IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

F.A.P. and N.A.P., minors, by and through their Next Friend, Y.P.P.,

Petitioner,

v.

ROBERT F. KENNEDY, JR, *et al.*,

Respondents.

Civil Action No. 2:26-cv-5909

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS (DOC. NO. 1)

This case is not similar to the thousands of habeas petitions that have been filed in this district over the past ten months. F.A.P. and N.A.P. are 13-year-old and 11-year-old siblings, respectively, and unaccompanied alien children ("UAC"), as defined at 6 U.S.C. § 279(g)(2), who were referred into the care and custody of the Office of Refugee Resettlement ("ORR") and placed in an ORR care provider facility on May 6, 2026. *See* Declaration of Toby Biswas ("Biswas Decl.") ¶ 29. Petitioners are not in detention but remain in the custodial care of the United States.

When determining custody of an unaccompanied alien child, ORR must follow the proper statutory and regulatory processes and investigation to ensure that the child's release to a sponsor is safe one. ORR cannot presume that a sponsor applicant — even when a parent or close relative — is able to adequately and properly take care of the child's needs.

And while Petitioners insist that they must be released to their mother, Y.P.P., immediately, this request is inappropriate where ORR has not yet completed all required sponsor

verification steps necessary to make a determination regarding Y.P.P.'s suitability and a decision regarding release.

The applicable suitability determination process needs to be followed to ensure F.A.P.'s and N.A.P.'s safety and well-being. Having failed to establish unlawful custody, the Petition should be denied.

I. BACKGROUND

F.A.P. and N.A.P. ("Petitioners") entered federal custody as UAC on May 6 and were referred to ORR care that same day. Exhibit A - Biswas Decl. ¶ 29. ORR assumed custody of the Petitioners on May 7, 2026. *Id.* ¶ 30. On May 8, 2026, ORR contacted Petitioners' mother, Y.P.P., confirming her interest in sponsoring them. *Id.* ¶ 31. On May 13, 2026, ORR sent a sponsor application to Y.P.P. *Id.* ¶ 32. On May 21, 2026, an ORR Division of Sponsor Administration (DSA) Federal Field Specialist (Field Specialist) contacted Y.P.P. to discuss the requirements for the sponsorship application. *Id.* ¶ 34.

On May 29, 2026, the Field Specialist contacted Y.P.P. to schedule a fingerprint appointment, address missing and incorrect information in the sponsorship application, and discuss applying for an Individual Taxpayer Identification Number (ITIN) because Y.P.P. does not have a social security number. *Id.* ¶ 36. On June 3, 2026, Y.P.P. attended a fingerprint appointment, and the Field Specialist informed Y.P.P. that the Alternate Caregiver ("Alternate") needed to schedule a fingerprint appointment and submit identification and an Authorization for Release of Information ("authorization"). *Id.* ¶ 37.

On June 5, 2026, Y.P.P. informed the Field Specialist that she was having difficulty uploading documents and would notify ORR when the Alternate successfully uploaded proof of identity documentation. *Id.* ¶ 38. On June 12, 2026, the Field Specialist sent the Alternate a link

to complete the authorization. The Field Specialist noted that Y.P.P.'s application was missing documents, including an assessment, proof of income, and in-person identity verification. *Id.* ¶ 39.

On June 15, the Field Specialist sent a follow up text message to the Alternate requesting complete address history, a clear copy of his social security card, and the back of his identity document for the Authorization. *Id.* ¶ 40. Y.P.P. submitted a hand-written letter from her employer as proof of income. *Id.*

On June 26, 2026, the Field Specialist contacted Y.P.P. to discuss pending sponsor application items and contacted ORR technical support to allow the Alternate to make corrections to the Authorization. *Id.* ¶ 42. On June 30, 2026, Y.P.P. informed the Field Specialist that she had applied for her ITIN and would provide an update. *Id.* ¶ 43. The Field Specialist texted the Alternate to notify him that his Authorization had been reopened for him to make corrections. *Id.*

On July 6, 2026, the Alternates's Authorization was completed. *Id.* ¶ 44. That same day, the Field Specialist sent Y.P.P. the sponsor manual by text message and contacted the Alternate to schedule a fingerprint appointment for July 17, 2026. *Id.* On July 14, 2026, the Field Specialist notified Y.P.P. that he would be out of the office the following week and another Field Specialist would be assisting her during that period. *Id.* ¶ 45.

