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# Administrative Directive

## Section 1

<b>Transmittal:</b>	07-ADM-07	
<b>To:</b>	Local Department of Social Services (LDSS) Commissioners	
<b>Issuing Division/Office:</b>	Office of Temporary and Disability Assistance (OTDA) Bureau of Refugee and Immigrant Assistance (BRIA)	
<b>Date:</b>	November 5, 2007	
<b>Subject:</b>	Unaccompanied Refugee Minors (URM) Program	
<b>Suggested Distribution:</b>	LDSS - Director of Social Services LDSS - Supervisor of Foster Care LDSS - Staff Development Coordinator LDSS - Finance Office Office of Children and Family Services (OCFS) - Regional Offices	
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<b>Attachments:</b>	1: Form ORR 3 & Form ORR 4 (with Instructions) 2: Sample URM Program Monthly Data Report (with Instructions) 3: Sample ORR Benefit Letter for Minors who are Victims of Human Trafficking	
<b>Attachments Available On – Line:</b>	<input checked="" type="checkbox"/>	

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Reference	Misc. Reference
88 ADM-24 04 ADM-08 06- INF-14 06-INF-23	88 ADM-24	Parts 426, 427, 428, 430, 431, 433, 441 – 451, and 616	SSL 395, 389, and 371. Family Court Act 651(b)	Bulletin 143-b 200 FRM Vol. 2, Ch.3, FRM Vol. 3, Ch.25	<ul style="list-style-type: none"> <li>45 CFR Part 400, Subpart H;</li> <li>INA 412 (a) (6), (d) (2) (A) &amp; (B)</li> <li>Title V of the Refugee Educ. Assist. Act of 1980</li> <li>PL #. 106-386 (8 USC.7105(b)(1))</li> <li>ORR State Letter 01-27 and 02-07</li> </ul>

## Section 2

### I. Summary

The Unaccompanied Refugee Minors (URM) Program<sup>1</sup> provides foster care and services to assist eligible minors to develop appropriate skills to enter adulthood and to achieve economic and social self-sufficiency. Costs for foster care and services are 100% federally reimbursed. The specific claiming instructions are referenced below in **Part V. under Required Action, Section G., Reimbursement.**

The State Refugee Coordinator designates the URM Program Coordinator to oversee this program in accordance with directives from federal authorities, including the US Department of Health and Human Services (DHHS) Office of Refugee Resettlement (ORR).

Two New York State counties currently participate in the URM Program: Monroe County and Onondaga County. The social services districts in Monroe County and Onondaga County work in partnership with two authorized child care agencies, Catholic Family Center of Rochester (CFCR) and Toomey Residential and Community Services (TRACS), respectively. Should the program experience significant growth, it could expand to other counties.

Local districts that operate the URM Program are responsible for:

- Obtaining legal custody of the minor from the court of jurisdiction, utilizing the documentation supplied by the authorized child care agency;
- Operating the program in compliance with the contracts established between the local district and the authorized child care agency, consistent with the Annual URM District Plan written by the local district and approved by the State Refugee Coordinator in the Bureau of Refugee and Immigrant Assistance (BRIA);
- Filing claims through the Automated Claiming System (ACS); and
- Consulting with the URM Program Coordinator on identified service needs.

### II. Purpose

The purpose of this Administrative Directive (ADM) is to advise local departments of social services (LDSSs) of policy and procedures which must be followed in the administration of the Unaccompanied Refugee Minors Program. This ADM replaces 88 ADM-24.

This ADM provides:

- Direction to help local districts meet URM Program requirements.
- Instruction so that 100% reimbursement for federal program costs may be claimed.

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<sup>1</sup> The URM Program currently operates in 18 program sites in 14 states. States and organizations currently operating the URM program are: Arizona (Catholic Social Services of Phoenix); California (Catholic Charities); Washington DC (Lutheran Social Services of the National Capital Area); Florida (Catholic Charities of the Archdiocese of Miami, Inc.); Massachusetts (Lutheran Social Services of New England); Michigan (Bethany Christian Services and Lutheran Social Services of Michigan); Missouri (Catholic Charities); North Dakota (Lutheran Social Services of North Dakota); New York (Catholic Family Center of Rochester, and Toomey Residential and Community Services); Pennsylvania (Lutheran Children and Family Services of East PA); South Dakota (Lutheran Social Services); Texas (Catholic Charities of the Diocese of Galveston – Houston, and Lutheran Social Services of the South, Inc.); Virginia (Commonwealth Catholic Charities); and Washington (Catholic Community Services, and Office of Refugee & Immigration Assistance).

- The regulatory framework for foster care services to this population, consistent with care and services available to the rest of the foster care population, and in compliance with the rules promulgated by the New York State Office of Children and Family Services (OCFS).
- Direction and guidance on the reports required by the State Refugee Coordinator, by the Office of Temporary and Disability Assistance (OTDA) Finance Office, and by the federal Office of Refugee Resettlement.
- General program information needed to facilitate the implementation of the URM Program.

### **III. Background**

Foster care assistance and services for unaccompanied refugee minors (URMs) began under the Indochina Migration and Refugee Assistance Act of 1975, and was reauthorized in the Refugee Act of 1980 and subsequent amendments. Eligibility was expanded to include Cuban and Haitian Entrants in Title V of the Refugee Education Assistance Act of 1980. Eligibility was later expanded by the Trafficking Victims Protection Act of 2000 (TVPA), and subsequent reauthorizations, to include minors who are victims of trafficking.

All eligible minors are treated under the URM Program in the same manner as if they were regular foster care children. The child welfare services available to URM are found in Department of Health and Human Services regulations (45 CFR Part 400).

