

§ 410.1103 Considerations generally applicable to the placement of an unaccompanied child.

(a) ORR shall place each unaccompanied child in the least restrictive setting that is in the best interest of the child and appropriate to the unaccompanied child's age and individualized needs, provided that such setting is consistent with the interest in ensuring the unaccompanied child's timely appearance before DHS and the immigration courts and in protecting the unaccompanied child's well-being and that of others.

(b) ORR shall consider the following factors to the extent they are relevant to the unaccompanied child's placement, including:

- (1) Danger to self;
- (2) Danger to the community/others;
- (3) Runaway risk;
- (4) Trafficking in persons or other safety concerns;
- (5) Age;
- (6) Gender;
- (7) LGBTQI+ status or identity;
- (8) Disability;
- (9) Any specialized services or treatment required or requested by the unaccompanied child;
- (10) Criminal background;
- (11) Location of potential sponsor and safe and timely release options;
- (12) Behavior;
- (13) Siblings in ORR custody;
- (14) Language access;
- (15) Whether the unaccompanied child is pregnant or parenting;
- (16) Location of the unaccompanied child's apprehension; and
- (17) Length of stay in ORR custody.

(c) ORR may utilize information provided by the referring Federal agency, child assessment tools, interviews, and pertinent documentation to determine the placement of all unaccompanied children. ORR may obtain any records from local, State, and Federal agencies regarding an unaccompanied child to inform placement decisions.

(d) ORR shall review, at least every 30 days, the placement of an unaccompanied child in a restrictive placement to determine whether a new level of care is appropriate.

(e) ORR shall make reasonable efforts to provide licensed placements in those geographical areas where DHS encounters the majority of unaccompanied children.

(f) A care provider facility must accept the placement of unaccompanied children as determined by ORR, and may deny placement only for the following reasons:

(1) Lack of available bed space;

(2) Placement of the unaccompanied child would conflict with the care provider facility's State or local licensing rules;

(3) Initial placement involves an unaccompanied child with a significant physical or mental illness for which the referring Federal agency does not provide a medical clearance; or

(4) In the case of the placement of an unaccompanied child with a disability, the care provider facility concludes it is unable to meet the child's disability-related needs, without fundamentally altering the nature of its program, even by providing reasonable modifications and even with additional support from ORR.

(g) Care provider facilities must submit a written request to ORR for authorization to deny placement of unaccompanied children, providing the individualized reasons for the denial. Any such request must be approved by ORR before the care provider facility may deny a placement. ORR may follow up with a care provider facility about a placement denial to find a solution to the reason for the denial.