On July 25, 2026, the fingerprint results for Y.P.P. and the Alternate returned as clear. *Id.* ¶ 47. The Field Specialist requested a discretionary home study, noting the sibling group as part of the special instructions. *Id.* On July 30, 2026, the home study case worker interviewed F.A.P. and N.A.P. *Id.* at 48.

On July 31, 2026, Y.P.P. informed the Field Specialist that she was waiting for her ITIN application results. *Id.* ¶ 49. The birth certificate verification requests for F.A.P. and N.A.P. were sent to the consulate of their native country, which verified them on August 3, 2026. *Id.*

On August 5, 2026, Y.P.P. stated that she was still waiting for her ITIN results and informed the Field Specialist that the home study, which resulted in a positive recommendation, had been completed on August 1, 2026 and she would upload her proof of income. *Id.* ¶ 52. On August 7, 2026, ORR received the results of the home study with a positive recommendation. *Id.* ¶ 53. On August 11, 2026, Y.P.P. stated that she still had not received her ITIN application results. The Field Specialist noted that a Category 1 exemption for ID and SSN/ITN would be needed. *Id.* ¶ 54. The Field Specialist informed Y.P.P. that he would be unavailable the following week and that another Field Specialist would be available during that period. *Id.* On August 17, 2026, ORR received the DoV Report, which came back as "Clear with Caveat," due to Y.P.P.'s admission during the home study interview that she facilitated the unlawful entry of the UAC into the United States and has four previous apprehensions on November 2, 2020; November 24, 2020, December 1, 2020, and January 1, 2021. *Id.* ¶ 55.

On August 27, ORR received DNA results for Y.P.P. confirming her biological relationship to Petitioners. *Id.* ¶ 56. The next day, ORR submitted a Category 1 exemption request for non-compliant identification documents and social security and ITIN requirements for the potential sponsor Y.P.P., and the waiver remains under review. *Id.* ORR also received the Sponsor's proof of income. *Id.*

II. LEGAL FRAMEWORK

A. The Homeland Security Act of 2002 ("HSA")

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

B. The Trafficking Victims Protection Reauthorization Act of 2008

Congress enacted the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA") 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 Unaccompanied Children Program Foundational Rule

In April 2024, ORR promulgated the Unaccompanied Children Program Foundational Rule (the "Foundational Rule"), codified at 45 CFR part 410, to establish comprehensive regulations governing its UAC program. Specifically, the Foundational Rule provides that ORR must release UAC from its custody "[s]ubject to an assessment of sponsor suitability," 45 C.F.R. § 410.1201, a process which starts with an "application package" that "[p]otential sponsors shall complete." *Id.* § 410.1202(a). The assessment of sponsor suitability includes "review of the potential sponsor's application package, including verification of the potential sponsor's identity, physical environment of the sponsor's home, and relationship to the unaccompanied child, if any, and an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the unaccompanied child." *Id.* § 410.1202(b).

While ORR is attempting to identify and vet a sponsor, ORR generally places minors in "standard programs that are not restrictive placements." 45 C.F.R. § 410.1104. Standard

programs must be "licensed by an appropriate State agency to provide residential, group, or transitional or long-term home care services for dependent children" or meet the requirements of state licensing that would otherwise be applicable in states that do not license programs that care for UACs. 45 C.F.R. § 410.1001.

D. ORR's Release Policies and Practices

To carry out its statutory and regulatory mandate under the HSA and TVPRA, and the Foundational Rule, ORR has developed policies and procedures for identifying and conducting suitability assessments of potential sponsors. These procedures are generally set out in ORR's publicly available UACB Bureau Policy Guide ("UACB Policy Guide") at Section 2. *See* UACB Policy Guide, available at https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide (last visited July 30, 2026).

A full assessment of a potential sponsor's suitability is particularly appropriate because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody. Biswas Decl. ¶ 14. Rather, ORR only takes children into its custody upon referral by another federal agency, as described in statute. *See* 8 U.S.C. § 1232(b)(3) (requiring, absent exceptional circumstances, that any agency of the federal government transfer the custody of a child to HHS no later than 72 hours after determining that the child is a UAC). In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. Biswas Decl. ¶ 14.

