon for evaluation of the child's arachnoid cyst. *Id.*

4 Given the above, Petitioner M.G.R.P.'s Section 504 claim fails.

5 **VI. CONCLUSION**

6 For the foregoing reasons, Respondents respectfully request that the Petition be
7 denied.

8
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Respectfully submitted,

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