



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

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[www.acf.hhs.gov/programs/orr](http://www.acf.hhs.gov/programs/orr)

## **Division of Policy and Procedures**

### **FAQ: July 2017 Bond Hearings for Unaccompanied Alien Children (UAC)**

*Q: What is a bond redetermination hearing?*

A: Traditionally, bond redetermination hearings (bond hearings) are used by aliens in DHS custody who wish to have an immigration judge (EOIR) determine whether the alien should remain in DHS custody or be released from custody.

*Q: Are bond hearings for aliens in DHS custody the same for UAC in HHS custody?*

A: No. Bond hearings for aliens in DHS custody are covered by statute and regulations under the Immigration and Nationality Act. *Flores* bond hearings for UAC in HHS custody are judicially created by the Federal courts under a Ninth Circuit Court of Appeals decision in *Flores v. Sessions*. However, *Flores* bond hearings for UAC in HHS custody fall under the same strictures as bond hearings for aliens in DHS custody.

*Q: According to section 2.9, UAC have a right to a bond hearing to determine if they are a danger to the community. What information will ORR provide at the bond hearing for the immigration judge to determine if the UAC is a danger?*

A: ORR will provide all information that went into making a placement decision based on danger to the community, and information used to justify continued placement in a restrictive level of care or to deny release based upon a danger to the community. This information can include placement documents, police and court records, relevant SIRs, assessments, etc. ORR is required to provide any evidence it uses to support a finding that a child is a danger to the community to the immigration court and to the UAC's representative prior to the bond hearing.

*Q: Would a determination in a Flores bond hearing that a UAC is a danger negatively affect the UAC's legal case?*

A: The *Flores* bond hearings are separate and apart from UAC immigration proceedings under the Immigration and Nationality Act (UAC "removal" hearings and any DHS custody hearings). Findings from a *Flores* bond hearing may address similar factors that will be considered in removal or DHS custody hearings. However, ORR is not a party to DHS proceedings.

*Q: If a judge determines that a UAC is not a danger to the community, but the UAC is a Category 4 with no option for legal relief and no sponsor, would the shelter have to release the UAC?*

A: No. ORR will continue to base release decisions on existing policies. ORR is prohibited by law from releasing UAC on their own recognizance, even if an immigration judge finds that the child is not a danger to the community.

*Q: Are there costs involved for the UAC if he or she requests a bond hearing?*

A: Generally speaking, no.

*Q: Does this policy affect UAC in Residential Treatment Centers (RTCs)?*

A: RTCs will be treated as secure placements for purposes of this policy. RTC providers will provide notice of bond hearings to UAC placed in an RTC as if the child were placed into a secure care provider.

*Q: Does the policy apply to UAC in shelters or long term foster care?*

A: All UAC may request a *Flores* bond hearing. However, ORR places UAC in these types of care providers based on a determination that they are not a danger to the community. As a result, the *Flores* bond hearing would not affect the vast majority of UAC in shelters and foster care programs. If a UAC is stepped up to a secure facility or staff secure facility from a shelter or foster care program, the UAC is provided notice of the *Flores* bond hearings at the time of admission into the secure or staff secure facility.

*Q: Will the notice of a bond hearing form be available in languages other than English?*

A: Yes. ORR has distributed a Spanish language version of the flyer. Care provider should connect children who speak other languages to a translation line as used for other legal notifications. ORR is evaluating whether there is a need for additional translations of the notice.

*Q: If a judge determines that a UAC in secure is not a danger to the community, will ORR step the UAC down to a less restrictive level of care?*

A: Potentially, yes. ORR will work with programs directly to resolve these types of cases.