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

In light of ORR's obligation to protect UAC from smugglers, traffickers, and others who may seek to victimize them, "safe and timely release . . . 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." UACB Policy Guide § 2.1.[1]

A potential sponsor must complete a sponsorship application package, 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 a background check. *Id.* §§ 2.2.4, 2.5. All potential sponsors must also submit proof of address, income, sponsor-child relationship, individual taxpayer identification number or social security number, and criminal history documents (if applicable). *Id.* § 2.2.4. 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. *Id.* § 2.4.2.

Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation. *Id.* § 2.7. ORR makes the final release decision. *Id.* ORR will deny the sponsorship application of a potential sponsor who ORR determines is not capable of providing for the physical and mental well-being of the UAC or if the placement would result in danger to

[1] There are three categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians, including qualifying step-parents that have legal or joint custody of the child or teen; (2) Category 2, consisting of siblings, grandparents, or other immediate relatives (such as aunts, uncles, first cousins), and includes biological relatives, relatives through marriage, and half-siblings; and (3) Category 3, consisting of other sponsors, such as distant relatives, unrelated adult individuals, or an institutional/organizational sponsor. *Id.* § 2.2.1. Additionally, ORR classifies cases as Category 4 when no potential sponsor has been identified. *Id.*

the child or the community. 45 C.F.R. § 410.1205 (Release decisions; denial of release to a sponsor).

E. Appeals of ORR Decisions

If ORR denies the application of a parent, legal guardian, or close relative potential sponsor, the denied potential sponsor may appeal that decision through an administrative process. 45 C.F.R. § 410.1206. ORR policy requires that, if ORR denies the sponsor application of a parent, legal guardian, or close relative, the ORR Director, or their neutral and detached designee must send the potential sponsor a Notification of Denial Letter, after receiving all the required information and documentation in a specific case. 45 C.F.R. § 410.1205(c); UACB Policy Guide § 2.7.7. Denied potential sponsors who receive this letter may seek an appeal of ORR's denial decision, with a hearing or without a hearing. *Id.* § 2.7.8.

In deciding an appeal of a release denial, the Departmental Appeal Board's ("DAB's") role (as the Assistant Secretary's neutral and detached designee who was not involved in the denial decision) 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 the Petitioner sponsorship of the UAC was supported by substantial evidence. *See* 45 C.F.R. § 410.1206; UACB Policy Guide § 2.7.4.

The burden of proof is on the Petitioner to demonstrate that ORR's decision to deny release was not based on substantial evidence, and the standard that the DAB is to apply is a preponderance of the evidence. *See Lucas R v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022) ("The Court will not require the case management team to determine that a sponsor is suitable by a clear and convincing evidentiary standard . . . Due process does not demand that the Court impose procedures that shift the burden to ORR to

prove that the sponsor is unfit. Instead, 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.").

The DAB's decision 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. UACB Policy Guide § 2.7.8. 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 the circumstances of the potential sponsor and/or the unaccompanied alien child, ORR may assess the case anew. *Id.*

III. ARGUMENT

A. Administrative Exhaustion is Appropriate Here

Petitioners' habeas action is untimely where, as here, their sponsorship application is 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, Robinson v. Dalton,* 107 F.3d 1018, 1020 (3d Cir. 1997). 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 before seeking relief from the federal courts." *Id.* at 144-45. This case falls well within this general rule because the sponsorship application for Y.P.P., Petitioners' potential sponsor, remains pending. *See* Biswas Decl. ¶ 56.

There are "two exceptions to the exhaustion requirement…. First, exhaustion will be excused when resort to such procedures would be futile, and second, the exhaustion requirement is excused when a claimant is wrongfully denied meaningful access to administrative procedures." *Lieske v. Morlock*, 570 F. Supp. 1426, 1429 (N.D. Ill. 1983). Neither of these exceptions apply. ORR is actively engaging with the current potential sponsor for Petitioners, their mother, Y.P.P., and assisting her sponsorship process which remains ongoing. *See generally* Biswas Decl. ¶¶ 32-56. Further, there is no allegation whatsoever that ORR is preventing Y.P.P. from completing outstanding sponsorship requirements; in fact, the record shows that ORR has consistently called Y.P.P. once or twice a week over a period of three months to assist her with the sponsorship application. *Id.* ¶¶ 38-43. On each call, ORR advised Y.P.P. of the pending documents that were required and twice sent the ACG the link to complete the ARI and provide other required identity documents. *Id.* ¶ 43; *see also Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) ("Proper exhaustion demands compliance with an agency's deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings.").

