UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAUREN FOUDA, the next of friend of two minor children, E.X. and P.X., Petitioner, v. ANGIE SALAZAR, *et al.*, Respondents.	Civil Action No. 26-CV-6559 ARUN SUBRAMANIAN United States District Judge DECLARATION OF ACTING ASSISTANT DEPUTY DIRECTOR ELIZABETH KRONK

DECLARATION OF ELIZABETH KRONK

Pursuant to 28 U.S.C. § 1746, I, Elizabeth Kronk, hereby declare under penalty of perjury that the following is true and correct:

1. I am the Acting Assistant Deputy Director for Policy for the Unaccompanied Alien Children Bureau ("UACB") and the Division Chief for the Division of Policy Coordination and Intergovernmental Affairs. In my capacity as *Acting* Assistant Deputy Director for Policy, I also manage the Division of Policy Administration & Legal Affairs, which sits along with the Division of Policy Coordination and Intergovernmental Affairs within the Office of Refugee Resettlement ("ORR"), an entity within the Administration for Children and Families ("ACF"), U.S. Department of Health and Human Services ("HHS").

2. I have held various roles within ORR since joining the agency in October 2021, and I have held my current role as the Division Chief for the Division of Policy Coordination and Intergovernmental Affairs since August 2025. My responsibilities encompass the development and implementation of ORR's policies and procedures concerning the care and custody of unaccompanied alien children. In my Acting capacity, I am also responsible for ensuring ORR's

implementation of and compliance with programmatic policy prerogatives and statutory responsibilities, including those arising under the Homeland Security Act of 2002 ("HSA"), 6 U.S.C. § 279; Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), 8 U.S.C. § 1232; and ORR's regulations, including the Foundational Rule, 45 C.F.R. part 410.

3. This declaration is based upon my personal knowledge, information acquired in the course of performing my official duties, information contained in the records of ACF and ORR, and information conveyed to me by current agency employees and contractors.

Care and Placement of Unaccompanied Alien Children in ORR Custody

4. An unaccompanied alien child is a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom there is no parent or legal guardian in the United States or no parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

5. Pursuant to the TVPRA, "any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child." 8 U.S.C. § 1232(b)(3). Therefore, ORR only takes children into its custody upon referral by another federal agency.

6. ORR "shall accept referrals of unaccompanied children, from any department or agency of the Federal Government at any time of day, every day of the year." 45 C.F.R. § 410.1101(a). Further, ORR has no ability to refuse a referral when the referring federal agency transfers custody to it of an individual that the other agency has determined to be a UAC. *See generally* 8 U.S.C. § 1232(b).

7. After a federal department or agency notifies ORR that a child in its custody is a

UAC, ORR identifies a program placement for the child. 45 C.F.R. § 410.1101(b). To do so, ORR requests background information from the referring federal agency to assess, among other things, whether the unaccompanied alien child is a danger to himself or others, whether there are any known medical and/or mental health issues, or whether other special concerns or needs are known. ORR uses this information to determine an appropriate placement for the child in the least restrictive setting appropriate for the child's needs. 45 C.F.R. §§ 410.1103(a) & (b); ORR UACB Policy Guide ("UACB Policy Guide"), § 1.3.1, *available at* https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide.

8. ORR may place a child in a shelter facility, foster home or group home (which may be therapeutic), heightened supervision facility or secure facility (including residential treatment centers), or other care facility that can provide for the UAC's specific individualized needs. 45 C.F.R. § 410.1102; UACB Policy Guide § 1.2.

Policies for an Unaccompanied Alien Child's Safe and Timely Release

9. ORR's goal is to release UACs to suitable sponsors where consistent with its statutory mandate to ensure that placement does not result in danger to UACs, to the community, or risk of flight by any UAC. *See, e.g.*, 6 U.S.C. §§ 279(b)(1), (b)(2)(A)(ii); 8 U.S.C. §§ 1232(c)(1), (c)(3)(A).

10. ORR must balance its responsibility to make and record prompt and continuous efforts towards release of UACs, *see* 45 C.F.R. § 410.1203(a), with concurrent duties to ensure the safety of releases for both the child and the community.

11. The TVPRA prohibits ORR from releasing a child to a proposed custodian unless ORR first "makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being," which "shall, 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." 8 U.S.C. § 1232(c)(3)(A).