There are two primary differences between the URM Program and the general foster care program: Determination of eligibility and adoption planning.

**A.** Eligibility is determined by the federal government in one of three ways:

1. The US State Department, in concert with other federal immigration authorities, and in consultation with the national voluntary agencies and the US Department of Health and Human Services (DHHS), determines the status of the child as a URM upon entering the United States.
2. At the request of the State Refugee Coordinator, the ORR may reclassify a non-citizen minor as a URM. An ORR reclassification letter is issued by the Director of ORR and the reclassification is typically made to be effective on the date when the state requests such reclassification.
3. The ORR, at the request of law enforcement officials, may issue an eligibility letter on behalf of a non-citizen minor determined to be a victim of a severe form of trafficking under federal law, after which, if the State Refugee Coordinator requests that the minor be reclassified for URM services, Item 2, above, applies.

**B.** Unaccompanied refugee minors are not generally eligible for adoption. The URM Program pursues the dual goals of trying to reunify unaccompanied refugee children with their parents or, in the context of New York State's child welfare practice, with nonparent adult relatives, and to help unaccompanied minors develop appropriate skills to enter adulthood and to achieve economic and social self-sufficiency through the delivery of child welfare services in a culturally sensitive manner.

However, in certain cases (e.g., situations where the parents are known to be dead, or missing and presumed dead), adoption may be permitted pursuant to state adoption laws. The court must find that adoption would be in the best interest of the minor, and there must be a termination of parental rights. When adoption occurs, the URM classification ends.

In July of each year, the OTDA Bureau of Refugee and Immigrant Assistance provides to the participating local districts, and to their local authorized child care agency, forms and instructions for the preparation of their respective annual plans. Local social services district roles and responsibilities are set forth in the Annual District Plan, in which the district also describes the needs of the URMs, the number of URMs expected to receive foster care in that county, how care will be provided, and related administrative information.

Local child care agencies submit their Annual Program Plan to the local districts. Upon review and approval of the child care agency plan, the local districts submit their Annual District Plan (incorporating the approved child care agency plan) to the OTDA State Refugee Coordinator. The State Refugee Coordinator approves and signs the plans by the end of September. (The instructions and forms for these plans are not a part of this ADM but may be obtained from the URM Program Coordinator).

#### **IV. URM Definition, Program Implications, and Eligibility**

A URM is defined in the US Code of Federal Regulations (45 CFR 400.111) as a person who has not yet attained 18 years of age (or a higher age established by the state child welfare plan under Title IV–B of the Social Security Act); who entered the United States unaccompanied by and not destined to (a) a parent, (b) a close nonparental adult relative who is willing and able to care for the child, or (c) an adult with a clear and court-verifiable claim to custody of the minor; and, who has no parent(s) in the United States.

Limitation: No child may be considered by a state to be unaccompanied for the purpose of this part unless such child was identified as unaccompanied by the United States Citizenship and Immigration Services (USCIS) at the time of entry, except that a child who was correctly classified as unaccompanied by a state in accordance with Action Transmittal SSA–AT–79–04 (and official interpretations thereof by the Director of ORR) prior to the effective date of this definition may continue to be so classified until such status is terminated in accordance with 45 CFR §400.113(b). The Director of ORR may approve the classification of a child as *unaccompanied* on the basis of information provided by a state showing that such child should have been classified as *unaccompanied* at the time of entry.

Minors that are eligible for the URM Program include:

- *Refugees* (The URM classification is granted while the minor is overseas and the individual is lawfully admitted to the United States as an unaccompanied minor.)
- *Cuban/Haitian Entrants* (The ORR reclassifies the individual as a URM after arrival.)
- *Asylees* (The ORR reclassifies the individual as a URM after asylum is granted.)
- *Minor Victims of a Severe Form of Trafficking* (Upon issuance of a letter of eligibility, or a benefit letter, by the ORR.) The ORR reclassification process requirements also apply to these minors after the letter of eligibility has been issued.
- Other minors that may be determined eligible by the ORR

Federal regulations indicate that once a minor is classified as a URM, the classification continues until the minor:

- Is reunited with a parent; or
- Is united with a non-parental adult, willing and able to care for the minor, to whom legal custody and/or guardianship is granted under the appropriate state law; or

- Attains 18 years of age and is not attending a school, a college or university, or regularly attending a course of vocational or technical training designed to prepare him/her for gainful employment; or
- Attains 21 years of age, if s/he is attending school, a college or university, or regularly attends a course of vocational or technical training designed to prepare him/her for gainful employment.

## V. Required Action

A URM enters foster care in a participating authorized child care agency that is affiliated with a national voluntary agency (VOLAG) and that has a foster care contract with the local district. At such time, the district must ensure that the services provided to these children meet the requirements set forth by the Office of Children and Family Services (OCFS). Due to the variety of ways in which a minor may enter the URM Program, there are some specific requirements that need to be highlighted. The local district, acting as the case manager, or a case planner designated by the district, must act to ensure the following:

### A. Legal Responsibility is Established

The local district shall petition family court for an order granting custody to the local commissioner, pursuant to section 651(b) of the Family Court Act (FCA). The petition is to be filed as soon as possible but *no later than 30 days after the minor is initially placed* with an authorized child care agency approved by the district. Pursuant to Part 4 of Article 2 of the FCA, the attorney representing the local district shall request the court to appoint a law guardian. The petition for custody shall be drafted in a form that complies with the standard procedures for custody petitions in the family court of legal jurisdiction. The form normally used for this purpose is a GF-17. A Notice for an Order to Show Cause may also be used to facilitate an immediate temporary order of custody before an initial court hearing, consistent with the practices of the family court of jurisdiction. The order should authorize the commissioner to provide consent for routine and emergency medical care for the child.