The statutory and regulatory framework described above contemplates a robust administrative process to allow ORR to vet sponsorship applicants. *See supra* at 5-9. Bypassing

that process entirely via habeas relief would directly undermine the review-process that the HHS Secretary "shall, *at a minimum*, verif[y] the custodian's identity and relationship to the child, if any, as well as [make] 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) (emphasis added). There is thus little reason why exhaustion should not be required here.

B. ORR's Custody of Petitioner is Required by Statute

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

In this case, the contrast is even more stark, as Petitioners entered the United States designated as unaccompanied alien children by DHS. Biswas Decl. ¶ 29. This means that ORR took custody of both F.A.P. and N.A.P. under the HSA. And in that circumstance, the TVPRA reinforces and expands upon the government's responsibility for the care of UACs. Unlike adults in the custody of other agencies, ORR cannot simply release children in its care on their own recognizance, or to just anyone who is willing to sponsor them. *See* 6 U.S.C. § 279(b)(2)(B). Rather, the TVPRA requires that ORR make a considered decision about a child's placement based upon all the circumstances. *See* 8 U.S.C. § 1232(c)(2)(A), (c)(3)(A).

As discussed above, the petition should fail because Petitioners' current potential

sponsor, Y.P.P., has a pending application with ORR to take custody of them so that ORR can make a considered decision. Biswas Decl. ¶ 56. But rather than following the process contemplated under the statute and regulations, they have attempted to short-circuit that process by going to district court and filing a habeas petition asking the Court make its own "best interests" determination. But considering that the Category 1 exemption waiver remains under review — and was submitted due to Y.P.P.'s non-compliant identification documents and lack of social security and ITIN — ORR's actions in this matter strictly follow 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 Petitioners should not be released to their potential sponsor, Y.P.P., unless and until ORR deems her suitable.

C. ORR's Continued Care of A.D.M.S. Does Not Violate Procedural Due Process

Petitioners' First Claim argues that ORR's continued care of them constitutes a 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 and the right to family integrity without constitutionally sufficient due process. Pet. ¶¶ 54-59. Petitioners' 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 Petitioners being free from custody and that of a right to family integrity or familial association between the children and their mother who seeks to sponsor them. Pet. ¶ ¶ 57-59. Neither interest outweighs the remaining Mathews factors under the circumstances of these cases where the sponsorship application for Petitioners remains pending, and the potential sponsor has yet to complete essential vetting requirements. Biswas Decl. ¶56. Moreover, ORR is actively assisting the current potential sponsor, Y.P.P., in completing them.[2] *See generally* Biswas Decl. ¶¶ 36-56.

As the Supreme Court has recognized, children "unlike adults, are always in some form of custody" and do not have "a right to come and go at will[.]" *Reno v. Flores*, 507 U.S. 292, 302 (1993) (quoting *Schall v. Martin*, 467 U.S. 253, 265 (1984). As such, a UAC's "interest in freedom from institutional restraints" may be subordinated to a state's interest in the child's welfare." *Schall*, 467 U.S. at 265. Additionally, a parent's interest in raising their child is

2 In accordance with the ORR policy, "ORR reviews the cases of all pending sponsor applications for UACs in ORR custody for 90 days. The purpose of the review is to identify and resolve the reasons that a sponsor application remains pending in a timely manner. Upon completion of the review, case managers will update the sponsor and unaccompanied alien child on the status of the case, highlighting the reasons that the sponsorship process is incomplete. [T]he case manager will work with the sponsor, relevant stakeholders, and the ORR or Federal Field Specialist (FFS) on a plan to address portions of the application that remain incomplete…" UACB Policy Guide, §2.7.9, available at: https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.7.9 (Rev. August 8, 2025). Cases that are not resolved after the initial 90-day review period, are provided with additional 90-day periods until the pending sponsor application is resolved in accordance with ORR policy. *Id.*; *see also* 45 C.F.R. § 410.1207.

