

§ 410.1801 Minimum standards for emergency or influx facilities.

(a) In addition to the “standard program” and “restrictive placements” defined in this part, ORR provides standards in this section for all emergency or influx facilities (EIFs).

(b) EIFs shall provide the following minimum services for all unaccompanied children in their care:

(1) Proper physical care and maintenance, including suitable living accommodations, sufficient quantity of food appropriate for children, drinking water, appropriate clothing, and personal grooming items.

(2) Appropriate routine medical and dental care; family planning services, including pregnancy tests; medical services requiring heightened ORR involvement; and emergency healthcare services; a complete medical examination (including screenings for infectious diseases) within 48 hours of admission, excluding weekends and holidays, unless the unaccompanied child was recently examined at another ORR care provider facility; appropriate immunizations as recommended by the Advisory Committee on Immunization Practices' Child and Adolescent Immunization Schedule and approved by HHS's Centers for Disease Control and Prevention; administration of prescribed medication and special diets; and appropriate mental health interventions when necessary.

(3) An individualized needs assessment, which includes the various initial intake forms, identification of the unaccompanied child's individualized needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, and whether an indigenous language speaker; a statement of religious preference and practice; and an assessment of the unaccompanied child's personal goals, strengths, and weaknesses.

(4) Educational services appropriate to the unaccompanied child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates on the development of basic academic competencies, and on English Language acquisition. The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas may include such subjects as science, social studies, math, reading, writing, and physical education. The program must provide unaccompanied children with appropriate reading materials in languages other than English for use during leisure time.

(5) 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 must not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.

(6) 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.

(7) Group counseling sessions at least twice a week.

(8) Acculturation and adaptation services that include information regarding the development of social and interpersonal skills that contribute to those abilities necessary to live independently and responsibly.

(9) Whenever possible, access to religious services of the child's choice.

(10) 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 child.

(11) A reasonable right to privacy, which includes the right to wear the child's own clothes when available, retain a private space 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.

(12) Legal services information, including the availability of free legal assistance, and that they may be represented by counsel at no expense to the Government, the right to a removal hearing before an immigration judge, the ability to apply for asylum with USCIS in the first instance, and the ability to request voluntary departure in lieu of removal.

(13) EIFs, whether state-licensed or not, must comply, to the greatest extent possible, with all State child welfare laws and regulations (such as mandatory reporting of abuse), as well as all State and local building, fire, health and safety codes, that ORR determines are applicable to non-State licensed facilities.

(14) EIFs must deliver services in a manner that is sensitive to the age, culture, native language, and complex needs of each unaccompanied child. EIFs must develop an individual service plan for the care of each child.

(c) EIFs shall do the following when providing services to unaccompanied children:

(1) Maintain safe and sanitary conditions that are consistent with ORR's concern for the particular vulnerability of children;

(2) Provide access to toilets, showers and sinks, as well as personal hygiene items such as soap, toothpaste and toothbrushes, floss, towels, feminine care items, and other similar items;

(3) Provide drinking water and food;

(4) Provide medical assistance if the unaccompanied child is in need of emergency services and provide a modified medical examination;

(5) Maintain adequate temperature control and ventilation;

(6) Provide adequate supervision to protect unaccompanied children;

(7) Separate from other unaccompanied children those unaccompanied children who are subsequently found to have past criminal or juvenile detention histories or have perpetrated sexual abuse that present a danger to themselves or others;

(8) Provide contact with family members who were apprehended with the unaccompanied child; and

(9) Provide access to legal services described in § 410.1309(a).

(10) Provide family unification 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 child.

(11) Provide an individualized needs assessment, which includes the collection of essential data relating to the identification and history of the child and the child's family; an assessment of family relationships and interaction with adults, peers and authority figures; and 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.

(12) Provide a comprehensive orientation regarding program intent, services, rules (written and verbal), expectations, information about U.S. child labor laws, and the availability of legal assistance.

(13) Maintain records of case files and make regular reports to ORR. EIFs must have accountability systems in place, which preserve the confidentiality of client information and protect the records from unauthorized use or disclosure.

(d) ORR may grant waivers of standards under paragraph (b) of this section, in whole or in part, during the first six months of an EIF activation, to the extent that ORR determines that the specific waivers requested are necessary because it would be operationally infeasible to comply with the specified standards, and are granted for no longer than necessary in light of operational feasibility, and the waivers are granted in accordance with law. Such waiver or waivers must be made publicly available. Even where a waiver is granted, EIFs shall make all efforts to meet requisite standards under § 410.1801(b) as expeditiously as possible.