Subsequent court reviews and issuances must be completed in accordance with the legal requirements of the family court of legal jurisdiction. All requirements for a permanency hearing under Article 10 of the FCA apply to a child for whom an order is made granting custody to the local county commissioner. At the disposition of a custody hearing, the attorney representing the local district, or the law guardian, must request a “date certain” for a permanency hearing, to occur eight months from the date the child is placed.

Nothing in this ADM is intended to limit the exercise of the court’s discretion as it seeks to make adjudications pursuant to the best interests of the child under the laws of the State of New York. In all matters of legal custody, the decisions by the family court with jurisdiction in the case shall prevail and will be deemed to comply with the intent of the legal import of this ADM regarding the custody and care of the minor. OTDA strongly suggests that in establishing legal responsibility, the minor’s natural parents, if living, should not be automatically contacted in their native country since contact could be dangerous to the parents.

Any questions regarding the legal sufficiency of service of process to be made on the birth parents of the minor should be referred to the family court judge. The NYS

Family Court Forms - Foster Care Placement Forms may be accessed from the following link: <http://tinyurl.com/alfq6>.

Testimony from an appropriate VOLAG official of the United States Conference of Catholic Bishops (USCCB) or the Lutheran Immigration and Refugee Services (LIRS) may be required by the family court to attest to the information presented in the custody petition regarding the legality of the entry of the minor into the United States. Upon a finding by the court of exceptional circumstances and in the interest of justice, section 3117 (a) (3) (v) of the NY Civil Practice Law Rules (CPLR) allows the use of written depositions as evidence in place of the oral testimony of an unavailable witness.

The URM Program Contact Person at the VOLAG should be contacted if it is necessary to obtain written depositions for family court review, attesting to the entry of a minor into the United States. (Note that, while LIRS does not currently have an affiliated authorized child care agency offering foster care services to URM in New York State, LIRS' contact information is listed below in the event that LIRS re-establishes this service in the future.)

The current contact information for these agencies is as follows:

US Conference of Catholic Bishops  
Migration & Refugee Services – URM Program  
3211 4th Street, NE  
Washington, DC 20017-1194  
(202) 541-3462  
Email to: [refprogusccb.org](mailto:refprogusccb.org)

Lutheran Immigration and Refugee Service  
Children's Services – URM Program  
700 Light Street  
Baltimore, MD 21230  
(410) 230-2757  
Email to: [childrenservices@lirs.org](mailto:childrenservices@lirs.org)

## **B. Appropriate Foster Care Planning and Service Delivery**

Placement in foster care provides a safe environment where the minor receives all services specified in his or her service plan, as required by 18 NYCRR<sup>2</sup> 430.11(d). The following actions must be taken by the district regarding services:

1. Consider in placement planning Supervised Independent Living Programs (SILP) and Transitional Independent Living Programs (TILP) as placement alternatives. In those instances where the authorized (URM) Program child care agency does not provide such programs directly, the district is urged to consider placement of a minor into a SILP or TILP program managed by another agency. While the SILP or TILP agency would be responsible for lodging, services, and for the supervision of the minor to ensure that the minor progresses and meets the standards of the program, the URM Program child care agency would retain responsibility for URM Program services and for meeting the Program's administrative requirements with respect to BRIA, ORR, and the national VOLAG.

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<sup>2</sup> The acronym NYCRR stands for the "New York Code of Rules and Regulations".

2. Adhere to New York's Uniform Case Record requirements, using the *Family Assessment and Service Plan (FASP)* found in 18 NYCRR Part 428, and the requirements of the CONNECTIONS system. In the provision of foster care to URM, local districts must comply with the statutory and regulatory requirements that apply to foster children in New York State, including the requirements for permanency planning.
3. Comply with regulations in Title 18 NYCRR that pertain to foster care, including Parts 427 (Standards of Payment), 428 (Standards for Uniform Case Records and Family and Child Assessments and Service Plans), 430 (Additional Limitations on Reimbursement for Foster Care and Preventive Services), 431 (Care and Protection of Children), and 441-451 (Child Care Agencies).
4. Assure that health screening and treatment is provided to the URM in accordance with the foster care health and medical services requirements in 18 NYCRR 441.22. These regulations apply to all URM. Additionally, health screening activities must be consistent with the protocols recommended by the Office of Refugee Resettlement, which can be found at <http://dhfs.wi.gov/international/refugee/PDF/ORRprotocol.pdf>.

Typical URM medical conditions that require assessment and care include hepatitis-B and lead poisoning, and URM also may need vaccinations. The NYS Department of Health, the federal Office of Refugee Resettlement, and other organizations may issue notices about other appropriate refugee health services. Such publications will disclose their legal or regulatory basis for the published notice. This information will be made available to districts and child care agencies by these organizations.

- a. Hepatitis-B is an illness caused by a virus in the blood and in other bodily fluids, such as saliva and semen. It is spread when the virus from a carrier with active hepatitis-B enters another person's blood stream through a break in the skin or inadvertent introduction onto a mucosal surface such as eye, gums, or mouth. There is no evidence that hepatitis-B has been transmitted by food or utensils. However, standard recommended hygiene practices are essential to help reduce the spread of any infectious disease.

The Public Health Service Immunization Practices Advisory Committee recommends that persons in close contact with URM, such as foster family members, be vaccinated with Hepatitis-B vaccine (HBV). ORR will reimburse the actual cost of HBV vaccination for appropriate foster family members when the URM has been identified as a hepatitis-B carrier and where the costs cannot be reimbursed through the foster family's regular health insurance or medical assistance.

The URM Program should only be charged for costs of vaccinations of foster family members that are not covered by their own private medical insurance or by medical assistance.

