



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
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FIELD GUIDANCE – Revised January 6, 2023 (First Issued on September 4, 2021)

RE: Field Guidance #19 – Unaccompanied Afghan Minor Processing

GUIDANCE

This revised guidance reflects the Office of Refugee Resettlement (ORR)'s internal agency processing of unaccompanied Afghan minors (UAM) referred to ORR.

Afghan children who are not admitted into the United States as refugees or through special immigrant visas may fall within the definition of unaccompanied children (UC) under the Homeland Security Act (HSA), 6 U.S.C. § 279(g)(2). However, these children differ from UC typically encountered by the Department of Homeland Security (DHS) at the southern border in several ways, as indicated below, that justify expedited processing in accordance with this guidance, consistent with the Trafficking Victims Reauthorization Act (TVPRA), 8 U.S.C. § 1232. For the purposes of this Field Guidance, such children are termed “Unaccompanied Afghan Minors (UAM).”

Field Guidance 19 applies to UAM who:

- Were affirmatively evacuated by the United States Government (USG) from a war zone and did not enter the United States at a port of entry or between ports of entry without USG assistance;
- Are paroled into the United States, and the USG has permitted their lawful presence;
- Are processed under humanitarian parole and not immediately placed into removal proceedings and may not ever be placed into removal proceedings;
- May have arrived with a non-parental adult caregiver, and such caregiver has already been subject to an international security investigation by the Department of Defense and DHS which demonstrates that the individual has not engaged in any activity that would indicate a potential risk to the child. Such a caregiver has been cleared for travel and entry to the U.S. by the Department of Defense and DHS and may fit the description of a Category 2A/B or 3 sponsor, as detailed in UC Policy Guide [Section 2.2.1](#); and
- Are eligible for refugee benefits to support their care (P.L. 117-43, Section 2502), regardless of their placement in ORR care as UC, in the care of a non-parent adult caregiver at a safe haven, or in the community.

In evaluating whether arriving UAMs referred to ORR may remain with a non-parent accompanying adult caregiver, rather than be referred to the UC care provider network, ORR will make an independent finding that it is in the best interest of the arriving child to remain with the non-parent accompanying adult caregiver, in accordance with this Field Guidance and consistent with the TVPRA.

ORR may modify its standard forms and assessments to address the individual needs of the UAM population, their caregivers, and sponsors. For example, no third-party Case Coordinator review of the case is required for approving the release of Afghan minors to a non-parent accompanying adult caregiver.

UAMs will be transferred to the network of ORR UC care providers when there is no non-parent adult caregiver accompanying the child, or there are significant child welfare concerns with the accompanying caregiver.

Once a child is physically transferred to a standard care provider within the UC care provider network, ORR applies the *Flores* minimum standards as they relate to care, services, and release.

In instances where a home study is necessary, whether under the TVPRA, or as determined by ORR policy (see UC Policy Guide [Section 2.4.2](#)), ORR will request a home study to be completed prior to releasing the UAM from ORR custody. If a discretionary home study is likely to provide additional information on the caregiver's ability to provide for the child's health, safety, and well-being, ORR may additionally request a home study in such circumstances, prior to release, in accordance with ORR policy.

In some cases, ORR may care for Afghan minors through the UC care provider network even if they are not considered to be UAMs. This includes unaccompanied children whose country of origin is Afghanistan and who are referred to ORR care and custody following apprehension at the Southern border by DHS. Such cases may be evaluated on a case-by-case basis to determine if they should be considered UAM for the purpose of determining whether the UC may be eligible for parole status and refugee benefits.

ORR does not determine which children are referred to its care, under the TVPRA, and does not have authority or processes for recategorization. In addition, ORR is neither authorized nor positioned to take children directly from homes to place them in the ORR UC care provider network.

INSTRUCTIONS

Afghan minors arriving at an airport port of entry with an adult caregiver

ORR Federal Field Specialists (FFS) follow these standards for arriving UAMs at an airport port of entry to determine if they should be released to a non-parent accompanying adult caregiver as a sponsor, rather than referred to the UC care provider network:

(1) An Afghan minor may, in the best interest of the child, be released to a non-parent accompanying adult caregiver as a Category 2A/B or 3 sponsor, consistent with the Trafficking Victims Reauthorization Act (TVPRA), 8 U.S.C. § 1232(c)(3), if:

(a) The identities of the adult caregiver and the Afghan minor are established and confirmed. Identities are established by:

- i. Standard ORR policy, including interviews with the child's parents or other relatives where possible. See UC Policy Guide [Section 2.2.4](#). ORR verifies that there is no parent available or no parent willing to take physical custody that is already in the United States as part of the sponsor assessment process;
- ii. Attestations or documentation provided by non-ORR federal government officials, such as federal officials who care for children at transit points outside the continental United States; or,
- iii. Other attestation to the satisfaction of ORR that may be used to establish identity.

(b) ORR determines a prior bona fide relationship exists, including to the satisfaction of ORR that the adult caregiver is entrusted with supervision of the child.