12. In addition, under its regulations, which implement the settlement agreement in *Flores v. Reno*, No. CV 85-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) (the "*Flores* Settlement Agreement" or "FSA"),[1] ORR assesses all potential sponsors (even when the potential sponsor is a child's parent or legal guardian) before making any release determination, including a review of the potential sponsor's strengths, resources, risk factors, and relationship to the UAC. *See, e.g.*, 45 C.F.R. §§ 410.1201(a); 1202(b) & (c) (implementing Paragraphs 14 and 17 of the FSA, respectively).

13. Further, as part of the sponsor suitability assessment process, "ORR shall evaluate the unaccompanied child's *current* functioning and strengths in conjunction with any risks or concerns such as: . . . (2) History of criminal or juvenile justice system involvement (including evaluation of the nature of the involvement, for example, whether the child was adjudicated and represented by counsel, and the type of offense) or gang involvement." 45 C.F.R. § 410.1202(f) (emphasis added).

14. The sponsor assessment process is particularly important because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care of the child if the sponsor abuses or neglects a child after the child has been released

[1] The *Flores* Settlement Agreement is a consent decree entered into by the former Immigration and Naturalization Service ("INS") governing the apprehension, process, and care and custody of alien minors in its custody. The Department of Homeland Security and HHS are successor agencies to the former INS with respect to various parts of the FSA. However, the FSA has been mostly terminated as to HHS. *See Flores v. Garland*, No. CV 85-4544-DMG (AGRx), 2024 WL 3467715, at *9 (C.D. Cal. June 28, 2024) (conditionally and partially terminating the FSA as to HHS on the basis of ORR's publication of regulations implementing the Agreement). The few remaining paragraphs of the FSA that still apply to HHS do not pertain to ORR release processes (*e.g.*, sponsor vetting processes).

from ORR custody. Instead, ORR only takes children into its custody upon referral by another federal agency, as described in statute. In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. Accordingly, ORR must front-load child safety considerations in its identity verification and sponsor-vetting policies.

15. The process for the safe and timely release of an unaccompanied alien child from ORR custody involves several steps, including: the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor's identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning. *See generally* 45 C.F.R. part 410, subpart C. Also, under ORR sub-regulatory guidance, there are three categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians; (2) Category 2, consisting of siblings, half-siblings, grandparents, or immediate relatives (such as aunts, uncles, and cousins), and other biological relatives and relatives through marriage; (3) Category 3, consisting of other sponsors, such as distant relatives and unrelated adult individuals. Additionally, ORR classifies cases as Category 4 when no sponsor has been identified. *See* UACB Policy Guide § 2.2.1.

16. A potential sponsor must complete a sponsorship application package to be considered as a sponsor. 45 C.F.R. § 410.1202. The sponsor must provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan; and, along with any adult living in his or her household, undergo background checks. UACB Policy Guide §§ 2.2.4, 2.5. All potential sponsors must also submit proof of address, income, sponsor-child relationship, and criminal history documents (if applicable). *Id.* § 2.2.4. ORR does not disqualify potential sponsors based solely on their immigration status or for law enforcement purposes. *Id.* § 2.6.

17. With respect to the background check process, Title VIII, Section 8701(b)(1) of the

One Big Beautiful Bill provides ORR funds for background checks on potential sponsors, "which *shall* include: (A) the name of the potential sponsor and of all adult residents of the potential sponsor's household; (B) the social security number or taxpayer identification number of the potential sponsor and of all residents of the potential sponsor's household; . . . ." (emphasis added).

18. ORR conducts a suitability assessment of the potential sponsor, including a review of the sponsor's strengths, resources, risk factors, and special concerns within the context of each child's needs, strengths, risk factors, and relationship to the sponsor. *See* 45 C.F.R. § 410.1202. Additionally, in certain circumstances a home study, which consists of interviews, a home visit, and a written report containing the home-study case worker's findings, is performed. *See* 45 C.F.R. § 410.1204; UACB Policy Guide § 2.4.2.

19. The TVPRA provides ORR with the authority to conduct home studies, and states: "A home study *shall* be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in Section 12102 of Title 42), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence." 8 U.S.C. § 1232(c)(3)(B) (emphasis added); *see also* 45 C.F.R. § 410.1204(b)(1).