- b. ORR State Letter # 05-01 and the Center for Disease Control document, “*CDC Recommendations: Lead Poisoning Prevention for Newly Arrived Refugee Children*” (June 1, 2005), re-emphasized the need for lead testing in refugee children and made the following recommendations to state health departments:
- Identify Children with Elevated Blood Lead Levels (BLLs) by conducting BLL testing for all refugee children ages six months to 16 years upon entering the US and by repeating BLL testing for all refugee children ages six months to six years, three to six months after placement. BLL testing should be repeated in older children if a minor has a sibling with an elevated BLL, regardless of his/her initial test results.
  - Provide Early Post-arrival Evaluation and Therapy by performing nutritional evaluations for all refugee minors upon arrival in the US and providing each minor with appropriate nutritional and vitamin supplements as indicated. Evaluate the value of iron supplements among refugee children.
5. Keep a written plan and periodically schedule for each minor’s participation in appropriate cultural events.
6. Ensure each minor’s acculturation through orientation, counseling, and educational and social activities.
7. Provide for English instruction, education, and training appropriate to individual needs, taking into consideration each minor’s aptitude, interest, and potential.
8. Provide for family reunification. While reunification is a rare occurrence, it is appropriate for the service plan to consider family reunification as follows:
- a. With Parents:
- 1) Where possible, the child care agency must facilitate family reunification in the United States by encouraging minors to apply for admission of their parent(s) to the United States. The minor should be assisted with the preparation of the necessary documentation, including applications, ***as long as doing so will not pose any danger or risk of danger to the parent(s) in their native country, or to the minor.***
  - 2) When reunion with parents becomes possible, the district must execute the reunification plan consistent with the best interests of the child after the arrival of the parent(s) in the United States. The district must employ sound casework principles, specify a target date for reunification, and make appropriate Family and Child Assessment & Service Plans and related entries describing planned activities and efforts to meet that goal. The reunification with the parents shall be accomplished within 24 months of the date on which the whereabouts of the parents become known, especially when the parent has come forward to obtain custody or where there is an interest by the parents in coming forward and obtaining custody of



the minor. If continuation of the foster care placement becomes necessary beyond 24 months, the district is required to submit an exception request to ORR through the State Refugee Coordinator in OTDA.

b. With a Non-Parental Adult Relative:

- 1) Upon appropriate investigation and following established OCFS rules, the district or the URM Program child care agency may approve a prospective non-parental adult relative foster home for URMs. The local district must also provide for the supervision of the home by an authorized and licensed child care agency under the supervision of a local social service district, operating under an Annual Plan and the corresponding District Plan approved by BRIA and working with the support of the national VOLAG.
- 2) If any non-parental adult relative expresses interest in providing care for a URM outside of the foster care system, the district must assess the request based on the following factors:
  - a) Best interests of the child;
  - b) Safety of the child;
  - c) Willingness and ability of the non-parental adult relative to care for the minor; and
  - d) Commitment made by the non-parental adult relative(s) to assume legal custody and/or guardianship.

If the district determines that it would not be in the best interests of the minor to transfer legal custody and/or guardianship to the non-parental adult relative(s), foster care will continue as established.

**C. URM Services**

Federal regulation 45 CFR 400.116 establishes services that are to be provided to the URM population:

“(a) A State must provide unaccompanied minors with the same range of child welfare benefits and services available in foster care cases to other children in the State. Allowable benefits and services may include foster care maintenance (room, board, and clothing) payments; medical assistance; support services; services identified in the State's plans under titles IV-B and IV-E of the Social Security Act; services permissible under title XX of the Social Security Act; and expenditures incurred in establishing legal responsibility.

(b) A State may provide additional services if the Director, or his or her designee, determines such services to be reasonable and necessary for a particular child or children and provides written notification of such determination to the State.”

Refugee-specific<sup>3</sup> services may help to cushion the stressors inherent in being a URM and help to preserve the child's own ethnic identity, native culture, and religion. These services are described as refugee-specific to emphasize the special needs of the refugee minors in the county's care. The need for refugee-specific services is more fully explained at the following link: <http://www.usccb.org/mrs/URMSummary02-23-2006.pdf>, which describes the program.

The core services planned and provided through the URM Program must minimally include the following elements:

1. Family reunification;
2. Appropriate placement of the unaccompanied child in a foster home, group foster care, residential facility, supervised independent living, or other setting, as deemed appropriate in meeting the best interests and special needs of the child;
3. Health screening and treatment, including provision for medical and dental examinations and for all necessary medical and dental treatment;
4. Orientation, testing, and counseling to facilitate the adjustment of the child to American culture;
5. Preparation for participation in American society, with special emphasis upon English language instruction, occupational and cultural training as necessary to facilitate the child's social integration and to prepare the child for independent living and economic self-sufficiency;
6. Preservation of the child's ethnic and religious heritage; and
7. Periodic Review (currently, at least every six months) of the appropriateness of each unaccompanied minor's living arrangement and services.

#### **D. Minors are Prepared for Self-Sufficiency Through Permanency Planning**

Eventual transition to self-sufficiency is the goal unless URMs are reunited with their family members. The permanency planning goal formerly known as "independent living" is now called "another planned living arrangement with a permanency resource." Some of the current regulatory requirements and what needs to be shown in the case record documentation for foster children with permanency planning goals are set forth in 18 NYCRR 430.12 (f).

#### **E. Bilingual/Bicultural Staff**

Unaccompanied minors are from other countries, speak different languages, and have different cultures that local programs should accommodate to the greatest extent possible. Program reviews by the district should explore the efforts made to recruit foster parents and to have other resources available that can bridge the communications gap that exists in many cases with URM children of limited English-speaking skills.

