



# Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States

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## CHAPTER SEVEN: PREVENTION OF SEXUAL ABUSE

*The U.S. Committee for Refugees and Immigrants (USCRI) and The Children's Village present chapter seven of Where We Stand: A 20-Year Retrospective of the Unaccompanied Children's Program in the United States. The retrospective reviews the Unaccompanied Children's Program from the passage of the Homeland Security Act (HSA) of 2002 until today. It assesses 20 years of legislation, policies, litigation, and, most importantly, the U.S. federal government's care of unaccompanied migrating children, with a view toward the next steps and improvements for the years ahead. The seventh chapter looks at policies put in place to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children.*

Unaccompanied children (UC) are at risk for sexual abuse; many children have left their country of origin due to sexual assault, and far too many are sexually abused on their way to the United States. In 2012, Senator Patrick Leahy (D-VT) introduced the Violence Against Women Act of 2013 (VAWA 2013), which received bipartisan support and added new protections for victims of violence and human trafficking. VAWA was signed by President Obama in 2013.<sup>1</sup>

Section 1101 of VAWA 2013 directed the Secretary of the Department of Health and Human Services (HHS) to publish a final rule adopting national standards for detecting, preventing, reducing, and punishing rapes and sexual assaults in detention facilities against unaccompanied children in custody.<sup>2</sup>

Before VAWA 2013, the Office of Refugee Resettlement (ORR) at HHS was already drafting procedures appropriate for its care provider facilities.<sup>3</sup> So by December 24, 2014, ORR had issued its Interim Final Rule (IFR). The IFR proposed standards and procedures to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children

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<sup>1</sup> Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013)  
<sup>2</sup> *Id.*  
<sup>3</sup> See preamble to 45 C.F.R. 411.



in ORR's care provider facilities. The standards outlined in the IFR build on standards set by VAWA 2013.<sup>4</sup>

In the IFR, ORR proposed regulations that could significantly improve the safety of unaccompanied children in ORR facilities. The standards achieve three objectives: preventing, detecting, and responding to sexual abuse and sexual harassment in ORR care provider facilities. ORR care provider facilities must follow standards separated into the 11 categories used by the National Prison Rape Elimination Commission (NPREC) to discuss and evaluate prison rape prevention and elimination recommendations.<sup>5</sup>

The IFR focused on the following 11 areas to achieve the three goals of preventing, detecting, and responding to sexual abuse and sexual harassment in ORR care provider facilities:

- (1) prevention planning;
- (2) responsive planning;
- (3) training and education;
- (4) assessment for risk of sexual victimization and abusiveness;
- (5) reporting;
- (6) official response following a UC report;
- (7) ORR incident monitoring and evaluation;
- (8) interventions and discipline;
- (9) medical and mental health care;
- (10) data collection and review; and
- (11) audits and corrective actions.

ORR mandated all its care provider facilities designate a Prevention of Sexual Abuse (PSA) coordinator and manager. The PSA compliance manager has the authority to develop, implement, and oversee the care provider facility's efforts to comply with provisions outlined in VAWA 2013 and the IFR. On October 11, 2021, ORR began to audit facilities housing unaccompanied children on their compliance with ORR's IFR and policies and procedures related to the prevention of sexual abuse, sexual harassment, and inappropriate behavior. ORR has yet to publicly disclose aggregate compliance scores and data on audits they have conducted.

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<sup>4</sup> 45 C.F.R. 411.6

<sup>5</sup> ACF (2022), ORR Guide, Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children. Available at: <https://www.acf.hhs.gov/orr/standards-prevent-uac-sexual-abuse>



HHS has stated, "Sexual violence and abuse are an assault on human dignity and have devastating, lifelong mental and physical effects on an individual. HHS is committed to a zero-tolerance policy against sexual abuse and sexual harassment in its care provider facilities. It seeks to ensure the safety and security of all unaccompanied children in its care."<sup>6</sup>

ORR has set a zero-tolerance policy for sexual abuse, sexual harassment, and inappropriate sexual behavior at all care provider facilities and makes every effort to prevent, detect, and respond to such conduct. While there are still many cracks to be filled, we encourage the agency to implement the full range of available protections to protect unaccompanied children.

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<sup>6</sup> 45 C.F.R. 411.6