

The Office of Refugee Resettlement (ORR) has a zero-tolerance policy for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior at all care provider that house unaccompanied alien children (UAC). ORR's Interim Final Rule (IFR)<sup>1</sup> sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care providers.<sup>2</sup> The IFR was published on December 24, 2014 with an implementation date of June 24, 2015.

ORR began collecting data specific to sexual abuse in ORR custody in October 2014. Prior to the IFR, care providers generally reported allegations of sexual abuse according to state licensing requirements and mandatory reporting laws. With the publication of the IFR, care providers, regardless of their state of operation, began using one standardized definition for sexual abuse and sexual harassment to ensure consistent reporting. In addition, ORR ensured that allegations of sexual abuse that occurs in ORR custody, as defined by the federal reporting statute (34 U.S.C. § 20341), were reported to the U.S. Department of Justice (DOJ) beginning in late 2014.

Care providers must report allegations of sexual abuse, sexual harassment, inappropriate sexual behavior; retaliation related to such allegations; and staff neglect or violation of responsibilities immediately but no later than 4 hours after learning of the allegation. Care providers must report these allegations to the state licensing agency, child protective services, and/or local law enforcement in accordance with mandatory reporting laws, state licensing requirements, federal laws and regulations, and ORR policies and procedures.

Additionally, care providers report to the U.S. Department of Justice's Federal Bureau of Investigations (FBI) and the U.S. Department of Health and Human Services' Office of the Inspector General (OIG) any allegations of sexual abuse that are subject to federal reporting laws or could constitute violations of federal law. Sexual abuse is defined at 34 U.S.C. § 20341 and in ORR regulations at 45 C.F.R. § 411.6. Sexual abuse can include allegations such as touching of the buttocks or allegations of sexual assault, whether it was minor on minor or staff on minor allegation. ORR policy requires care providers to notify local law enforcement when an allegation of sexual abuse involves an adult.

If a sexual abuse allegation involves a staff member, the care provider is required by ORR's IFR to immediately suspend the staff member from all duties that would provide the staff member with access to UAC, pending an investigation. Care providers must take disciplinary action up to and including termination for violating ORR's or the care provider's sexual abuse related policies and procedures. Termination must be the presumptive disciplinary sanction for staff who engage in sexual abuse or sexual harassment.

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<sup>1</sup> See 45 C.F.R. Part 411.

<sup>2</sup> Section 1101(c) of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4) directs the Secretary of the Department of Health and Human Services to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of unaccompanied children.