The Annual District Plan and Annual Program Plan must include assurances that:

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<sup>3</sup> These services are named "refugee-specific" to recognize the nature of the special needs of these minors stemming from the persecution, fear, displacement, and cultural and linguistic alienation experienced by these minors, in comparison to the experiences of other children in foster care.

1. The child care agency's URM Program has staff with bilingual/bicultural capacity appropriate to the clientele served;
2. The bilingual/bicultural capacity is an integral part of the program's service function, and is not limited to translation and interpretation services.

#### **F. URM Program Reporting**

The Annual URM District Plan and Annual URM Program Plan must assure the timely and complete submission of the required ORR-3 and ORR-4 report forms (see Attachment 1). These forms and instructions are available at this link: <http://www.otda.state.ny.us/main/bria/documents/URM-Attachment2.pdf>. The district and the local child care agency must keep a copy of all completed reports in the URM's case file.

The local district and the authorized child care agency caseworkers must follow automated assessment and service planning requirements, as agreed to between the local district and the authorized child care agency, and as required by New York State regulations.

##### **1. ORR-3 Placement Report Form (See Attachment 1).**

This form must be submitted to the offices listed below (see a., b., and c.) within 30 days of any of the three following events:

- The Initial Placement of the child.
- A Change of Status of the minor in care. A change of status may involve such things as a change of placement, a change in legal responsibility, a reunification of the minor with adult relatives, or a reclassification of the minor.
- Termination or Discharge of the child from the care and custody of the county social services Commissioner, such as when the child is reunited with the parents or reaches emancipation age.
  - a. The Office of Refugee Resettlement, to the attention of the Federal URM Program Coordinator;
  - b. The OTDA Bureau of Refugee and Immigrant Assistance, to the attention of the URM Program Coordinator; and
  - c. The national VOLAG (USCCB or LIRS, as appropriate)

##### **2. ORR-4 Progress Report Form (See Attachment 1)**

For each minor, the district must send a completed ORR-4 Form annually (12 months from the initial date of placement and every 12 months thereafter) to the same offices where the ORR-3 reports are sent (see Section 1, above). The ORR-4 should be received within 30 days, but in no case later than 60 days, from the annual due date. This report provides information on the status of the minor and the progress towards the goal of self-sufficiency. The Service Plan, as maintained in CONNECTIONS (in compliance with Uniform Case Record [UCR] requirements), must be available for inspection for each ORR-4 that is submitted, but the service plan need not be sent with the ORR-4 report.

3. **URM Program Monthly Data Report** (See Attachment 2)  
The URM Program Monthly Data report is due to the URM Program Coordinator monthly, by the 15th day of the month following the month being reported.
4. **Special Reports**  
Special reports, to be defined at the time they are needed, may be required periodically.

## **G. Reimbursement**

Local districts must use Schedule RF-6 (LDSS Form 1047) and Schedule RF-6a (LDSS Form 3510) to claim allowable costs pertaining to this program, including transportation costs. Instructions for these forms are found in the OTDA Fiscal Reference Manuals (FRM), available on the OTDA Budget, Finance and Data Management (OBFDM) website at:

[http://otda.state.nyenet/bfdm/finance/FRM\\_Vol2\\_Manual.asp](http://otda.state.nyenet/bfdm/finance/FRM_Vol2_Manual.asp); and

[http://otda.state.nyenet/bfdm/finance/FRM\\_Vol3\\_Manual.asp](http://otda.state.nyenet/bfdm/finance/FRM_Vol3_Manual.asp).

Standards of Payment rules in 18 NYCRR 427.6(c) (5) establish the Special Level pass-through payment for these foster care placements.

Districts should complete and submit an LDSS-1047 “RF-6 Monthly Claim for Reimbursement: Assistance to Resettled Refugees” to obtain 100% federal reimbursement for allowable URM program and administrative costs, including transportation costs. The LDSS-3510 Schedule “RF-6a Federal Reimbursement for Refugees/Cuban Haitians Entrants Administrative Costs” is completed to arrive at the administrative claim amount reported on the RF-6.

Instructions for all upstate counties for these claim forms appear in the OTDA Fiscal Reference Manual (FRM), Volumes 2 and 3. Volume 2, Chapter 3 has the instructions for the RF 6, and Volume 3, Chapter 25 has the instructions for the RF 6-A. The RF-6 and 6a claims are prepared monthly and submitted as instructed in the Fiscal Reference Manuals.

Districts should submit both forms (RF-6 and RF-6a) through the Automated Claiming System (ACS).

## **H. Non-URM Refugee Children in Need of Services**

Refugee minors who reside with their parents or caretakers may also require foster care services. However, they are **not** eligible for the URM Program and are **not** to be termed URM or coded as such in the Welfare Management System/Child Care Review Service (WMS/CCRS) or in the CONNECTIONS<sup>4</sup> system. In some cases these minors may be eligible for reclassification as URM and upon reclassification, they would then be URM Program-eligible. Please refer to the reclassification discussion in this ADM in Section VII., A.

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<sup>4</sup> CONNECTIONS is New York State’s federally-required Statewide Automated Child Welfare Information System that provides OCFS, local districts and voluntary agencies with an automated system for Child Protective, Preventive, Foster Care and Adoption services.

Districts shall serve refugee children who are not URM in the same manner as they would serve any other child in the general foster care population<sup>5</sup>.

