Congress of the United States

Washington, DC 20515

November 6, 2026

The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

Re: Unaccompanied Alien Children Legal Representation Division

Dear Secretary Kennedy:

We write with urgent concern regarding the Department of Health and Human Services' (HHS) plan to provide direct legal representation to unaccompanied children through attorneys employed by HHS itself. The move would create prohibitive conflicts of interest, preclude effective counsel, and disregard congressional intent. Indeed, this in-house legal services unit threatens to become the newest prong of the Trump administration's whole-of-government operation to remove unaccompanied children from the United States absent due process. We call upon HHS to reverse course and instead ensure independent, zealous, high-quality legal representation for this vulnerable population consistent with statutory requirements.

A recent notice outlining a revised Statement of Organization of the HHS Office of General Counsel (OGC) includes creation of an entirely new division within the office called the "Unaccompanied Alien Children Legal Representation Division" (UACLRD) that would operate "as a legal service provider" and provide "direct legal services" to unaccompanied children.[1] A related HHS job posting for Attorney-Advisors within OGC states that potential duties for the position include "provid[ing] legal representation" to unaccompanied children, indicating that HHS may already be hiring UACLRD attorneys.[2]

UACLRD breaks with longstanding precedent in HHS's facilitation of legal services for unaccompanied children. Congress has recognized on a bipartisan basis that unaccompanied children require assistance navigating our immigration system due to their unique vulnerability and developmental level. Under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Congress requires that HHS ensure counsel for these children to the greatest extent practicable, and for nearly two decades, HHS has sought to fulfill the TVPRA's mandate by funding outside independent legal services providers.[3] Attorneys' employment by these organizations, rather than by the executive branch directly, has helped ensure that they serve their child clients' interests rather than the administration's.

By contrast, legal representation provided by attorneys who work for HHS would create fundamental and unavoidable conflicts of interest. These attorneys would be subject to

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[1] Statement of Organization, Functions, and Delegations of Authority, 91 Fed. Reg. 61,422 (Sep. 29, 2026), https://public-inspection.federalregister.gov/2026-19903.pdf.
[2] *Attorney-Advisor (General)*, USAJOBS (Aug. 25, 2026), https://www.usajobs.gov/job/881725300.
[3] William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044, 5079 (2008) (codified at 8 U.S.C. § 1232).

supervision by agency leadership and undoubtedly be influenced by the priorities of the administration in office, including implicit or explicit pressure to advance the Trump administration's aim of swiftly removing unaccompanied children without meaningful consideration of due process. Effective legal representation often requires diligent identification and pursuit of avenues of legal protection for which a child client may be eligible, including asylum, Special Immigrant Juvenile Status (SIJS), trafficking visas, or other forms of relief—actions at odds with federal agencies' current emphasis on rapid case completion and removal.

In many cases, Executive Order 14215 would preclude UACLRD attorneys from appropriately representing clients' interests. The order states that the "President and the Attorney General's opinions on questions of law are controlling on all [federal] employees in the conduct of their official duties."[4] The Attorney General oversees the immigration courts and has "certification" authority to transfer any case before the Board of Immigration Appeals (BIA) and any cases previously decided by the BIA to him or herself—an authority that can be used to issue precedential and binding decisions.[5] Under EO 14215, these decisions would be "controlling" on UACLRD attorneys representing unaccompanied children, even when effective representation that prioritizes the interests of child clients requires arguing for an alternative interpretation of immigration law.

Moreover, HHS is the agency responsible for unaccompanied children's care and custody, but attorneys for unaccompanied children regularly need to advocate to HHS's Office of Refugee Resettlement (ORR) for release of children to safe, vetted sponsors—work that is especially urgent given ORR's unnecessarily prolonged detention of children in their custody under the Trump administration. Attorneys cannot serve as independent advocates when they are employed by the very agency whose decisions they may need to contest.

Attorney independence is also essential for ensuring compliance with client confidentiality requirements. During the Trump administration, HHS has given the Department of Homeland Security (DHS) access to previously firewalled information about unaccompanied children and their sponsors that DHS has then used for immigration enforcement purposes.[6] The OGC notice states that UACLRD can "coordinate with other OGC components and appropriate Federal entities as necessary to carry out its responsibilities."[7] The notice sets up no meaningful safeguard to ensure this coordination does not include the sharing of confidential information with DHS. If information about child clients gathered by HHS attorneys is recorded in government systems, it is possible that DHS—the agency responsible for prosecuting the immigration cases against these children—would have access to information that should be confidential under attorney-client privilege.

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[4] Exec. Order 14,215, 90 Fed. Reg. 10,447, 10,448 (Feb. 18, 2025), https://www.federalregister.gov/documents/2025/02/24/2025-03063/ensuring-accountability-for-all-agencies.

[5] *See* SARAH PIERCE, MIGRATION POL'Y INST., OBSCURE BUT POWERFUL: SHAPING U.S. IMMIGRATION POLICY THROUGH ATTORNEY GENERAL REFERRAL AND REVIEW (2021), https://www.migrationpolicy.org/sites/default/files/publications/rethinking-attorney-general-referral-review_final.pdf.

