



**Lucas R. Counsel Comments to Proposed Information Collection Activity
Unaccompanied Children Bureau Assessments for Children and Sponsors Forms**

February 18, 2025

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

Submitted via email to infocollection@acf.hhs.gov

**Re: Proposed Information Collection Activity; Unaccompanied Children Bureau
Assessments for Children and Sponsors Forms (#: 0970-NEW).**

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 revisions to the *Sponsor Assessment* (Form S-5).

A child's case manager and/or clinician uses the Sponsor Assessment to collect all the information they learn about a potential sponsor, and eventually they use this form to make "a thorough and holistic assessment of the sponsor's ability to care for the child." UC Manual of Procedures, Section 2.4.1 Assessment Criteria. Thus, the Sponsor Assessment must explicitly consider the mandatory requirements for the release of children with disabilities under the ORR Foundational Rule and the Parties' Disability Claim Settlement in *Lucas R. v. Becerra* (ECF 408-5) ("Disability Settlement"). In particular, it is essential that the Sponsor Assessment address ORR's obligation to make affirmative efforts to assist the sponsor of a child with a disability and take into account the benefits of release to a community-based setting.

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

A. Consideration of Benefits of Release for Children with Disabilities

All children in ORR custody, including children with disabilities, are entitled to release to a suitable sponsor without unnecessary delay. 45 C.F.R. § 410.1201(a). When evaluating a potential sponsor of a child with a disability, ORR “must necessarily include explicit consideration of the impact of the child's disability or disabilities. Correspondingly, ORR must consider the potential benefits to the child of release to a community-based setting.” 45 C.F.R. § 410.1311(e)(1); see *also* Disability Settlement § V.B.2.

Consistent with this requirement, the proposed Sponsor Assessment “[a]dd[s] several questions to the Care Plan section of the form to document the sponsor’s awareness and ability to care for the child’s healthcare needs.” 89 Fed. Reg. 106485, 106486.

The Sponsor Assessment, however, does not fulfill ORR’s corresponding obligation to consider the benefits of release to the child with a disability. In the “Sponsor Assessment Summary” tab, ORR should edit the Case Manager Assessment prompt to state: “Provide a thorough assessment of the sponsor's ability to safely care for the child, provide for the child's individual needs, and ensure the safety and well-being of the child, including a discussion of the potential benefits to the child of placement with the sponsor in the community.”

B. Affirmative Support for Sponsors of Children with Disabilities

Post-release services can enable a child with a disability to live in an integrated setting with their sponsor and thrive in their community. ORR is required to “affirmatively support and assist otherwise viable potential sponsors in accessing and coordinating appropriate post-release community-based services and supports available in the community to support the sponsor's ability to care for a child with one or more disabilities.” 45 C.F.R. § 410.1311(e)(2); see *also* Disability Settlement § V.B.1.

As proposed, the Sponsor Assessment does not reflect ORR’s legal obligation to affirmatively support the potential sponsor of a child with a disability and take that into account when assessing sponsor suitability. Before concluding that a sponsor cannot meet the needs of a child with a disability, the case manager, clinician, or unification specialist completing this form must consider whether ORR has taken the required steps to assist the sponsor in understanding and supporting those needs.

Specifically, we recommend that ORR add a prompt with an open text field in the Care Plan tab stating: “*For a child with an identified disability:* Describe the steps ORR will take to help the sponsor better understand the child’s needs related to the child’s disability, and the assistance and support ORR has provided or will provide the sponsor in accessing appropriate post-release services available in the community.” This question could fit within the “Child’s Schooling, Health, and Safety” or “Additional Information” sections of the Care Plan tab.

Additionally, in the “Sponsor Assessment Summary” tab, ORR should add a prompt with an open text field for the Case Manager stating: “If outstanding concerns are related to a child’s disability, describe the steps ORR will take to help the sponsor better understand the child’s needs related to the child’s disability, the post-release services ORR will assist the sponsor in coordinating, and whether these efforts will enable the child’s safe release. If the child has an Individualized Section 504 Service Plan, describe whether ORR has taken all actions contemplated by the transition plan.”

Similarly, under the Unification Specialist Assessment, ORR should add a prompt with an open text field that states: “*For a child with an identified disability:* Describe how the Sponsor Suitability Recommendation takes into account the assistance ORR must affirmatively provide to the potential sponsor of a child with a disability.”

Although ORR’s obligation to affirmatively assist the sponsor of a child with a disability may also be recorded in other ORR documents, it is essential that the Sponsor Assessment form explicitly consider this requirement. This is necessary to ensure that the case manager and unification specialist have all the relevant information before them, prevent unnecessary denials of sponsors of children with disabilities, and ensure that ORR fulfills its legal obligation to release a child with a disability without unnecessary delay. See Disability Settlement § V.B.1.

C. Non-discrimination Against Sponsors with Disabilities

ORR is prohibited from discriminating against sponsors with disabilities. Moreover, sponsors with disabilities have a right to reasonable modifications during the sponsorship process. See 45 C.F.R. § 85.21; *id.* § 84.68(b)(7)(i).

ORR should revise the Care Plan tab to avoid discriminating against a child’s potential sponsor on the basis of disability during the sponsorship process. Under the question “Does the sponsor have any mental health or special needs that would impact their ability to care for the child?”, ORR should add a question that asks, “If the sponsor has

a disability, what, if any, reasonable modifications are required to facilitate the child's safe release to the sponsor?" Alternatively, ORR could revise the "Sponsor Demographic Information" tab to ask this question under the "Additional Information" section.

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

Best regards,



Mishan Wroe
Senior Attorney
National Center for Youth Law
(510) 920-3512
mwroe@youthlaw.org