## VI. Systems Implications

A WMS/CCRS services case must be opened for each URM in foster care. For each URM who receives Protective, Preventive, Adoption and/or Foster Care Services, the case must be opened as a CCRS case in a manner consistent with OCFS case management process and procedures. Select the appropriate eligibility code to enter on the Application for Services (OCFS-2921). Following are the proper eligibility codes corresponding to the URM-eligible group:

1. **09 (RAP-URM)** Refugee Assistance Programs - Unaccompanied Refugee/Entrant Minor

When the eligibility code is 09, the only valid State/Federal charge code on the Services Financial Eligibility Display Turnaround (SFED/T) form is 31 – Unaccompanied Refugee Minor. If the State/Federal charge field is left blank, the system will generate code 31 in the State/Federal charge field.

2. **10 (RAP-UCHM)** Refugee Assistance Program - Unaccompanied Cuban, Haitian Minor

When the eligibility code is **10 (RAP-UCHM)**, the only valid State/Federal charge code on the SFED/T is 35 - Cuban/Haitian Unaccompanied Minor. Notice that, in this case, if the State/Federal charge field is left blank, the system will generate code 35 in the State/Federal charge field.

**NOTE: When entering information for an Asylee child or a child victim of a severe form of trafficking who has been appropriately placed in the URM Program, the eligibility coding should also be 09 (RAP-URM Refugee Assistance Programs – Unaccompanied Refugee/Entrant Minor and the consequent code is 31 in the State/Federal charge field.**

To authorize the purchase of the Hepatitis-B vaccine and claim reimbursement for the cost, districts must first ensure that the two tests listed above under **Section V. Required Actions, B. Appropriate Foster Care Planning and Service Delivery, 4. Health Screening and Treatment** are met. ORR will reimburse the actual cost of the Hepatitis-B vaccination for appropriate foster family members when the URM has been identified as a hepatitis-B carrier and where the costs cannot be reimbursed through the foster family's regular health insurance or medical assistance. The district must then add the vaccine cost to the authorization of the room and board amount as an additional *per diem* program expense (Purchase of Service Code - 63). This ensures that the cost is claimable on the RF-6 and that the district is reimbursed for the actual costs incurred.

The URM Program requires the use of CONNECTIONS, the electronic case management system that implements the statewide Uniform Case Record (UCR) system. URM case managers must use the Standards for Uniform Case Records, as required by 18 NYCRR 428, et

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<sup>5</sup> If the time lapse from the date of entry of the minor into the United States to the date when the child is abandoned, or the date when parental rights in regard to the child are terminated, is short enough and any other circumstances are such that the local district believes that the child should be considered for URM status, the local district is encouraged to urge the child care agency to seek additional guidance from the USCCB and to request that the State Refugee Coordinator consider petitioning ORR to reclassify the minor to URM status.

al. URM case management must further be consistent with OCFS Administrative Directive 05-OCFS-ADM-02 - Case Management Changes Associated with CONNECTIONS Build 18 (April 19, 2005), available at <http://tinyurl.com/atzed>, and with other OCFS implementing regulations and policy issuances, as they may be revised and updated from time to time. The former use of the UCR form is discontinued.

## **VII. Additional Information**

### **A. Classification as URM** *(Note that “URM” is not an immigration status, but a classification for program service eligibility.)*

Minors become classified as URMs in one of three ways:

#### **1. URM Placement in Foster Care Upon Arrival From Overseas**

Most unaccompanied refugee minors are admitted to the United States under the authority of the US Department of State (USDOS) and are classified URM before they enter the US (with the exceptions noted in 2 and 3 below). The two national VOLAGS under contract with the USDOS facilitate the admission and placement of these minors directly with their local affiliates, which are authorized child care agencies.

Prior to the minor’s entry into the United States, the USDOS determines that the minor is a refugee, that there is no parent or guardian responsible for the child, and the child is eligible for resettlement into the US. At this point, the minor is classified as URM and the USDOS coordinates with the national VOLAGS to bring the minor into the US.

#### **2. Reclassification of Minors Already in the US**

Some children are reclassified as URM by the ORR after the minor has entered the United States without the URM designation. The Director of the ORR is authorized under Title 45 CFR Part 400, Subpart H, "Child Welfare Services," Section 400.111 to approve the reclassification of a minor based on information provided by a state showing that the minor should have been classified as "unaccompanied" at the time of entry. BRIA submits such requests to the ORR with the consent of the local district. The request to ORR states that foster care and services for the minor will be provided in accordance with URM Program requirements and assures that legal custody will be established with the commissioner of the local social service district if the reclassification is granted.

The legal authority to reclassify a minor to URM status lies with the Director of ORR, who issues policy directives named “State Letters”. The Director has published three State Letters setting forth the policy regarding reclassification:

- a. ORR State Letter 85-184 (ORR Regional Letter on Unaccompanied Minors Action/External Transmittal No. 89-5, also known as “URM Guidelines” SL8952, dated August 1, 1989). This allows reclassification of a minor based on a clerical error or any other misclassification in the initial classification of a minor. A web version is no longer available, but BRIA can supply this letter upon request.

- b. ORR State Letter 01-27 (Policy Issuance: Reclassification to Unaccompanied Minor Program) provides a way to resolve age questions when it appears that a child's originally stated age may be different than the minor's actual age. For example, an official change in the date of birth would also constitute a basis for re-classification. This State Letter is available by clicking on the link below or by entering the following in your web browser:  
<http://www.acf.hhs.gov/programs/orr/policy/sl01-27.htm>.

