



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

TO: DUCS Funded Care Provider Facilities Administrators
DUCS Field Coordinators
DUCS Staff

FROM: Brent Orrell *Brent R. Orrell*
Acting Director, ORR

RE: Policy Clarification
Release of a Child to an Unrelated Adult

DATE: January 14, 2008

This memo is to revise and further clarify DUCS policy and procedures on releasing a UAC to an adult sponsor under categories four and six of the Flores Settlement Agreement (Agreement).

The Agreement requires that ORR release a UAC from its custody without unnecessary delay and lays out a specific order of preference for potential sponsors:

- 1) a parent;
- 2) a legal guardian;
- 3) an adult relative (brother, sister, aunt, uncle or grandparent);
- 4) an adult individual or entity designated by the parent(s) or legal guardian as capable and willing to care for the child's well-being in
 - a) a declaration signed under penalty of perjury before an immigration or consular officer or
 - b) such other document(s) that establish(es) to the satisfaction of the ORR, in its discretion, the affiant's paternity or guardianship,
- 5) a licensed program willing to accept legal custody; or
- 6) an adult individual or entity seeking custody, in the discretion of the ORR, when it appears that there is no other likely alternative to long-term detention and family reunification does not appear to be a reasonable possibility. (*Flores Settlement Agreement, Section VI General Policy Favoring Release, 14A-14F*)

Adult Sponsor Designated by the Parent/Legal Guardian

The fourth category refers to an adult sponsor who is an individual the parent or legal guardian has designated to care for the UAC.

NOTE: ORR prohibits the release of a UAC to his/her adult girl/boyfriend, notwithstanding the consent or designation of the UAC's parent(s) or legal guardian(s).

As stated in the Agreement, the parent or legal guardian must provide documentation that establishes the relationship of the parent or guardian to the UAC and that designates the adult individual who will care for the UAC upon release. DUCS Policy and Procedures require that if a declaration before an immigration or consular official is not possible to obtain, then a notarized letter of consent from the parent or legal guardian must be provided. Furthermore, in those instances where there is a proposed release to an unrelated adult (with or without consent from a parent or guardian) where human trafficking is suspected or a trafficking addendum has been filed, the ORR Office of the Director must approve the proposed release.

Letter of Consent

- 1) If a declaration before an immigration or consular official is not possible, the parent/legal guardian must provide a letter of consent authorizing the adult to care for his or her child.
- 2) The consent letter must have the parent(s)/guardian(s)' signature(s) notarized before a notary public.
- 3) Parental/Guardian consent must be obtained before a potential unrelated adult sponsor has contact with a child in ORR custody.

NOTE: An adult designated by the parent or legal guardian need NOT demonstrate a prior personal relationship with the UAC before a release is approved. However, the potential sponsor must still show they can care for the wellbeing and safety of the child before release. Special attention must be applied when UAC are suspected to be victims of trafficking or a trafficking addendum has been completed.

Adult Sponsor (not designated by the parent/legal guardian)

The sixth category is intended when there are no other options for family reunification, not even an unrelated adult that the parent has designated. This is the "last resort" category that may be used if there are no other likely alternatives to long-term care in ORR custody.

For potential sponsors who fall into this sixth category, no documentation or letter of consent is required by the UAC's parent or legal guardian.

It is in the discretion of the ORR Director to release a UAC to an adult sponsor not designated by a parent or legal guardian. Effective the date of this memo, all releases to an adult who has not been designated by the UAC's parent(s) or legal guardian MUST be approved by the ORR Office of the Director.

Moreover, for the safety, physical, mental and financial well-being of the UAC, release to an adult not designated by the parent or legal guardian requires that the potential sponsor demonstrate a personal relationship to the UAC.

Verification of Personal Relationship to the UAC

1) Case Manager

The Case Manager should interview the UAC, the potential sponsor, and the parent(s) or legal guardian(s), AND thoroughly document all such interviews. Part of the interview and case notes should include an evaluation and comments concerning whether or not the UAC is a potential or actual victim of human trafficking.

2) Field Coordinator

The Field Coordinator must note the details of the potential sponsor's personal relationship to both the UAC and the UAC's family in a Case History Worksheet (CHW) in order to assist the ORR Director in making the release determination.

The CHW shall detail the following:

- a) The nature and extent of the sponsor's relationship to
 - i. the UAC and
 - ii. the UAC's family as described by how and where they met, how long they have known each other, the last time they saw each other, and the type, frequency, and nature of their interactions.
- b) In the event that a prior relationship does not exist, the CHW shall detail how the sponsor was identified and how the relationship has been nurtured by the facility as evidenced by:
 - i. Coordination of regular phone contact with the UAC and the potential sponsor so that the UAC can establish a relationship with and learn as much as possible about the potential sponsor's family and the family's rules and expectations.
 - ii. Case manager observation of interactions between the UAC and potential sponsor and participation in a visit with the UAC and the potential sponsor if the potential sponsor is local or willing to travel for such a visit.
 - iii. Photograph sharing and letter writing between the UAC and the potential sponsor.

Other considerations that shall be detailed in the Case History Worksheet:

- 1) Why release to a family member is not a viable option;

- 2) Why release to the identified adult is in the child's interest;
- 3) The DUCS Field Coordinator's review and summary of all relevant supporting documentation;
- 4) If there is a Significant Incident Report that indicates possible or actual human trafficking or a Trafficking Addendum was completed for the child, the case must be referred to the ORR Director for approval prior to release to the sponsor.
- 5) Additional documentation may include but is not limited to:
 - a) letter or notarized affidavit from the potential sponsor describing the prior relationship in detail
 - b) letter or notarized affidavit from the parent(s)/legal guardian describing the prior relationship in detail
 - c) labeled photographs of the potential sponsor with the child and family.
 - d) Relevant official documentation (e.g., court orders, birth or marriage certificates, etc.).
 - e) Copy of ORR Eligibility Letter stating that the child is a victim of human trafficking