20. Additionally, per 45 C.F.R. § 410.1204(b)(2)&(3), ORR requires a home study "[b]efore releasing any child to a non-relative sponsor who is seeking to sponsor multiple children, or who has previously sponsored or sought to sponsor a child and is seeking to sponsor additional children. ORR also requires a home study "[b]efore releasing any child who is 12 years old or younger to a non-relative sponsor." *Id.*

21. Under 45 C.F.R. § 410.1204(c), ORR may also initiate home studies if it determines that a home study is likely to provide additional information which could assist in determining that the potential sponsor is able to care for the health, safety, and well-being of the child.

22. Home studies are conducted to "[a]ssess the potential sponsor's ability to meet the child's needs[,]" "[e]ducate and prepare the potential sponsor for the child's release; and" "[c]orroborate information gathered on the sponsor's assessment." The home study ultimately results in "a written report containing the home study case worker's findings." UACB Policy Guide § 2.4.2.

23. Home studies are generally conducted in-person and a written home study report must be submitted within 10 business days of the home study referral. The written home study report ". . . must present a comprehensive and detailed assessment of the sponsor's ability to care for the needs of the child and identify any information that emerges regarding the sponsor, the sponsor's household or the child." Additionally, "[t]he home study report may identify areas where additional services, resources, or information are needed to support a successful sponsorship." While the home study provider submits a written report, ORR retains the final decision authority on release decisions. UACB Policy Guide § 2.4.2.

24. Once the assessment of the potential sponsor is complete, ORR makes a release determination. UACB Policy Guide § 2.7. The determination must take into consideration all relevant information, including the report and recommendations from a home study, if conducted, laws governing the process, and other facts in the case. ORR makes the final release decision. *Id.* Release decisions include: (1) approve release to sponsor; (2) approve release with post-release services; (3) conduct a home study before a final release decision; (4) deny release; or (5) remand for further information. *Id.*

25. In general, ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. *Id.* § 2.7.4; 45 C.F.R. § 410.1205.

26. In general, ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. *Id.* § 2.7.4; 45 C.F.R. § 410.1205.

27. In making placement decisions, ORR "may consider danger to self, danger to the community, and risk of flight." 8 U.S.C. § 1232(c)(2)(A). If the sole reason for the denial of release is a concern that the UAC is a danger to themself or others, ORR shall send the UAC and their counsel (if the UAC is represented by counsel) a copy of the Notification of Denial and the child may seek an appeal of the denial. 45 C.F.R. § 410.1205(f).

28. Separately, the UAC, or their parent, or legal guardian, can request a risk determination hearing before an independent HHS hearing officer. *See* 45 C.F.R. § 410.1903. All UACs in restrictive placements based on a finding of dangerousness shall be afforded a hearing before an independent HHS hearing officer who determines, through a written decision, whether the UAC would present a risk of danger to self or to the community if released, unless the UAC indicates in writing that they refuse such a hearing. 45 C.F.R. § 410.1903(a). UACs placed in restrictive settings shall receive a written notice of the procedures. *Id.* Additionally, all other UACs in ORR custody may request a hearing to determine, through written decision, whether the UAC would present a risk of danger to themself or to the community if released. 45 C.F.R. §

410.1903(b). However, "[d]eterminations made under [45 C.F.R. § 410.1903] will not compel an unaccompanied child's release; nor will determinations made under [45 C.F.R. § 410.1903] compel transfer of an unaccompanied child to a different placement. Regardless of the outcome of a risk determination hearing or appeal, an unaccompanied child may not be released unless ORR identifies a safe and appropriate placement pursuant to [45 C.F.R. §§ 410.1200-1210]; and regardless of the outcome of a risk determination hearing or appeal, an unaccompanied child may only be transferred to another placement by ORR pursuant to requirements set forth at [45 C.F.R. §§ 410.1100-1109 and 45 C.F.R. §§ 410.1600-1601]." 45 C.F.R. § 410.1903(j).