"neither absolute nor unqualified." *Anspach ex rel. Anspach v. City of Philadelphia, Dep't of Pub. Health*, 503 F.3d 256, 261 (3d Cir. 2007); *see also D.B. v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) ("[A]lthough 'the interest of parents in the care, custody, and control of their children' has been recognized as a 'fundamental liberty interest[ ],' *Troxel v. Granville*, 530 U.S. 57, 65 (2000), that right is qualified, and in most cases, "the constitutionality of state actions that interfere with family integrity depends on the adequacy of the procedures available to contest them."). That interest must give way to the state's responsibility to investigate circumstances that could lead to neglect and abuse, as required by the TVPRA for ORR. *See* 8 U.S.C. § 1232(c)(3)(A) (prohibiting ORR from releasing a child to a sponsor unless ORR makes an affirmative determination "that the proposed custodian is capable of providing for the child's physical and mental well-being") (emphasis added).

The second Mathews factor looks to "the risk of an erroneous deprivation of such interest through the procedures used," as well as whether further or different process would lead to a more accurate resolution. *Mathews*, 424 U.S. at 335. Notably, in a 2022 decision on cross summary judgment motions in the *Lucas R* litigation, a class action 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). The court found that ORR's then-existing hearing policies that at the time applied only to UAC 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.[3] The court only added that the notice must inform denied potential sponsors that they are entitled to be represented by counsel (at no cost to the Government). *Id.* Notably absent from the *Lucas R* court's reasoning, however, was any mention of a requirement that due process demands a pre-determination hearing before a sponsorship decision is ever made. *Id.* Here, ORR has continuously worked with Petitioners' mother Y.P.P. to help her complete her sponsor application and vetting requirements, while also ensuring the Alternate submitted the required Authorization and identity documents. Biswas Decl. ¶ ¶ 41-43. Y.P.P.'s application for sponsorship is still pending, and as a result, ORR has not made a final decision whether it is safe to release Petitioners to her. *Id.* ¶ 56.

Petitioners have likewise not made any showing of unreasonable delay. Here, any delay is attributable to the necessary vetting process which is intended to protect the interests of UACs

3 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 (but not distant relatives or non-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 C.F.R. §§ 410.1205, 1206.

such as Petitioners. Biswas Decl. ¶ ¶ 55-56. Moreover, much of the delay has been caused by Y.P.P.'s inability to provide required documentation and the pending CAT 1 exemption waiver request for ID and social security and ITIN requirements. *Id.* ¶ 56. ORR only received the Y.P.P.'s proof of income and submitted a Category 1 exemption request for non-compliant identification documents and social security and ITIN requirements for Y.P.P. on August 28, 2026. *Id.* ¶ 56. ORR does not have the information necessary to inform its sponsor suitability determination and release decision. *Id.*

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

In sum, an application of the *Mathews* factors to the specific circumstances of Petitioners' case demonstrates that ORR has not violated their procedural due process rights.

D. Petitioner's TVPRA Claim Fails

In their Second Claim for Relief, Petitioners assert that ORR violated the TVPRA's requirement that they, as UAC, be placed in "the least restrictive setting that is in their best interests." Pet. ¶¶ 61-62. The TVPRA does not provide a standalone cause of action because it does not contain an express waiver of the government's sovereign immunity, and the government has not otherwise consented to suit under that statute. *See* 8 U.S.C. § 1232; *Lane v. Pena*, 518 U.S. 187, 192 (1996); *cf. Adams v. Calhoun Cty.*, No. 18-1867, 2019 WL 3501815, at *2 (6th Cir. 2019) (no waiver of state sovereign immunity); *Mjsilovic v. Okla. Ex rel. Bd. of Regents for*

Univ. of Okla., 841 F.3d 1129, 1132–34 (10th Cir. 2016) (same). Accordingly, any claim that ORR has violated the TVPRA must be evaluated under the APA (§ 706(2)(A)) as a claim that the agency action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *See Lucas R.*, 2018 WL 7200716, at *7 n.12. Section 704 of the APA provides for judicial review of "[a]gency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Here, however, where no statute makes ORR's preliminary sponsor vetting efforts reviewable, the sponsor application for Petitioners' potential sponsor, Y.P.P., remains incomplete, essential vetting requirements are still pending, and ORR has not made its final agency decision regarding the suitability of the potential sponsor and the safety of releasing Petitioners to her, judicial review of such a claim under the APA is not available. Biswas Decl. ¶56.