- i. If there is a biological relationship between the child and the caregiver, ORR may use DNA testing, to the extent feasible, to determine such relationship;¹ or,
- ii. ORR may use attestations, interviews (with the Afghan minor, the caregiver, the child's parents, other relatives, or others), or other evidence to establish a bona fide relationship.
- iii. The adult caregiver is able and willing to provide for the child's physical and mental well-being.

¹ DNA is only used for purposes of establishing biological relationships for purposes of sponsorship and is not submitted to law enforcement personnel or run against law enforcement databases. Submission of DNA by the caregiver is voluntary. Competent UAM aged 14 or over must voluntarily consent to DNA submissions. ORR will provide consent for children under the age of 14 for purposes of DNA submissions to establish relationship. If the child has an attorney of record, ORR will provide advanced notice to such attorney that a DNA test will be conducted. Following confirmation of results, ORR will share results with the potential sponsor and may share results with the child after making a determination that sharing the results is in the child's best interest. ORR does not receive or store biological material. References to results of DNA tests are maintained in the ORR database but are considered confidential information and may only be disclosed as required by law.

- (c) ORR obtains the results of background investigations conducted by USG authorities, including DHS, or other entities to which ORR is satisfied that the caregiver has not engaged in conduct described in UC Policy Guide [Section 2.7.4](#) which represent a child welfare risk to the child. ORR may obtain verification of this information from Federal partners. ORR may also receive confirmation that the caregiver has been cleared for travel and entry to the U.S. by the Department of Defense and DHS.
 - (d) The case does not present red flags, including trafficking concerns or that the child has special needs for which the adult caregiver is unable or unwilling to provide necessary accommodations. ORR uses assessment criteria according to ORR policy. See UC Policy Guide [Section 2.4.1](#).
 - (e) Applicable procedures are implemented, including required assessments of the Afghan minor and the adult caregiver (which must be completed in separate locations and may be modified for UAM), and a *Release Request* has been completed. Any outstanding concerns related to the safety of the release, including those that are unmitigated identified risks that do not result in a denial, are documented in the *Release Request*.
- (2) ORR considers trafficking concerns, red flags, and other standards following UC Policy Guide [Section 2.4.2](#) when making a decision on whether to perform a home study. If a home study is required by the TVPRA (See 8 U.S.C. § 1232(c)(3)(B)), the UAM will be referred to the UC care provider network and remain in ORR care and custody until such a home study may be conducted. If the home study findings do not comport with a safe release, ORR will seek an alternate permanency option for the child, as appropriate, which may include another sponsor, a placement into long-term foster care (LTFC), or a referral to the Unaccompanied Refugee Minor program.

All Afghan minors released to an adult caregiver are eligible for post-release services.

All Afghan minors released to an adult caregiver are eligible for family reunification with their primary caregivers, described on page 7.

Any UAM not released to the adult caregiver is transferred to ORR physical care following ORR's standard placement policies, procedures, and applicable Field Guidances.

Afghan minors arriving at an airport port of entry without an appropriate caregiver

ORR FFS follow these standards for UAMs arriving without a non-parent accompanying adult caregiver and for whom no appropriate caregiver is expected to arrive in the United States within twenty-four hours of the UAM's arrival:

- (1) Placement, services and care: The child is transferred to ORR custody and placed with an ORR UC care provider following ORR placement policies and procedures. In such cases, the child is processed following all standard placement and service policies, procedures, and applicable ORR Field Guidances. ORR may use its discretion to prioritize placement of UAM in facilities with other UAM.
- (2) Sponsor suitability assessment: ORR follows procedures to establish the identities of the child and a suitable sponsor through verification of family member/caregiver relationship, and background check information according to the instructions above (heading: “Afghan minors arriving at an airport port of entry with an adult caregiver,” sub. (1)) and UC Policy Guide [Section 2.2.4](#).
 - (a) ORR requires, where necessary, that care providers make use of family tracing organizations, including resources of Non-governmental Organizations (NGO) such as the International Committee of the Red Cross:
<https://www.familylinks.icrc.org/en/Pages/AboutUs/About-us.aspx>
 - (b) ORR considers trafficking concerns, red flags, and other standards under the TVPRA and following UC Policy Guide [Section 2.4.2](#), when making a decision to perform a home study. If a discretionary home study is likely to provide additional information on the caregiver’s ability to provide for the child’s health, safety, and well-being, ORR may additionally request a home study in such circumstances, prior to release.
 - (c) ORR may release UAM to an adult caregiver or close family member internationally, in rare cases. International unifications are case specific and involve collaboration with United States Federal partners, NGOs, and foreign governments.
- (3) UAM may be transferred to long term foster care (LTFC) following UC Policy Guide [Section 1.2.6](#), without the need for identification of legal relief by a legal service provider. This is allowable because legal relief may be presumed given the circumstances of the UAM. Additionally, UC care providers, in consultation with their ORR FFS, may also submit Unaccompanied Refugee Minor (URM) applications for children without identified reunification options to enter traditional URM-funded placements. For purposes of any transfer, ORR prioritizes placement with families who are linguistically and culturally appropriate.

All UAM released to sponsors are eligible for post-release services.