29. A Notification of Denial letter issued to a potential sponsor will inform the sponsor that they have the right to request an appeal of the denial to the Departmental Appeals Board ("DAB") (as the Assistant Secretary's designee who is a neutral and detached decision maker) and includes instructions for doing so. 45 C.F.R. § 410.1205(c)(3). In deciding an appeal of a release denial, the DAB's role (as the Assistant Secretary's neutral and detached designee) is not to substitute its judgment for that of ORR, but to determine whether ORR acted within its statutory authority and applied its regulations and policies reasonably, and whether its decision to deny release was supported by substantial evidence. *See* 45 C.F.R. § 1206; ORR UACB Policy Guide § 2.7.4.

30. The DAB's decision (as the Assistant Secretary's designee) to affirm or overrule ORR's decision to deny release to a potential sponsor is the final administrative decision of the agency on the application that had been under consideration. *See* ORR UACB Policy Guide § 2.7.4. However, if there is new information or a change in circumstances regarding the reunification application, or regarding the unaccompanied alien child's circumstances, a new reunification application may be submitted that highlights the change(s) and explains why such changes should alter the initial decision. *Id.* Similarly, if ORR discovers new information or

becomes aware of a change in circumstances of the potential sponsor and/or the unaccompanied alien child, ORR may assess the case anew. *Id.*

31. Additionally, to ensure due process rights and protect the best interests of children in ORR care, a prior release denial of an individual's sponsor application does not mean ORR will automatically deny their future sponsor application. *Id.* "In making a release decision, ORR will consider the totality of circumstances surrounding a sponsor application, that is, all information gathered related to the sponsor's relationship to and ability to care for the child." *Id.*

Case Statuses for E.X. and P.X.

32. E.X., also known as A.E.A.G., is a citizen of Guatemala.

33. P.X., also known as H.V.E.A.G., is a citizen of Guatemala.

34. E.X. and P.X. are biological siblings.

35. On January 31, 2026, E.X. and P.X. were apprehended at the U.S. southern border by Border Patrol near Lukeville, Arizona and referred to ORR care on February 1, 2026.

36. On February 2, 2026, ORR placed E.X. and P.X. at Rising Ground Therapeutic Foster Care ("Rising Ground TFC") in Yonkers, New York. "ORR gives priority for transitional foster care placements" to "[s]ibling groups with one sibling under 13 years of age." UACB Policy Guide § 1.2.2.

37. On February 3, 2026, ORR identified L.S.G.D., E.X. and P.X.'s biological mother, a potential Category 1 sponsor. ORR began the vetting process for the potential release of E.X. and P.X. to L.S.G.D as a viable sponsor. ORR determined that therapeutic foster care was the least restrictive setting appropriate for E.X. and P.X.'s needs. UACB Policy Guide § 1.3.1. Therapeutic foster care is for UACs ". . . whose exceptional needs cannot be met in regular or basic level family foster care homes. The child resides with licensed foster parent(s) and receives

additional treatment services and/or supervision specific to the child's identified treatment needs. Children with significant emotional, behavioral, medical, psychiatric and/or developmental needs receive structured treatment within a therapeutic foster care setting." UACB Policy Guide: Guide to Terms.

38. On February 4, 2026, E.X. disclosed [redacted] to a clinician at Rising Ground TFC. This was documented in a Child Level Event. The report states that on February 4, 2026, E.X. disclosed that she, ". . . [redacted] and continued until she left Guatemala in 2025.

39. On February 5, 2026, a Rising Ground TFC clinician received a telephone call from E.X.'s foster parent. The foster parent stated that E.X. disclosed that [redacted] in Guatemala and was planning to [redacted] in Guatemala. E.X. described [redacted] This was documented in a Child Level Event.

40. On March 18, 2026, L.S.G.D. applied to be a Category 1 Sponsor. L.S.G.D. submitted the required sponsor application and authorization of release of information to ORR.

41. Between March 23, 2026, and March 30, 2026, L.S.G.D. provided ORR with a copy of her passport, bank statements, and a self-employment declaration. L.S.G.D. identified an address in Pawtucket, Rhode Island, as the place where she, E.X. and P.X. would be living, on the March 18, 2026, sponsor application.

42. On L.S.G.D.'s sponsor application, she provided that she lived at her current address with: V.V., a 24-year old female family friend, and F.A.L.M., a 22-year old male, who was identified as "simply unrelated."

