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October 23, 2018

The Honorable Alex M. Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

I am writing to urge you to immediately rescind or reform the Memorandum of Agreement (MOA) between the Office of Refugee Resettlement (ORR) and Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP). This MOA, signed in May 2018, mandates continuous information sharing on unaccompanied minors in ORR care, including information about potential sponsors seeking to care for the children.

ORR is not and should not be a federal enforcement agency. Its mission is to care for and place unaccompanied minors in “the least restrictive setting that is in the best interest of the child” as their immigration proceedings seek resolution. As part of this process, ORR works with federal agencies including the Federal Bureau of Investigation (FBI) to conduct background checks on potential sponsors to determine that sponsor’s fitness for caring for a child.

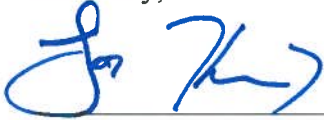
The May 2018 MOA, however, has abused the scope of ORR’s mandate and fundamentally shifted the mission of ORR, threatening to make it an arm of immigration enforcement rather than an agency wholly dedicated to the best interests of these children. In September, ICE officials confirmed the arrest of dozens of individuals identified as having violated immigration laws when those sponsors came forward to care for a loved one in ORR custody.

By scaring away potential sponsors who could provide a child a safe home outside of a government-run facility, this Administration has created significant delays in the reunification process for unaccompanied children and their families, and ORR specifically has failed to meet the standard of acting in the best interest of the children. The average stay for these children is now nearly 60 days, well above the maximum allowable detention per the *Flores* settlement. Over 13,000 children are now in ORR care, overwhelming an unprepared system, costing taxpayers significant resources, and creating untold trauma for impacted children and families.

I recently visited the Tornillo facility in Texas and appreciate the work of your agency in attempting to provide comfort to these children during these traumatic experiences. However, during my visit, I was told that the average stay for a child at Tornillo is now nearly 30 days. Multiple children said they had been transferred between government-run facilities for several months on end. No matter the level of care provided at these facilities, they are no substitute for the home of a family member or loved one.

If potential sponsors are discouraged from stepping forward out of fear that a loved one might be deported, ORR cannot fulfill its mission of placing unaccompanied minors in a safe home. ORR immediately should return to the previous background check process in use prior to the May 2018 MOA which allowed Department of Homeland Security agencies, including CBP and ICE, to request information if needed, but otherwise prioritize the safety of the children.

Sincerely,



Joseph P. Kennedy, III
Member of Congress