Release decisions for UAM in ORR custody who have a Primary Caregiver arriving from a third country to the United States

ORR FFS follow these standards for UAM currently placed within the UC care provider network (including LTFC) when making release determinations to primary caregivers and their families arriving from a third country. “Primary caregiver” is defined as any person who is primarily

entrusted with the child's care and who lives or has lived with the child (see UC Policy Guide [Section 2.2.4](#)). ORR does not make admittance determinations, nor can it authorize entry into the United States. All inquiries related to the entry or travel of UAM primary caregivers and their families to the United States for reunification are referred to the Department of State and DHS.

- (1) The identity of the primary caregiver is established and confirmed. The UC care provider works with the UAM and primary caregiver, while still in home country, to establish the identities of the primary caregiver and all adults in the household eligible for reunification, who are unmarried and under 21 years of age. Identities are established by:
 - (a) Standard ORR policy, including interviews with the child's parents or other relatives where possible. See UC Policy Guide [Section 2.2.4](#);
 - (b) Attestations or documentation provided by non-ORR federal government officials, such as federal officials who care for children at transit points outside the continental United States; or,
 - (c) Other attestation to the satisfaction of ORR that may be used to establish identity.

- (2) ORR determines a prior bona fide relationship exists, including to the satisfaction of ORR that the primary caregiver is typically entrusted with the child's care and lives or has lived with the child. The UC care provider works with the UAM and primary caregiver, while still in home country, to establish a bona fide relationship exists between the primary caregiver and the UAM, by:
 - (a) Standard ORR policy, including collecting documents that prove relationship between the UAM and the primary caregiver such as birth certificates, court records, certain valid/non-expired or expired (up to two years) government-issued ID, marriage certificate, guardianship records, etc. See UC Policy Guide [Section 2.2.4](#); or,
 - (b) ORR may use attestations, interviews (with the UAM, the caregiver, the child's parents (if different than the primary caregiver), other relatives, or others) or other evidence to establish a bona fide relationship.
 - (c) Confirming the primary caregiver is able and willing to provide for the child's physical and mental well-being.

- (3) ORR obtains the results of background investigations conducted by USG authorities, including DHS, or other entities. Based on such background investigations, ORR is satisfied that the caregiver has not engaged in conduct described in UC Policy Guide [Section 2.7.4](#) which represent a child welfare risk to the child. ORR may obtain verification of this information from Federal partners. ORR may also receive confirmation that the caregiver has been cleared for travel and entry to the U.S. by the Department of Defense and DHS.

- (4) Given (1) through (3), FFS should direct UC care providers to complete a release of a UAM to the arriving primary caregiver following ORR policy, procedures, and Field Guidances. If a home study is required by the TVPRA, 8 U.S.C. § 1232(c)(3)(B), or ORR Policy, UAM will be

subject to a home study prior to release. If a discretionary home study is likely to provide additional information on the caregiver's ability to provide for the child's health, safety, and well-being, ORR may additionally request a home study in such circumstances, prior to release. A hybrid home study, wherein the home study is conducted in-person, but the sponsor interview portion of the *Home Study Assessment* is conducted virtually, may be permitted if a primary caregiver arriving from Afghanistan is the UAM's sponsor.

- (a) UC care providers should release UAM following instructions for expedited release for eligible Category 1 cases ([Field Guidance #10](#)), so long as the arriving primary caregiver is a Category 1 sponsor, the UAM is screened and determined to not be especially vulnerable, and there are no other red flags present in the case, including red flags relating to abuse or neglect. Care providers should elevate complex cases of Category 1 sponsors that are not eligible for expedited release under [Field Guidance #10](#) to their FFS.
- (b) If the arriving primary caregiver is not a Category 1 sponsor, the care provider should follow ORR policy, procedures and Field Guidances applicable to the sponsor category that best describes the arriving primary caregiver's relationship to the UAM. Any safety concerns or red flags should be elevated to the program's FFS.
- (c) According to ORR Policy Guide [Section 2.2.3](#), the care provider may assist arriving primary caregivers, as prospective sponsors, with completing the *Family Reunification Application*.
- (d) Approval of the release of a minor to the primary caregiver arriving from Afghanistan can be completed prior to the physical arrival provided that all release requirements are met. FFS should consult with their FFSS if physical release is likely to be delayed beyond 24 hours.

In order to effectuate a safe and timely reunification of UAM in care, ORR will coordinate closely with the DOS and DHS regarding the travel of primary caregivers to the United States.

[UAM released from ORR custody to a sponsor with a Primary Caregiver arriving from a third country to the United States](#)

All UAM previously released to a sponsor are eligible for family reunification with their primary caregivers arriving from a third country to the United States. This type of family reunification is the result of coordination between agencies within the USG. ORR's role is to identify eligible primary caregivers and their family members who may be eligible for reunification in the United States and to partner with the Department of State and DHS to coordinate transit and security vetting (see 8 U.S.C. § 1522(c)(1)(A)(iii) and (d)(2)). ORR is not involved in additional reunification processing for UAM previously released from ORR care and does not play a role in a transfer of custody from initial sponsor to the arriving primary caregiver.