

U.S. Customs and Border Protection

Ensuring the welfare of children: In October 2015, CBP published National Standards on Transport, Escort, Detention and Search (TEDS) that set forth nationwide standards governing CBP's interactions with detained individuals including provisions related to sexual abuse and assault prevention and response. The TEDS standards have been implemented in all CBP facilities. TEDS reinforces/reiterates the need to consider the best interest of children and mandates adherence to established protocols to protect at-risk populations to include transporting, detaining, and caring for children.

National Standards on Transport, Escort, Detention, and Search (TEDS)

https://www.cbp.gov/sites/default/files/documents/cbp-teds-policy-20151005_1.pdf

1.6 Treatment of Juveniles

Officers/Agents will consider the best interest of the juvenile at all decision points beginning at the first encounter and continuing through processing, detention, transfer, or repatriation. Officers/Agents should recognize that juveniles experience situations differently than adults (see Section 5.0).

4.13 Food and Beverage

General: Food and water should never be used as a reward, or withheld as punishment. Food provided must be in edible condition (not frozen, expired or spoiled).

Meal Timeframe: Adult detainees, whether in a hold room or not, will be provided with food at regularly scheduled meal times. All meal service must be documented in the appropriate electronic system(s) of record. For juvenile meal timeframes, see Section 5.6.

Snack Timeframe: Adult detainees, whether in a hold room or not, will be provided with snacks between regularly scheduled meal times. For juvenile snack timeframes, see Section 5.6.

Requests: When an adult detainee requests a snack or food before the next food service, officers/agents may grant the request on the basis of the circumstances.

Dietary Restrictions: Officers/Agents should remain cognizant of a detainee's religious or other dietary restrictions.

4.14 Drinking Water

Functioning drinking fountains or clean drinking water along with clean drinking cups must always be available to detainees.

4.15 Restroom Facilities

Restroom Facilities: Restroom accommodations will be available to all detainees and a reasonable amount of privacy will be ensured. If the detainee is suspected of being an internal carrier, restroom use may be monitored.

Privacy: Officers/Agents must make a reasonable effort to afford privacy to all detainees of the opposite gender consistent with the prohibition on voyeurism.

5.1 General

At-Risk Populations: Individuals in the custody of CBP who may require additional care or oversight, who may include: juveniles; UAC; pregnant individuals; those known to be on life-sustaining or life-saving medical treatment; those at higher risk of sexual abuse (including but not limited to gender nonconforming, intersex, and transgender); reported victims of sexual abuse; those who have identified mental, physical or developmental disabilities; those of advanced age; or family units.

Detainee Age: If a detainee presents themselves as a juvenile, they will be treated as a juvenile, until established otherwise. If a detainee presents themselves as an adult they will be processed as an adult, unless a preponderance of evidence indicates they are a juvenile, in which case they will be treated as a juvenile.

Release of At-Risk Detainees: Officers/Agents must not release an at-risk detainee to any person or entity that officers/agents have reason to believe may harm or neglect the at-risk detainee.

Personal Property and Legal Papers – Juveniles: All personal property (including any U.S.-prescribed medications) and legal papers that are in the juvenile’s possession, or are served upon the juvenile during processing, must accompany the juvenile upon transfer to any other agency or facility.

5.2 UAC Screenings

In addition to the at-risk determination process in Section 4.2, CBP will ensure that all UAC will be screened for the following:

- Credible Fear determination;
- Human trafficking victimization; and
- Ability to make an independent decision.

A reasonable effort must be made to afford privacy to UAC during screening.

5.4 Transport

Transport of UAC: UAC must not be transported in vehicles with unrelated adults when separate transportation is immediately available. When separate transportation is unavailable, all necessary precautions must be taken to ensure the UAC’s safety, security, and well-being, including separation from unrelated adults by either a separate passenger compartment or an empty row of seats.

5.6 Detention

Detention – UAC and Juveniles: UAC must be held separately from adult detainees. A juvenile may temporarily remain with a non-parental adult family member where: 1) the family relationship has been vetted to the extent feasible, and 2) the CBP supervisor determines that remaining with the non-parental adult family member is appropriate, under the totality of the circumstances.

Transfer to the Department of Health and Human Services, Office of Refugee Resettlement (ORR): Every effort must be made to transfer UAC from CBP to ORR custody as soon as possible, but no later than 72 hours after determining that a child is a UAC. Requested placement notifications for the UAC must be conducted and logged in the appropriate electronic system(s) of record. The reasons for any detention longer than 72 hours must be logged in the appropriate electronic system(s) of record.

Hygiene Articles, Bedding and Clean Clothing - Juveniles: Juveniles will be given access to basic hygiene articles, and clean bedding. When available, juveniles will be provided clean and dry clothing. Officers/Agents may give access to these provisions to any juvenile at any time.

Meals and Snacks – Juveniles, Pregnant, and Nursing Detainees: Juveniles and pregnant detainees will be offered a snack upon arrival and a meal at least every six hours thereafter, at regularly scheduled meal times. At least two of those meals will be hot. Juveniles and pregnant or nursing detainees must have regular access to snacks, milk, and juice.

Age and Capabilities Appropriate Food: Food must be appropriate for at-risk detainees' age and capabilities (such as formula and baby food).

Showers – Juveniles: Reasonable efforts will be made to provide showers, soap, and a clean towel to juveniles who are approaching 48 hours in detention.

Hold Rooms – UAC: Hold rooms for UAC must provide the following:

- Toilets and sinks;
- Professional cleaning and sanitizing at least once per day;
- Drinking fountains or clean drinking water along with clean drinking cups;
- Adequate temperature control and ventilation; and
- Clean bedding.