43. On April 8, 2026, Rising Ground TFC ceased operations. As a result. and P.X.

were transferred to Abbott House Therapeutic Foster Care, located in Bronx, New York.

44. On April 13, 2026, ORR received fingerprinting results for L.S.G.D., which did not reveal any issues preventing sponsorship. The case was then referred for a home study on April 18, 2026. The home study was required as part of L.S.G.D.'s sponsor vetting due to due to E.X.'s disclosure on February 4, 2026, that she was sexually assaulted by her father. *See* 8 U.S.C. § 1232(c)(3)(B); 45 C.F.R. § 410.1204(b)(1)(iii).

45. On April 26, 2026, a home study visit was conducted. The report noted that the home contained three bedrooms and one bathroom. During the home study visit, L.S.G.D. stated that she occupied one of the bedrooms, V.V. occupied one of the bedrooms, and V.V.'s son, G.L.V., occupied the third and final bedroom. G.L.V.'s presence in the home was not mentioned in the sponsor application package.

46. On May 1, 2026, ORR completed a written home study assessment and found several deficiencies.

47. First, during the home study assessment, V.V. stated that in addition to G.L.V., two of her other sons reside at the home on a part-time basis. L.S.G.D. did not disclose that G.L.V. resided at the home prior to the home study visit. Men's shoes were observed in the home. L.S.G.D. stated that they belonged to V.V.'s ex-partner, but he no longer resided there. The report noted that "these inconsistencies raised concerns regarding the accuracy and completeness of the reported household composition."

48. Second, L.S.G.D. exhibited a "lack of awareness" regarding E.X.'s "prior disclosures related to abuse."

49. Third, the home study case worker from Morrison Kids, an ORR-contracted provider, observed "an item resembling a disassembled lower receiver of a semi-automatic

firearm" during the home study. At the time of the home study assessment, V.V. initially denied the presence of firearms in the home.

50. Fourth, L.S.G.D. identified a bedroom under construction, and without furniture and bed, as the bedroom of E.X. and P.X.

51. Fifth, smoke alarms were absent in key areas of the home, including sleeping areas and common areas.

52. The reasons set forth in paragraphs 47-51 led to a negative home study recommendation. As set forth in Paragraph 22 above, home studies are conducted to "[a]ssess the potential sponsor's ability to meet the child's needs[,]" "[e]ducate and prepare the potential sponsor for the child's release; and" "[c]orroborate information gathered on the sponsor's assessment." UACB Policy Guide § 2.4.2.

53. On or about May 5, 2026, L.S.G.D. conveyed to ORR that she was looking to move into a new home. This was documented in a case management weekly report.

54. On May 14, 2026, ORR obtained DNA testing results that confirmed the biological relationship between E.X., P.X., and L.S.G.D.

55. On June 7, 2026, L.S.G.D. submitted to ORR a copy of a lease agreement for an apartment located in Central Falls, Rhode Island. The lease was dated June 2, 2026, and listed L.S.G.D., E.X., and P.X. as the tenants.

56. On June 21, 2026, ORR ordered a home study report addendum due to L.S.G.D.'s change in address. ORR "has the authority to request a home study addendum from the original home study provider to gather more information for an informed release decision." ORR UACB Policy Guide § 2.4.2.

57. On August 4, 2026, an addendum home study report was completed, resulting in a

positive home study recommendation. The positive home study report will be used as part of the basis for ORR's release determination. *See* UACB Policy Guide § 2.7. On this date, the sponsor also provided an Affidavit of Support attesting to her income.

58. On August 6, 2026, the federal field specialist assigned to the sponsor's application made their final sponsor suitability recommendation under 45 C.F.R. § 410.1202. ORR is currently determining whether release of E.X. or P.X. would present a risk to either the UACs, the sponsor, the household, or the community under 45 C.F.R. § 410.1205.

I hereby declare under the penalty of perjury that the above statements are true and correct.

Executed this 7th day of August 2026

ELIZABETH G. KRONK -S Digitally signed by ELIZABETH G. KRONK -S Date: 2026.08.07 15:04:08 -04'00'

Elizabeth Kronk
Acting Assistant Deputy Director for Policy
Unaccompanied Alien Children
Bureau Office of Refugee Resettlement