



UNIVERSITY OF CALIFORNIA DAVIS SCHOOL OF LAW  
IMMIGRATION LAW CLINIC

## **Lucas R. Counsel Comments to Proposed Information Collection Activity Individual 504 Service Plan**

September 18, 2024

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

*Submitted via email to [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov)*

### **Re: Proposed Information Collection Activity; Services for Unaccompanied Children With Disabilities (New Collection)**

We write as class counsel on behalf of class members in *Lucas R. v. Becerra*, No. 18-CV-5741 (C.D. Cal.) to comment on the ORR UC Bureau's proposed Individualized Section 504 Service Plan (Form S-25).

We believe that the proposed form will assist ORR's provision of services to children with disabilities and is necessary to comply with the Parties' Disability Settlement in *Lucas R. v. Becerra* (ECF 408-5) ("Disability Settlement").

We suggest the following changes to improve the form's utility and ensure compliance with the Disability Settlement:

#### **1. Program Type (p. 1)**

The list of Program Types should include "Therapeutic Group Home" in addition to the program types currently listed on the proposed form. Many children with disabilities are placed by ORR in Therapeutic Group Homes and this should be captured by the form to ensure accurate record-keeping.

In addition, given the wide range of Out-of-Network placements used by ORR, the agency should consider specifying the type of Out-of-Network placement in the list of Program Types. See ORR Policy Guide § 1.4.6. This would assist ORR in monitoring whether children with disabilities are placed in the least restrictive and most integrated settings.

## **2. Documentation of Triggers of a Child's Disability-Related Behavior (pp. 1-2)**

The Disability Settlement requires that a Section 504 Service Plan “[i]dentify the child’s disability-related needs and, if applicable, specific triggers of the child’s disability-related behaviors.” Settlement § II.B.7.a. The Settlement further requires the Plan document reasonable accommodations or modifications, “taking into account the specific triggers of the child’s behavior.” Settlement § II.B.7.b.

The proposed form does not include sufficient space to document the specific triggers of a child’s disability-related behaviors and how those triggers will inform the Service Plan. We suggest ORR create a separate chart to document a child’s triggers and how the care provider will take into account each trigger in the child’s Service Plan.

## **3. Recommendations of Evaluator (p. 2)**

The Disability Settlement requires that ORR “consider all recommendations provided by individual(s) who conduct evaluation(s) for disability” and “include a written explanation of any significant departures from an evaluator’s major recommendation(s) in the Service Plan.” Settlement § II.B.9.

The proposed form does not include space to explain significant departures from an evaluator’s recommendations. ORR could add a question in the “Accommodations and/or Services” section that asks “Does this Service Plan incorporate all recommendations provided by the individual(s) who conducted the child’s evaluation(s) for disability, if applicable? If not, please explain.”

## **4. Documentation of Plan Implementation (p. 2)**

The Disability Settlement requires ORR to direct care providers to include in children’s case files “[d]ocumentation of the implementation of any Section 504 Service Plan, including, but not limited to, progress notes.” Settlement § II.C.1. The Settlement also requires that the Service Plan be developed and implemented within 60 days of identification of the child as having a disability and permits piecemeal implementation.

*Id.* § II.B.5. Federal regulations similarly require that ORR “document in the child's ORR case file any services, supports, or program modifications being provided to an unaccompanied child with one or more disabilities.” 45 C.F.R. § 410.1311(d).

The “Accommodations and/or Services” section of the proposed Individual 504 Service Plan form includes spaces to list accommodations or services, the person responsible for implementing, and the frequency of the accommodation or service, but it does not require documentation of whether the service was actually provided or when this part of the Plan was implemented.

We suggest adding columns to the “Service Plan” section that ask whether each accommodation or service has been implemented and the date it was first implemented. If any part of the Service Plan has not been implemented, there should also be a space to explain why.

In addition to the information recorded in the Service Plan itself, the form should include instructions directing care providers how to document progress notes and other implementation information in the child’s case file.

These changes will also assist ORR and the care provider in facilitating a review of the child’s Section 504 Service Plan. The Disability Settlement requires ORR’s review of an existing Plan to, among other requirements, “[d]etermine whether the services, supports, reasonable modifications, and accommodations set out in the Plan have been and are currently being provided to the child.” Settlement § II.B.12.

## **5. Discharge Planning (p. 2)**

The Disability Settlement and federal regulations require ORR to provide affirmative support to sponsors of children with disabilities to access and coordinate post-release services and supports and avoid unnecessary delays in release. See Settlement § V.B.1; 45 C.F.R. § 410.1311(e)(2). The child’s Section 504 Service Plan must include a transition plan to enable safe release without unnecessary delay. See Settlement § II.B.7.

Although the proposed form has a section for “Post-Release Services Planning Updates,” the form does not include clear instructions as to what should be included in this section. To facilitate and document compliance with ORR’s legal obligations, we suggest adding a table similar to the “Service Plan” section that includes columns for

"Area of Need," "Post-Release Service or Support," "Assistance Provided to Sponsor" and "Date Assistance Provided."

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

Best regards,

A handwritten signature in blue ink that reads "Mishan Wroe". The signature is written in a cursive, flowing style.

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