



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE #9

Interim Guidance – Age Outs and Post-18 Planning

February 17, 2021

GUIDANCE

Due to recent litigation and a proposed settlement, the U.S. Department of Homeland Security (DHS) may only detain former unaccompanied children (UC) who age out directly from ORR custody if they are determined to be a danger to self or others. ORR expects that DHS will no longer detain youth aging out of ORR custody, unless they meet these conditions *regardless* of whether a post-18 plan exists for the youth. Please note that this guidance does not cover cases where an individual is found to be an adult due to an age redetermination, pursuant to ORR Policy Guide, 1.6 Determining the Age of an Alien without Legal Immigration Status.

Furthermore, in compliance with the explicit intention of Congress, ORR requires that care providers provide a written post-18 plan, at least 2 weeks in advance of a youth's 18th birthday. Each post-18 plan should, at a minimum, identify an appropriate non-secure placement for the child and identify any necessary social support services for the child. See H. Rept. 116-450.

ORR is currently reviewing more specialized guidance to assist these young men and women to leave ORR care and enter society safely. Until then, please use this interim guidance to assist in case planning and discharge for youth exiting ORR custody due to aging out.

When a UC is admitted into care, the care provider must first attempt to locate an appropriate sponsor. If the care provider discovers that the child cannot be released, or may not be released in a timely manner (i.e., prior to their 18th birthday) pursuant to ORR's standard sponsor release policies, the care provider notifies their assigned ORR/Federal Field Specialist (FFS) that a post-18 plan is necessary.

In no event may an 18-year-old remain in ORR custody using ORR UC program funding. However, youth may remain on the care provider's premises under specific exigent circumstances (1) Upon agreement with the local health jurisdiction and state licensing for youth exposed to, or tested positive and contagious for, COVID-19, or other infectious disease and (2) Based on a medical professional's assessment that the youth should not be transferred during the recommended isolation or quarantine period in order to reduce transmission of disease and protect public health. Please refer to Field Guidance #6 for instructions related to contacting ORR/Division of Health for UC for further information.

Care providers will work with their assigned ORR/FFS to determine the discharge plan for the youth. Additionally, care providers should also work with the local legal service provider, attorney of record, and/or child advocate for planning the youth's discharge.

We understand that some youth may enter ORR custody very close (days or weeks) to their 18th birthday. Therefore, it is essential to have pre-existing arrangements with local shelters that are able to care for, or assist, youth discharging from ORR custody.

If you have any questions, please contact UACPolicy@acf.hhs.gov.

INSTRUCTIONS

Local Organizations

Affected care providers (i.e., those providing care to youth who are at risk of aging out) should make contact with local youth shelters, homeless shelters, or other licensed facilities that are licensed to care for young adults and include their information on a flyer that can be provided to youth who are within 15 days of aging out of ORR custody. Additionally, care providers should list possible medical resources in the community. The flyer should include the following information:

- Organization name (both of the shelter, and medical provider/local clinic);
- point of contact;
- Phone number, and
- Address.

Post-18 Plan

A post-18 plan is required for any UC in ORR custody who are likely to age out of ORR custody within 2 weeks and may not be eligible for an approved release. The plan includes the following:

- Identification of an appropriate non-secure placement option such as a family member, shelter, or licensed facility capable of caring for an adult, or other appropriate alternative (the immigration status of individuals to whom the youth may be released is not included in the plan).
- Assessment and recommendation of any ongoing supporting social services the youth may require.
- Assessment whether the youth is a danger to the community or risk of flight.
- Identification of any special needs.
- Arrangements for transportation after the youth ages out to either the non-secure placement option or discharge plan for transfer to DHS where appropriate.
- If the UC is a parent of a child, the post-18 plan must take that into consideration and include a Medicaid application for the child, if he or she is eligible.

Discharge Planning

1. When the care provider is aware that a youth is aging out, the care provider must ensure that the local DHS/U.S. Immigration and Customs Enforcement (ICE) Field Office Juvenile Coordinator (FOJC) is aware of this fact and obtain in writing whether the DHS/ICE FOJC will be providing the youth with a Release on own Recognizance.

2. Except for those youth detained by DHS pursuant to a finding that the youth is a danger to themselves or others, the youth's preferences take precedence when planning for discharge. The following discharge plans are considered for youth aging out ORR custody:
- Discharge pursuant to a post-18 plan.
 - Connect the youth with family who were identified as potential sponsors but did not complete the sponsorship process. If there are no specific concerns related to domestic violence, trafficking, exploitation, or crime, the ORR care provider should first attempt to discharge the youth to the previously identified sponsor.
 - Arrange for the UC to be transported to the individual where the youth will be staying. Once the youth ages out, ORR is not authorized to pay for travel. If possible, the care provider should explore alternative arrangements for transport costs.
 - Determine whether the care provider is affiliated with a program that is able to care for and shelter the youth using non-ORR UC program funding.
 - Contact local youth shelters, homeless shelters, or other licensed facilities licensed to care for young adults and arrange for the orderly discharge and transport of the youth to the shelter/facility.
 - Work with the youth's attorney of record in advance of age-out to obtain specific consent for an identified guardian or entity, and discharge the youth to that individual or entity after they obtain the necessary state court order.