



Disparities in Immigration Policy for Unaccompanied Children and Minor Refugees

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Global political upheaval and concurrent crises have resulted in an influx of refugees to the United States, among them high numbers of unaccompanied, vulnerable children: In 2021, roughly 122,731 unaccompanied children crossed the U.S. southern border; over 1,400 Afghan minors arrived as troops withdrew from Afghanistan; and as of April 2022, unaccompanied minors are expected to be among the 100,000 Ukrainian refugees slated for acceptance.

All children separated from their families need and are entitled to social and legal services upon entering the United States. However, the Office of Refugee Resettlement (ORR), the agency responsible for the care and resettlement of refugees, makes a distinction between two groups: unaccompanied children (UCs) and unaccompanied refugee minors (URMs). These two groups have, within the last year, converged within the care provider system, vying for resources. This distinction has had a profound impact on refugee children's long term safety, success, and—most importantly—legal status. To bridge the divide in how “UC” and “URM” children are handled by U.S. officials, a more equitable approach to funding legal and social services should be adopted.

Distinctions between an “Unaccompanied Child” and “Unaccompanied Refugee Minor”

An unaccompanied child is defined as being under the age of 18, having no lawful U.S. immigration status, and having no stateside parent or legal guardian. By law, the Department of Health and Human Services takes custody and must provide care for each unaccompanied child. With the Unaccompanied Refugee Minors (URM) program, however, the State Department identifies children overseas who are eligible for resettlement in the United States due to not having a parent or relative available to provide long-term care.

The Office of Refugee Resettlement may identify certain minors who become eligible for the Unaccompanied Refugee Minor program after they arrive in the United States—most of these minors were originally identified as unaccompanied children, and are referred to the URM program once they meet all the eligibility requirements. Upon arrival in the states, these minors are labeled as “refugees” and placed in state foster care, receiving the full scope of public assistance benefits.

Legal Implications of “Unaccompanied Child” and “Unaccompanied Refugee Minor” Designations

While, on the surface, the differences may seem minor, the classification of either “unaccompanied child” or “unaccompanied refugee minor” is a significant factor in the provision of care and services for refugee children. While in pursuit of family reunification, unaccompanied children are provided care through state-licensed facilities and receive services including case management and mental health services, health care, vocational trainings and access to legal services—including presentations about their rights and individualized legal screenings. Critically, however, these services are **largely forfeited** once the minor reunifies with their Sponsor, typically a family member. As a result, many children do not obtain the necessary legal assistance and remain undocumented into adulthood, adding to the problem rather than the solution.

Alternatively, unaccompanied refugee minors receive a full range of assistance—once accepted into the program, the minor's custody is transferred to a state or private entity working with the state. Services include care and support available to all foster children in the state. Like the UC program, the URM program

encourages reunification of minors with their families; however, if reunification is not a viable option, local programs work to design a permanency plan. URM status is entitled to receive all child welfare services after reunification until their 18th birthday when they transition to adulthood. In addition to reunification services, URM status also allows for indirect financial support for a variety of essential and quality of life services. These services include: housing, medical care and other necessities, intensive case management, mental health services, social supports, educational supports, career or college counseling and training as well as legal services aiding in adjusting immigration status.

More Equitable Treatment of Unaccompanied Children and Unaccompanied Refugee Minors

Considering the historic influx of unaccompanied refugee children—especially with the current Ukrainian crisis—services provided to both groups of children should remain consistent. To ensure this, more funding needs to be provided towards legal services for unaccompanied children. Unfortunately, only about one-third of unaccompanied children are represented by an attorney in immigration court. It is imperative to ensure access to low cost and pro-bono legal services, considering **the court allowed** 73% of cases where an unaccompanied child attended court with legal representation to remain in the United States, opposed to 15% without legal representation.

Presently, the Department of Health and Human Services is required to coordinate legal representation for unaccompanied children in their care, but the law specifically acknowledges that the Department has no obligation to pay for counsel. Children who are undocumented are considered highly vulnerable with a much higher risk for abuse and trafficking; by amending the Trafficking Victims Protection Reauthorization Act of 2008 to include further provisions or funding for legal representation post-release, we can ensure all unaccompanied children have a chance of attaining legal status. Once a minor is awarded legal status, they are able to tap into more resources, such as financial aid for secondary education which can increase their future earning power and contribution to the U.S. workforce.