Further, Section 706(1) of the APA permits a reviewing court to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1). The Supreme Court has held that a claim under 5 U.S.C. § 706(1) can only proceed where the plaintiff asserts that an agency failed to take a discrete action that the agency is required to take. *See Norton v. Southern Utah Wilderness Alliance,* 542 U.S. 55, 64 (2004). Accordingly, an agency's purported delay in acting cannot be unreasonable with respect to action that is not required. *See id.* Here, the TVPRA mandates that ORR release a child only to a sponsor that ORR, in its child welfare experience and judgment, determines will safely care for the UAC. 8 U.S.C. § 1232(c)(3)(A).[4] ORR is

4 Petitioner also argues that Respondents failed to timely process the sponsorship application for Y.P.P. in accordance with Foundational Rule requirements. *See, e.g.,* Pet. at ¶¶ 66-68. This assertion has no merit. Under the Accardi doctrine, a court may set aside agency action that is not in compliance with its own regulations or internal procedures. *See Leslie v. Att'y Gen. of U.S.*, 611 F.3d 171, 175 (3d Cir. 2010). But not every agency regulation or procedure falls under the doctrine. Rather, to state a claim for an Accardi violation, Petitioner must plausibly allege

actively engaged with the potential sponsor, Y.P.P., in the ongoing sponsorship process which remains pending and is nearly complete. Biswas Decl. ¶ 56. ORR will promptly make its final sponsor suitability determination and release decision. *Id.*

IV. CONCLUSION

For the reasons stated, the Court should deny the Petition for Writ of Habeas Corpus.

Respectfully submitted,

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United States Attorney

/s/ Susan R. Becker for
GREGORY B. DAVID
Assistant United States Attorney
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Dated: September 1, 2026

Counsel for Respondents

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that a regulation or procedure "regulate[s] the rights and interests of others" and thus is "controlling upon the agency." *Id.* (citing *Columbia Broad. Sys., Inc. v. United States, 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 constitutional or statutory rights," a violation of the regulation will only warrant judicial 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. The record reflects that the pending application for the current potential sponsor of A.P., his mother Y.P.P. is not yet complete, and important vetting requirements remains pending. Biswas Decl. ¶ 64.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

F.A.P. and N.A.P., minors, by and through their Next Friend, Y.P.P.,	:	
Petitioner,	:	Civil Action No. 2:26-05062
v.	:	
Robert F. Kennedy, Jr., *et al.*,	:	
Respondents.	:	

AND NOW, this _____ day of July 2026, it is hereby ORDERED that petitioner F.A.P.'s and N.A.P.'s Petition for a Writ of Habeas Corpus is **DENIED**.

SO ORDERED:

_____
HONORABLE JOHN M. GALLAGHER
United States District Judge

Date:

CERTIFICATE OF SERVICE

I certify that, on this date, I caused the foregoing Response To Petition for Habeas Corpus to be filed via the Court's CM/ECF System, thereby serving on counsel of record.

Dated: September 1, 2026

/s/ *Anthony St. Joseph*
ANTHONY ST. JOSEPH
Assistant United States Attorney

Exhibit A

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

F.A.P. and N.A.P., minors, by and through their Next Friend, Y.P.P.,

Petitioner,

v.

ROBERT F. KENNEDY, JR, *et al.*,

Respondents.

Civil Action No. 2:26-cv-5909

DECLARATION OF TOBY BISWAS

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

1. I am the Assistant Deputy Director for Policy for the Unaccompanied Alien Children Bureau ("UACB") and manage the Division of Policy Coordination & Intergovernmental Affairs, and the Division of Policy Administration & Legal 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 November 2009, and I have held my current role since August 2025. My responsibilities encompass the development and implementation of ORR's policies and procedures concerning the care and custody

unaccompanied alien children ("UAC"). In this capacity, I am 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 who is able 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/policyguidance/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.

11. The TVPRA prohibits HHS from releasing a child to a proposed custodian unless HHS 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"), 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).[1]

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).

