U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 19, 2026

VIA ECF
The Honorable Arun Subramanian
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Fouda ex rel. E.X. and P.X v. Salazar et al.*, 26 Civ. 6559 (AS)

Dear Judge Subramanian:

This Office represents Respondents (the "Government") in this habeas petition brought by Lauren Fouda, next friend of E.X. and P.X., minor children ("Petitioners"). On August 12, this Court issued a memo endorsement directing Respondents to:

> [E]xplain, after a dutiful inquiry is conducted, the specific reasons for the delay in scheduling the second home inspection; the delay between the second home inspection and the home inspection report; and the subsequent delay between the field specialist's recommendation and the August 11, 2026 determination, despite the intervening filing of a petition for habeas corpus relief.
>
> In this submission, respondents should address the allegations in the petition, including those of the child advocate, pointing to ORR's technical glitches, failures to respond to communications, and representatives who were out of office on vacation. Accompanying the submission should be a declaration from an agency representative that they have investigated these types of delays, and that the agency has taken steps so that they will not occur again.

ECF No. 27, Memo Endorsement. I write respectfully to provide those responses. The government provides the following based on the accompanying Declaration of Assistant Deputy Director Toby Biswas ("Biswas Decl.")

i. *Petitioner's Communications with Federal Field Specialists*

Petitioners' claim that "agency personnel 'went on vacation without notifying her'" is misguided. ECF No. 23 at 8. On May 14, 2026, the assigned Federal Field Specialist ("FFS") handling L.S.G.D.'s sponsorship application, emailed L.S.G.D. to inform her of her upcoming leave. Biswas Decl. ¶ 4. The FFS provided L.S.G.D. with the contact information of the FFS who would handle the application during the period of leave to ensure continued processing of the application. *Id.* On May 26, 2026, the covering FFS called L.S.G.D., but L.S.G.D. did not answer and the covering FFS was not able to leave a voicemail. Biswas Decl. ¶ 5. The covering FFS also sent L.S.G.D. a text message on that date. *Id.*

On June 3, 2026, the covering FFS contacted L.S.G.D. about the status of a new lease. Biswas Decl. ¶ 6. L.S.G.D. responded that she would send in the new lease in the next week. *Id.* L.S.G.D. also identified a new adult caregiver ("ACG"), a colleague from a previous job that she had known for approximately one year. *Id.* The covering FFS sent the new ACG an Authorization of Release of Information ("ARI") to complete. *Id.* On June 7, 2026, L.S.G.D. notified ORR that she had moved and provided a lease as her proof of address. *Id.* ¶ 7. On June 17, 2026, the covering FFS contacted L.S.G.D. to inform her that the sponsorship application was reopened and she needed to update the application with her new address and the ACG's information. *Id.* ¶ 8.

On June 23, 2026, the FFS texted L.S.G.D. and requested that she contact her when she had a few moments. Biswas Decl. ¶ 9. L.S.G.D. reported she was leaving for work and was not immediately available. *Id.* The FFS requested that she update her application with her new address and with information about her new ACG. *Id.* A link to complete the ARI was sent to the new ACG on the same day. *Id.* The FFS followed this email with a call to the ACG requesting that he contact her if he had any questions. *Id.*

ii. *Technological Difficulties*

FFS exercised diligence in remedying technical difficulties. Petitioners claim that the "technical malfunction affecting an online portal for document submission—extend[ed] th[e] family's separation by another 20 days." ECF No. 23 at 9. On June 24, 2026, and June 25, 2026, the sponsor reported to the FFS that she was unable to access the application online. Biswas Decl. ¶ 10. The FFS worked with the sponsor to troubleshoot the technical issues and contacted ORR's Help Desk two times to fix the problem, including providing screenshots to the Help Desk. *Id.* On June 30, 2026, the Help Desk confirmed that the issue was fixed and the application was successfully reopened. *Id.* ¶ 11. The FFS attempted to contact L.S.G.D. by phone and text message. L.S.G.D. did not answer the FFS's phone calls and text messages were unable to be delivered to L.S.G.D. *Id.* Later that day, a text message from the FFS to L.S.G.D. was successfully delivered, instructing L.S.G.D. to access the application and sign the Authorization of Release of Information ("ARI"). *Id.*

On July 6, 2026, a separate technical problem prohibited the FFS from saving the completed Authorization of Release of Information ("ARI") due to missing children's names in the ARI. Biswas Decl. ¶ 13. The FFS contacted the Help Desk and also raised the problem at a weekly meeting. *Id.* On July 13, 2026, to avoid further delay, the FFS manually completed the ACG's ARI using the information available in the online application, emailed it to the ACG for signature, and telephoned the ACG and explained the need to sign the ARI. *Id.* ¶ 14. Thus, while there were technological impediments to the sponsorship application, ORR took action to remedy the various technological difficulties.

iii. *Explanation for Delay in Scheduling the Second Home Inspection*

Following the first home assessment on May 1, 2026, ORR continued to work on L.S.G.D.'s sponsorship application. Biswas Decl. ¶¶ 4-20. During the course of the three months between May 1, 2026, and the second home visit on July 27, 2026, ORR was working on completing the sponsorship application and obtaining all information needed from L.S.G.D. While

some of the delays were due to technological difficulties, others were due to L.S.G.D.'s delay in responding to requests for information. *See generally* Biswas Decl. ¶¶ 7-9, 11, 12. Additionally, during this time period, ORR conducted fingerprinting and an interview with an alternative care giver. Biswas Decl. ¶¶ 17-20.

iv. *Delay Between the Second Home Inspection and Home Inspection Report*

On July 27, 2026, the home study case worker conducted the home study addendum visit at the sponsor's new residence, which resulted in a positive recommendation. Biswas Decl. ¶ 21. The home addendum report was completed by August 3, 2026, and submitted to ORR on August 4, 2026. Biswas Decl. ¶ 23. Under ORR's UACB Policy Guide § 2.4.2, home study providers have 10 days to complete home study addendums. *Id.* The next day, by August 5 (Wednesday), 2026, the FFS submitted the L.S.G.D. suitability determinations for both petitioners, recommending release of the petitioners.

v. *Delay Between the Recommendation and Determination*

On Wednesday, August 5, 2026, the FFS submitted the L.S.G.D. suitability determination, recommending release of Petitioners. Biswas Decl. ¶ 24. On Tuesday, August 11, 2026, ORR made the decision to release the petitioners to L.S.G.D., after reviewing the totality of the evidence. Biswas Decl. ¶ 25. During the period from August 5 to August 11, the case underwent review by the case manager, a third-party review was conducted by a case coordinator, and ORR conducted a determination as to whether release of the petitioners posed a danger. *Id.* This, along with the weekend, accounted for the period of time between the sponsor suitability determination and the release decision. *Id.*

The Government thanks the Court for its consideration of this submission.

Respectfully,

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