

§ 410.1802 Placement standards for emergency or influx facilities.

(a) Unaccompanied children who are placed in an emergency or influx facility (EIF) must meet all of the following criteria to the extent feasible. If ORR becomes aware that a child does not meet any of the following criteria at any time after placement into an EIF, ORR shall transfer the unaccompanied child to the least restrictive setting appropriate for that child's need as expeditiously as possible. ORR shall only place a child in an EIF if the child:

- (1) Is expected to be released to a sponsor within 30 days;
- (2) Is age 13 or older;
- (3) Speaks English or Spanish as their preferred language;
- (4) Does not have a known disability or other mental health or medical issue or dental issue requiring additional evaluation, treatment, or monitoring by a healthcare provider;
- (5) Is not a pregnant or parenting teenager;
- (6) Would not have a diminution of legal services as a result of the transfer to the EIF; and
- (7) Is not a danger to self or others (including not having been charged with or convicted of a criminal offense).

(b) ORR shall also consider the following factors for the placement of an unaccompanied child in an EIF:

- (1) The unaccompanied child should not be part of a sibling group with a sibling(s) age 12 years or younger;
- (2) The unaccompanied child should not be subject to a pending age determination;
- (3) The unaccompanied child should not be involved in an active State licensing, child protective services, or law enforcement investigation, or an investigation resulting from a sexual abuse allegation;
- (4) The unaccompanied child should not have a pending home study;
- (5) The unaccompanied child should not be turning 18 years old within 30 days of the transfer to an EIF;
- (6) The unaccompanied child should not be scheduled to be discharged in three days or less;
- (7) The unaccompanied child should not have a scheduled hearing date in immigration court or State/family court (juvenile included), and not have an attorney of record or DOJ Accredited Representative;
- (8) The unaccompanied child should be medically cleared and vaccinated as required by the EIF (for instance, if the EIF is on a U.S. Department of Defense site); and

(9) The unaccompanied child should have no known mental health, dental, or medical issues, including contagious diseases requiring additional evaluation, treatment, or monitoring by a healthcare provider.