[6] Kristina Cooke, *Thousands of children, sponsors arrested by ICE after tips from US child migrant agency*, REUTERS (July 28, 2026), https://www.reuters.com/legal/government/thousands-children-sponsors-arrested-by-ice-after-tips-us-child-migrant-agency-2026-07-28 ("[M]ore than 12,000 people [have been] arrested by U.S. immigration authorities following tips from the Office of Refugee Resettlement during President Donald Trump's second term . . . . The care of these children has historically been walled off from immigration enforcement.").

[7] *See* Statement of Organization, Functions, and Delegations of Authority, *supra* note 1, at 61,426.

The very design of UACLRD runs afoul of congressional intent. The Homeland Security Act of 2002 (HSA) required ORR to develop "a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests" of unaccompanied children.[8] HHS employees are, by definition, not "independent." Inherent in the TVPRA's mandate is that HHS ensure counsel that advocates for their clients' legal interests. UACLRD attorneys bound by the government's opposed interests cannot properly serve children's interests at the same time.

UACLRD is irreparably compromised. We urge you to eliminate this division immediately. We also request that you provide answers to the following questions no later than Wednesday, November 18, 2026:

1. Please identify the number of full-time employees HHS has authorized and intends to hire under UACLRD, disaggregated by position type and fiscal year. Please also identify all anticipated spending levels and associated spending accounts.

2. Please identify all legal services that UACLRD intends to provide to unaccompanied children, including but not limited to the below services, disaggregated by service type and whether receiving children will be in or released from ORR custody. Please also share estimates of the number of detained and/or released children that will receive each service:

    a. Legal orientations/Know Your Rights presentations;

    b. Legal consultations;

    c. Friend of the Court appearances; and

    d. Representation as attorney of record in connection with

        i. Immigration court proceedings;

        ii. Applications/petitions before USCIS; and

        iii. Related state court matters.

3. Does HHS intend for UACLRD to supplement legal services contracts and/or other agreements with outside providers or to supplant those agreements in part or whole?

[8] Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, 2203 (2002) (codified at 6 U.S.C. § 279).

4. Has HHS consulted with any bar associations or nongovernmental experts in legal professional responsibility regarding which rules of professional conduct UACLRD attorneys may violate in the course of their duties? If so, please provide records of these consultations.

5. Has HHS informed potential or existing UACLRD hires of potential ethical violations they risk committing?

6. Does HHS intend to use appropriated funding for the defense of UACLRD attorneys in connection with associated bar complaints, state bar disciplinary proceedings, and related matters?

7. Has HHS conducted legal analysis of UACLRD's compliance with relevant statutory requirements, including the HSA and TVPRA? If so, please provide a copy of that analysis.

8. To what extent, if any, will HHS share UACLRD client and case information with, or otherwise make that information accessible to, DHS personnel?

Thank you for your attention to this pressing matter, and we look forward to your prompt response.

Sincerely,

Mary Gay Scanlon
Member of Congress

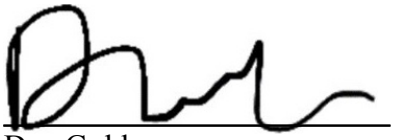
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Raja Krishnamoorthi
Member of Congress

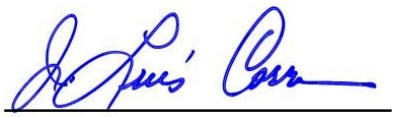
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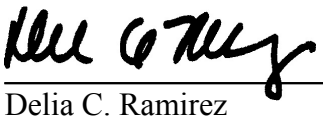
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Dan Goldman
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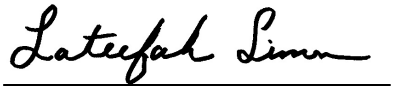
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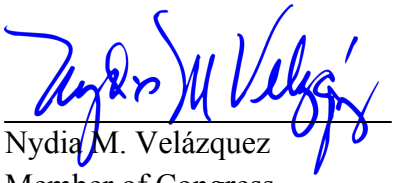
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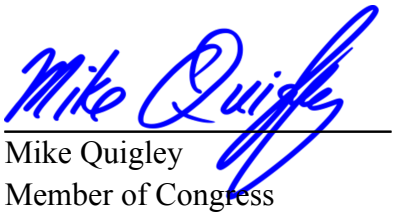
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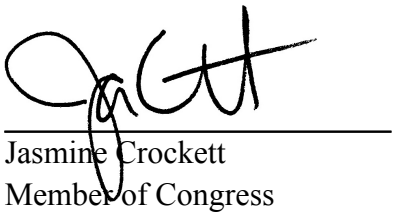
Lateefah Simon
Member of Congress



Nydia M. Velázquez
Member of Congress



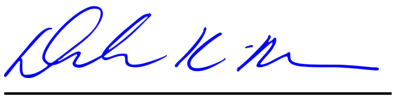
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Member of Congress



Jasmine Crockett
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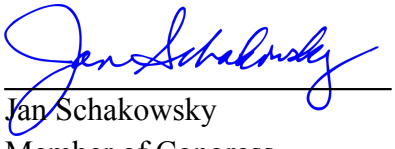
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