A request for the resolution of the age issue must be submitted to the State Refugee Coordinator concurrently with a reclassification request. Age issues need to be addressed when they affect the eligibility of a minor to receive services as a URM. The request must include as much of the following documentation as the local district and VOLAG agency can obtain:

- An affidavit from the youth as to the correct age and the basis for the minor's belief that the minor is that age.
- An explanation from the youth or from knowledgeable other persons relating how the incorrect birth date was recorded in official records and by whom.
- An explanation from the youth or other persons of how the alternative birth date was derived.
- Where alternative documentation emerges which indicates that the affiant is younger than the age documented in immigration records, an explanation of who obtained the alternative documentation (such as a birth certificate), the official authority from which it was obtained, and the line of custody of the alternative documentation since that time.
- An explanation of why the youth did not use the alternative documentation to correct official records, if it was available at the time.
- A statement from the program director or the caseworker as to the general appearance of the youth and the opinions of staff, volunteers, and other youth as to his/her actual age, based on an assessment of the youth's emotional and physical development.
- The professional opinion of a doctor, dentist, or other health professional in support of the youth's claim, based on objective medical findings, such as dental exams, wrist x-rays or bone scans.
- Where appropriate, a photocopy of the alternative documentation and a description from agency staff describing the appearance and credibility of the document.

With these documents, the Director of ORR will determine whether the preponderance of evidence merits a change in date of birth and a reclassification of the child to URM status.

- c. ORR State Letter 02-07 (Reclassification of Unaccompanied Minors). The letter, which may be found at this link: [ORR State Letter #02-07](#) or by entering the following address on your browser: <http://tinyurl.com/alekd>, sets forth other conditions that must be met for reclassifying a minor to unaccompanied status:

- The minor is eligible for ORR-funded benefits and services; that is, the minor must be a refugee, asylee, Amerasian, Cuban or Haitian entrant, or a victim of a severe form of trafficking, as determined by ORR.
- No parent of the minor has lived in the US since the minor's arrival here.
- No relative or non-related adult has ever had legal custody of the minor in the US.
- With respect to a minor who entered the US accompanied by a non-parental relative or non-related adult, or who entered the US for the purpose of joining a non-parental relative or non-related adult, the minor is not currently living in the home of such a relative or adult.
- An appropriate court has placed legal responsibility for the minor with the local district commissioner.
- The state has reported the minor to the ORR as an unaccompanied minor and as part of the official state program for unaccompanied minors, and the state meets all other program and reporting requirements.

The last two conditions are satisfied if the state includes a statement of assurance in its reclassification request that a petition for custody will be filed and submits the proper forms to ORR when reclassification is approved.

In some cases, the ORR Director may waive one or more conditions of eligibility. For example, ORR has, in the past, waived the second condition above for refugee children whose parents died shortly after arrival in the US.

It is also standard practice in the case of Cuban/Haitian Entrants for the ORR to request a copy of the application for asylum, or a copy of the receipt issued upon application for asylum. In all cases, a copy of the I-94 (See link: [I-94, Arrival-Departure Record form](#)) should be included with the letter requesting the reclassification of the child, or alternatively, a reasonable explanation as to why said document cannot be provided.

The financial responsibility for the minor is transferred to the State where the placement is made. In all cases where a child is brought to a particular county within New York State, it is the joint responsibility of the local URM service provider and the local district to bring or to facilitate the transfer of the child into the county where the URM program is located.

Some non-citizen minors, after arrival to the US, may be found to be victims of a severe form of trafficking pursuant to The Trafficking Victims Protection Act of 2000 (TVPA) as amended, Pub. L. No. 106-386 (8 U.S.C. 7105). ORR issues an “eligibility letter” which serves as the key document to obtain a reclassification to URM for those minors. Attachment 3 provides a sample ORR Benefit Letter for minors who are victims of trafficking (VOT). This sample may also be found at: <http://www.otda.state.ny.us/main/bria/documents/URM-Attachment3.pdf>.

An ORR toll-free telephone line (**1-866-401-5510**) is available to verify that a minor has a letter of eligibility. **The USCIS Systematic Alien Verification for Entitlements (SAVE) system currently does not contain information about trafficking victims and should, therefore, not be used to seek verification.**



### 3. Variations in the Reclassification Process

- **When Another State or a Minor in Federal Custody is Involved**

Some children are reclassified from ORR/DUCS (Division of Unaccompanied Children Services) care to URM care, and these may come from within New York State or from any other State where the ORR/DUCS program operates.

In March 2003, pursuant to the Homeland Security Act of 2002, ORR received responsibility for the placement and care of Unaccompanied Alien Children (UACs) in federal custody, and DUCS was established. Due to ambiguities in federal law, legal responsibility for the children is split between the care and placement functions performed by ORR/DUCS, and the immigration status functions of performed by the Department of Homeland Security/Immigration and Customs Enforcement (DHS/ICE). As a result, UACs are said to be in “federal custody”, rather than in the sole custody of either agency. UACs are not in detention through the Department of State.

In keeping with a memorandum of understanding between the two federal agencies, ORR/DUCS exercises its discretion to reunify children under the age of 18 with family in the United States, or otherwise release children in accordance with the standards set forth in the *Flores v. Reno* settlement agreement. URM care qualifies as release from ORR/DUCS care. As appropriate, ORR/DUCS refers asylee, trafficked and entrant children to national VOLAGs for identification of URM placements, to be followed by reclassification. Due to the ORR/DUCS role in assessing family reunification options, sufficient information to support reclassification is typically presented to national VOLAGs during placement referral.

Note: Despite decisions to release UACs from ORR/DUCS care, DHS/ICE maintains its authority over children, as well as adults, who have not yet obtained legal immigration status via an Immigration Judge’s order or the DHS/ICE. As a result, it is possible for DHS/ICE to exercise authority over entrant or trafficked URM who have not yet achieved status, as is the case with undocumented children released to family members. However, unlike with children released to family, there has been some uncertainty as to whether DHS/ICE claims continued “constructive custody” over children placed in URM care.

The national VOLAG typically gets first notification from the legally responsible agency or from ORR of the need to bring a child into the URM program. When the minor is in another State, under the legal responsibility of the United States Citizenship and Immigration Service (USCIS), or under the supervision of the Department of State, the VOLAG will contact the state to which the minor is being transferred.