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

[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)

released 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 tax payer 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. In accordance with the ORR policy, "ORR reviews the cases of all pending sponsor applications for UACs in ORR custody for 90 days. The purpose of the review is to identify and resolve the reasons that a sponsor application remains pending in a timely manner. Upon completion of the review case managers will update the sponsor and unaccompanied alien child on the status of the case, highlighting the reasons that the sponsorship process is incomplete. [T]he case manager will work with the sponsor, relevant stakeholders, and the ORR or Federal Field Specialist (FFS) on a plan to address portions of the application that remain incomplete…" UACB Policy Guide, § 2.7.9. Cases that are not resolved after the initial 90-day review period, are provided with additional 90-day periods until the pending sponsor application is resolved in accordance with ORR policy. *Id. See also* 45 C.F.R. § 410.1207.

23. 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.*

24. 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. Additionally,

pursuant to UACB Policy Guide § 2.7.4, ORR may deny release to a Category 1 potential sponsor, and must deny release to a Category 2 or Category 3 potential sponsor, if the potential sponsor or a member of the potential sponsor's household:

- Has been convicted of child abuse or neglect, spousal abuse;
- has been convicted within the last five (5) years of a felony involving physical assault, battery or drug-related offenses;
- has been convicted of a misdemeanor for a sex crime;
- has been convicted of alien smuggling or a crime related to trafficking in persons or other criminal history or pending charges;
- has knowingly provided false information, committed perjury, or submitted fraudulent documentation during the sponsor assessment process;
- has an adverse child welfare finding;
- is unwilling or unable to complete sponsor vetting requirements (and no express waiver has been granted by the ORR Director or their designee); or
- is under active criminal investigation.

25. In making placement decisions, HHS "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).

26. 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).

27. Notably, even where a child has a potential sponsor who is a parent or legal guardian, ORR is not required immediately to release the child to such sponsor. As referenced above, ORR has a statutory duty to first make 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).

28. In addition, depending on the circumstances, ORR's sponsor vetting process may help ORR determine whether a child in its care has a parent who is "available" to provide care and custody. *See* 6 U.S.C. § 279(g)(2)(C)(ii) (defining UAC, in relevant part, as a child with respect to whom "no parent or legal guardian in the United States is *available* to provide care and physical custody.") (emphasis added). If ORR, through its sponsor vetting process, discovers information

that reasonably calls into question an individual's ability to provide for the child's physical and mental well-being, that would inform its assessment of the individual's "availability."

F.A.P. and N.A.P. Case Status

29. My understanding from a review of the record is that F.A.P. and N.A.P. entered federal custody in [redacted], Texas on May 6, 2026, and were referred to ORR care that same day.

30. They were admitted to ORR custody on May 7, 2026, and placed at [redacted] – [redacted], in Reading, Pennsylvania.

31. On May 8, 2026, ORR contacted F.A.P. and N.A.P.'s mother, Y.P.P., who confirmed her interest in sponsoring them.

32. On May 13, 2026, ORR created a Sponsor Application for Y.P.P. and notified the sponsor via text.

33. On May 15, 2026, ORR reviewed and completed the first two parts of the Sponsor Application, the Sponsor Introduction and the Authorization for Release of Information ("ARI") with the sponsor via phone call. After completing these sections, the case was referred to a Federal Field Specialist (FFS) from the ORR Division of Sponsor Administration (DSA).

34. On May 20, 2026, a DSA FFS was assigned to the case. The following day, the DSA FFS contacted Y.P.P. to discuss the requirements for the sponsorship application.

35. On May 28, 2026, the DSA FFS requested internet-based background checks for Y.P.P., including public records checks and sex offender registry checks. Results were received the same day and came back as "clear".

36. On May 29, 2026, the DSA FFS contacted Y.P.P. to schedule a fingerprint appointment, address missing and incorrect information in the sponsorship application, and to discuss applying for an Individual Taxpayer Identification Number (ITIN), as Y.P.P. does not have a social security

number.

37. On June 3, 2026, Y.P.P. attended her fingerprint-based background check appointment. Results were received the same day and came back as "Appears Clear". The DSA FFS informed Y.P.P. that the alternate adult caregiver (ACG) would also need to provide an identification document, complete and sign the ARI, and participate in background checks, including attending a fingerprint-based background check appointment.

38. On June 5, 2026, Y.P.P. informed the DSA FFS that she was having difficulty uploading documents and would notify the DSA FFS when the ACG uploaded proof of identity documents.