Access to Medical Care: Any physical or mental injury or illness observed by or reported to an officer/agent should be reported to a supervisor and appropriate medical care should be provided or sought. Emergency services will be called immediately in the event of a medical emergency. Officers/Agents must notify the shift supervisor of all medical emergencies as soon as possible after contacting emergency services and document the incident in the appropriate electronic system(s) of record.

Consular and Telephone Access – UAC: All UAC must be advised of their right to consular and telephone access in a language or manner the detainee comprehends.

7.5 Medications

All medications will generally be maintained with the detainee's personal property unless other conditions warrant, such as the medication needing to be regularly administered due to need, and/or needing to be properly stored as the prescription requires.

U.S. Department of Health and Human Services (HHS)

The Office of Refugee Resettlement/Division of Unaccompanied Children's Operations (ORR/DUCO) within the Administration for Children and Families (ACF), provides temporary shelter care and other child welfare-related services to unaccompanied alien children (UAC) in ORR custody. Residential care services begin once ORR accepts a UAC for placement and ends when the UAC is released from ORR custody, turns 18 years of age, or the UAC's immigration case results in a final disposition of removal from the United States. Residential care and other child welfare-related services are provided by state-licensed residential care programs in the least restrictive setting appropriate for the UAC's age and needs.

- Care providers operating a shelter facility must be licensed by an appropriate state agency to provide residential, group, or foster care services for children.

Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279, transferred responsibility for the care and custody of UAC from the Commissioner of the former INS to the Director of ORR. In making decisions on placement and residential services provided to UAC, the Director is governed by §462 of the HSA of 2002; section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. §1232, as amended;¹ relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. §15607, as amended;² and when it is not inconsistent with subsequent law, *Flores v. Reno*, Case No. CV 85-4544RJK (C.D. Cal. 1996) (the *Flores* settlement agreement), the Perez-Olano Settlement Agreement, Case No. CV05-3604 (C.D. Cal., Dec. 14, 2010).

¹ Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013. ² Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

- HHS operates a network of 168 facilities and programs in 23 states
- Currently the overall average length of care for UAC in the program is 44 days.

Consistent with federal law, ORR places children while in our care in the least restrictive setting that is in the best interest of the child, taking into account potential flight risk and danger to self and others.

Presently, all ORR-funded facility services includes:

- Classroom education
- Mental and medical health services
- Case management
- Recreation
- Family reunification services that facilitate safe and timely release to family members or other sponsors who can care for them. We conduct home studies prior to release if safety is in question, and fund follow-up services for at-risk children after their release.

ORR Guide: Children Entering the United States Unaccompanied

<https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied>

3.3 Care Provider Required Services

Care providers must comply with all applicable State child welfare laws and regulations and all State and local building, fire, health and safety codes. Care providers must deliver services in a manner that is sensitive to the age, culture, native language, and needs of each unaccompanied alien child. Care providers must develop an [individual service plan](#) for the care of each child.

Care providers are also required to maintain records of case files and make regular reports to ORR. Care providers must have accountability systems in place which preserve the confidentiality of client information and protect the records from unauthorized use or disclosure.

Under the terms of the **Flores Settlement Agreement**, care providers must provide the following minimum services¹ for each unaccompanied alien child in their care:

- Proper physical care and maintenance, including suitable living accommodations, *food*, appropriate clothing and personal grooming items.
- Appropriate *routine medical and dental care*, family planning services, including pregnancy tests and comprehensive information about and access to medical reproductive health services and emergency contraception, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the unaccompanied alien child was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services /U.S. Public Health Service (PHS), Centers for Disease Control and Prevention (CDC); administration of prescribed medication and special diets; appropriate mental health interventions when necessary.
- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the unaccompanied alien child's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the unaccompanied alien child's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the unaccompanied alien child's level of development and communication skills in a structured classroom setting Monday-Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide unaccompanied alien children with appropriate reading materials in languages other than English for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each child.
- Group counseling sessions at least twice a week. Sessions are usually informal and take place with all unaccompanied alien children present. The sessions give new unaccompanied alien children the opportunity to get acquainted with staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational and other activities. The sessions allow staff and unaccompanied alien children to discuss whatever is on their minds and to resolve problems.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
- Whenever possible, access to religious services of the child's choice.
- Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation. The staff must respect the child's privacy while reasonably preventing the unauthorized release of the unaccompanied alien child.
- A reasonable right to privacy, which includes the right to wear his or her own clothes when available, retain a private space in the residential facility, group or foster home for the storage of personal belongings, talk privately on the phone and visit privately with guests, as permitted by the house rules and regulations, receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
- Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the unaccompanied alien child.
- Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation. (This information is included in the [Legal Resource Guide for Unaccompanied Alien Children](#))

¹ The Flores Settlement Agreement also specifies what care provider may NOT do when meeting minimum service requirements. These include: Unaccompanied alien children shall not be subjected to corporal punishment, humiliation, mental abuse, or punitive interferences with the daily functions of living, such as eating or sleeping. Any sanctions employed by the care provider must not adversely affect either the health or physical or psychological well-being of the child or youth or deny the child or youth regular meals, sufficient sleep, exercise, medical care, correspondence privileges, or legal assistance.

3.3.9 Nutritional Services

Care providers must provide nutritional services in accordance with U.S. Department of Agriculture and U.S. Department of Health and Human Services nutritional guidelines and State licensing requirements. They also must establish procedures to accommodate dietary restrictions, food allergies, health issues, and religious or spiritual requirements.