The reclassification process is initiated in communications between the ORR/DUCS program and the national VOLAG, which then finds a placement resource in New York State. The VOLAG affiliate in New York State requests the State Refugee Coordinator to submit to the ORR a reclassification request. All the necessary documentation is produced, including the I-94, when available. The State Refugee Coordinator initiates the request that the Director of ORR approve the reclassification of the minor to URM.

There may be cases in which the minor resides in another State and that State wishes to have the child enter the New York State URM program. In this scenario, approvals by the national VOLAG(s), the local URM service providers, and the local social service district are necessary. The ORR/DUCS program is not involved in this scenario. The state from which the child is referred must have full legal custody of the minor in order for the New York State Refugee Coordinator to act on the request. Such custody must not be relinquished until the legal custody of the minor is awarded to the local district Commissioner in New York State, following the reclassification of the minor. The physical transfer of the minor to New York is done by the local district. The authorities in the state of origin are not expected to retain legal rights or responsibilities regarding the child, so the local district is to initiate a petition to the court of jurisdiction to secure legal custody of the child.

In all cases, it is the responsibility of the VOLAG, with the local URM service provider and the local social services district, to submit supportive documentation and to request the State Refugee Coordinator to submit a reclassification request to ORR for a transfer of the child to New York. The transmission of documents should be done by the quickest and most expedient mode of delivery, but should be followed with original paper copies sent through the regular mail, unless otherwise directed.

Upon approval from the ORR, the State Refugee Coordinator sends a written approval to the local district, with a copy to the URM service provider, with a copy of the federal approval letter.

- **When Two Counties Within New York State are Involved**

The reclassification process may also involve two different counties within the State of New York.

When a minor in care is identified as being in need of culturally appropriate foster care services provided by a URM program agency, the child care agency with the minor and the local district with custody should confer with the State Refugee Coordinator's office regarding reclassification. If the State Refugee Coordinator approves, he/she notifies the appropriate voluntary agency (VOLAG). When an appropriate placement is found, the VOLAG or the affiliated URM service provider will notify the State Refugee Coordinator of the anticipated placement at the preferred site. Otherwise, the reclassification process proceeds as described above.

- **Visitation Protocol**

Visitation protocols must be consistent with 04-OCFS-INF-04, the "**Principles of Good Visiting Practice**" section. Visitation "facilitates permanency planning for children in foster care, whether it speeds reunification or helps decision-making in cases of alternative permanency goals."

The Child and Family Services Review (CFSR) Program Improvement Plan (PIP) approved by the federal government in April 2003 is a blueprint for casework practices and program models that are effective, evidence-based approaches to visitation practice.

Additional guidance on this topic may also be found in Title 18 Part 443 of the New York State Code of Rules and Regulations and by referencing the following manual (follow this link): [Regulations for Certified and Approved Foster Family Boarding Homes](#).

#### **B. Applicability of the Interstate Compact on the Placement of Children (ICPC)**

The New York State Interstate Compact Office within the Office of Children and Family Services (OCFS) does not currently process placement requests or home study requests for URM. Should this change, the district and the URM service provider agencies will be promptly notified.

Further references to the ICPC may be found at: <http://www.hhs.state.ne.us/chs/icpc.pdf>. Any papers pertaining to the protection of the minor must be sent to the URM program caring for the minor and placed in the child's record for archiving.

Regulation 45 CFR 400.119 on interstate movement states: "After the initial placement of an unaccompanied refugee minor, the same procedures that govern the movement of non-refugee cases to other States apply to the movement of unaccompanied minors to other States."

For example, in meeting the special needs of children, on rare occasions, URM programs have made placements in other States, such as in specialized residential facilities. The ICPC would apply in such cases. In addition, some children who are reclassified may have been taken into protective custody in their state of residence and the state or county in question may chose to maintain custody until the URM has arrived in New York and custody has been established locally. Given that there is no waiver in the ICPC for such circumstances, despite ORR regulations that interstate procedures apply after initial placement, the sending State may not agree for the child to travel to New York without putting ICPC procedures into effect.

#### **C. Intra-County and Inter-County Services for URM**

There are special situations that may require that services, such as independent living services, be provided by an agency other than the URM provider. In these cases, the district is urged to jointly plan with all of the appropriate service providers and the court of jurisdiction. The recommended plan for services must be sent to the NYS Refugee Coordinator, with copies of agreements and other supportive documents, for final approval.

If a URM needs services from another county's URM program, the local service provider must contact BRIA and the national VOLAG that was originally involved in the placement of the child to begin an official transfer of the care and custody of the child to the other county. In this case, the original local district will relinquish legal and financial responsibility for the child and the county where the placement is made must take responsibility for the care and custody of the child.

#### **D. Community Colleges and other Educational Institutions**

Districts may find that enrollment of URM into community colleges or other educational institutions require "residency" for access to certain benefits. URM *are* residents of the county in which the local district commissioner has legal custody. An *affidavit of residency* may be used to affirm the "URM" status of the minor and affirm that the legal custody of the child resides with the Commissioner, as well as to affirm the fact that the

URM's address is within the county. The document to evidence the URM status of the child may be either the I-94 issued by the US Citizenship and Immigration Service (USCIS, formerly INS), or either of the two letters issued by the Office of Refugee Resettlement to establish the eligibility of the child to receive care, services and benefits under the URM program.

#### **VIII. Effective Date**

This Administrative Directive is effective: **Immediately.**

**Issued By:**

**Name: Susan Faulkner**

**Title: Deputy Director**

**Division/Office: Housing, Refugee & Immigrant Assistance**