39. On June 12, 2026, the DSA FFS sent the ACG a link to complete the ARI. The DSA FFS noted a number of missing documents for Y.P.P., including an assessment, proof of income, and in-person identity verification.

40. On June 15, 2026, the DSA FFS sent a follow up text message to the ACG requesting complete address history, a clear copy of his social security card, and the back of his identity document for the ARI. Y.P.P. submitted a handwritten letter from her employer as proof of income.

41. On June 17, the DSA FFS requested internet-based background checks for the ACG. Due to corrections needed to forms, results were not returned until July 6, 2026.

42. On June 26, 2026, the DSA FFS contacted Y.P.P. to discuss missing sponsor application documents — including the sponsor assessment, proof of income, SSN/ITIN, and ACG's ARI and fingerprints — and contacted ORR technical support to allow the ACG to make corrections to the ARI to provide complete address history.

43. On June 30, 2026, Y.P.P. informed the DSA FFS that she had applied for her ITIN and would provide an update. The DSA FFS texted the ACG to notify him that his ARI had been reopened for him to make corrections and provided instructions to complete it.

44. On July 6, 2026, the ACG's ARI was completed. That same day, the DSA FFS sent

Y.P.P. the sponsor manual by text message and contacted the ACG to schedule a fingerprint appointment. The appointment was scheduled for July 17, 2026. ORR also received the results of the ACG's internet-based background checks, which returned as "clear".

45. On July 14, 2026, the DSA FFS notified Y.P.P. that he would be out of the office the following week and another DSA FFS would be assisting her during that period.

46. On July 17, 2026, the ACG attended the fingerprint-based background check. Results were received the same day and returned as "Appears Clear".

47. On July 25, 2026, the DSA FFS referred the case for scheduling of the in-person ID verification and DNA collection appointment for the sponsor. The DSA FFS also shared the results of the background checks with the Division of Vetting ("DoV") for completion of the DoV Report. The purpose of this report is to verify whether there are any pending or open investigations against the sponsor or their household members, which would not appear on the fingerprint-based checks. ORR also submitted a referral for a discretionary home study the same day, noting the sibling group as part of the special instructions.

48. On July 30, 2026, the home study case worker interviewed F.A.P. and N.A.P. to learn more about the relationship between the children and the sponsor, their journey to the United States, determine whether the children have any concerns about living with the sponsor, and to get an understanding of the children's expectations and understanding of what will happen if they are reunified with the sponsor, including whether they expect to work or attend school.

49. On July 31, 2026, Y.P.P. informed the DSA FFS that she was waiting for her ITIN application results. Petitioners' birth certificates were sent to the consulate of [redacted] for verification.

50. On August 1, 2026, the home study case worker completed the home visit with the sponsor.

51. On August 3, 2026, the consulate of [redacted] confirmed the validity of the birth certificates.

52. On August 5, 2026, Y.P.P. stated that she was still waiting for her ITIN results and informed the FFS that the home study, which resulted in a positive recommendation, had been completed on August 1, 2026. Y.P.P. stated that she would upload proof of income.

53. On August 7, 2026, ORR received the results of the home study with a positive recommendation.

54. On August 11, 2026, Y.P.P. stated that she still had not received her ITIN application results. The FFS noted that a Category 1 exemption for identity verification and SSN/ITN would be needed. The FFS informed Y.P.P. that he would be unavailable the following week and that another FFS would be available during that period.

55. On August 17, 2026, ORR received the DoV Report, which came back as "Clear with Caveat", due to Y.P.P.'s admission during the home study interview that she facilitated the unlawful entry of the Petitioners into the United States and has four previous apprehensions on November 2, 2020; November 24, 2020, December 1, 2020, and January 1, 2021.

56. On August 27, ORR received DNA results for Y.P.P. confirming her biological relationship to Petitioners. The next day, ORR submitted a Category 1 exemption request for non-compliant identification documents and social security and ITIN requirements for the potential sponsor Y.P.P., and the waiver remains under review. ORR also received the Sponsor's proof of income.

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

Executed this 1st day of September 2026

TOBY R. BISWAS -S

Digitally signed by TOBY R. BISWAS -S
Date: 2026.09.01 12:30:22 -04'00'

Toby Biswas
Assistant Deputy Director for Policy
Unaccompanied Alien Children Bureau
Office of Refugee Resettlement