

United States Senate

March 3, 2023

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

The Honorable Martin J. Walsh
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20010

Dear Secretary Becerra and Secretary Walsh:

We were deeply disturbed by a *New York Times* report that large numbers of unaccompanied noncitizen children are being placed with exploitative sponsors and working long hours in dangerous conditions.¹ We are particularly concerned by reports that the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) is prioritizing speed of placing children with sponsors over the children's safety and well-being.

As workforce shortages around the country increase, the Department of Labor (DOL) has reported a 69 percent increase in illegally employed children since 2018.² The agency must continue to investigate these abuses, penalize companies violating child labor laws, and increase its focus on industries where child labor is especially prevalent.

ORR, within HHS, is charged with the care and placement of unaccompanied noncitizen children. Such children are particularly vulnerable to exploitation.³ While we understand the need to ensure children do not spend any more time in congregate care facilities than absolutely necessary, in vetting children's sponsors, it is essential that HHS do everything in its power to prevent children from being placed in dangerous situations. Furthermore, DOL and HHS should better coordinate to ensure that sponsors under investigation for labor abuses are carefully scrutinized prior to children being placed with them.

We appreciate that you quickly responded to these disturbing reports,⁴ and we will closely monitor the measures you announced to improve sponsor vetting, better respond to children's calls for assistance, expand post-release services, and crack down on employers engaged in exploitative practices.⁵ While the Administration is undertaking these important actions to better safeguard unaccompanied noncitizen children, we request that you provide responses to the following questions by April 1, 2023.

¹ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, New York Times (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

² Nathan Borney, *Department of labor plans child labor crackdown after alleged violations*, Axios (Feb. 27, 2023) <https://wwwaxios.com/2023/02/27/child-labor-job-market-economy> .

³ Dep't of Health and Human Services (HHS), Office of Refugee Resettlement (ORR), *Sponsor Care Agreement* at p. 16, https://www.acf.hhs.gov/sites/default/files/documents/orr/FRP_v13_English_2022-12-28.zip .

⁴ *Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor* (Feb. 27, 2023), <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-new-efforts-combat-exploitative-child-labor.html> (hereinafter, *HHS and DOL Announcement*).

⁵ *Id.*

1. Under HHS policy, sponsors must enter into an agreement to “provide for the physical and mental well-being of the child, including, but not limited to, food, shelter, clothing, education, medical care and other services as needed.”⁶ Sponsors are never permitted to force a child to work for these basic needs.⁷
 - a. The *New York Times* reported that children were being forced to pay for their sponsorship, food, and rent. What steps does HHS take in vetting sponsors to ensure that sponsors are able and willing to support children?
 - b. The *New York Times* also interviewed more than 60 caseworkers responsible for placing children who reported that children were working, often in exploitative conditions. Are case managers able to report violations and concerning trends to law enforcement and HHS leadership? To what extent are HHS and DOL monitoring trends reported by caseworkers and how is HHS using these trends as a factor in vetting sponsors?
2. The *New York Times* also reported that HHS may have approved sponsors who were the subject of complaints or who were under investigation by DOL. What steps are HHS and DOL taking to ensure that sponsors subject to complaints or under investigation are given increased scrutiny before a child is placed with them?
3. Unaccompanied noncitizen children who are old enough to work—like many U.S. citizen children—may want or need to work part-time in safe and appropriate workplaces, but they are particularly vulnerable because they do not have work authorization.⁸
 - a. Is HHS working with the Department of Homeland Security to provide work authorization to children who may need it?
 - b. In addition, if sponsors themselves are noncitizens, they may also not understand U.S. child labor laws. Is HHS working with DOL to provide sponsors with information regarding U.S. child labor laws?
4. We are concerned that unaccompanied noncitizen children may be afraid to report labor violations for fear of immigration enforcement and removal. DOL is authorized to issue law enforcement certifications to victims of workplace violations, including during its workplace safety and wage and hour investigations, so victims can cooperate with labor enforcement agencies without fear of losing their immigration status.⁹ Is DOL coordinating with HHS to ensure that unaccompanied noncitizen children reporting workplace violations may be certified to receive a T or U visa?
5. The *New York Times* report suggests that Hearthside Food Solutions, among other employers, was complicit in the hiring of unaccompanied noncitizen children without work authorization. What steps is DOL taking to investigate and ensure these companies cannot continue to engage in exploitative practices? Does DOL expect to be able to carry out increased enforcement activities with its current level of funding? What recommendations, besides increasing the

⁶ HHS ORR Unaccompanied Children Program Policy Guidance, Sec. 2.8.1 <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

⁷ HHS ORR, *Sponsor Care Agreement* at 12, https://www.acf.hhs.gov/sites/default/files/documents/orr/FRP_v13_English_2022-12-28.zip.

⁸ *Id.*

⁹ Dep’t of Labor, Occupational Safety and Health Administration, *READOUT: US Department of Labor expands OSHA’s ability to protect all workers by certifying special visa applications to ensure effective enforcement* (Feb. 13, 2023), <https://www.osha.gov/news/newsreleases/readout/02132023>.

inadequate maximum civil monetary penalty, does DOL have to deter companies from illegally employing child workers?

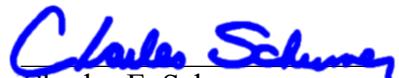
6. The report also indicated that DOL tracks death of foreign child workers, but no longer makes that data public. Will you consider making this data public once again?
7. In the *Consolidated Appropriations Act, 2023*, Congress appropriated \$750,000,000 for post-release services.¹⁰ Such services, which include (1) assistance in registering children for school, (2) education to ensure children understand the immigration legal process and can attend their court hearings, and (3) help in finding medical, mental health, and family counseling services, are essential to preventing exploitation of children.¹¹ We support the Biden Administration's initiatives to quickly increase the provision of these services. According to HHS, in FY 2023, ORR is on track to serve nearly 60% of children released with post-relief services. Please provide a breakdown of the types of service provided, as well as the percentage of children who received each service.
8. The *New York Times* report suggests that case management officers may have been aware of children in exploitative situations, but did not feel they were authorized to take steps to assist.
 - a. What can case management officers do when they identify instances of trafficking or abuse of an unaccompanied child?
 - b. What steps is HHS taking to coordinate with its federal and local law enforcement and child welfare partners to ensure that such children are protected?
9. HHS has announced an audit of the ORR sponsor vetting process. Please provide the details of this audit, such as the entity that will be conducting the audit and how HHS anticipates using the audit results.

Thank you for your urgent attention to these inquiries. We look forward to working with you to protect children from exploitative labor practices.

Sincerely,



Richard J. Durbin
United States Senator



Charles E. Schumer
United States Senator



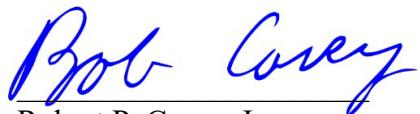
Michael F. Bennet
United States Senator



Cory A. Booker
United States Senator

¹⁰ Pub. L. 117-328 (Dec. 29, 2022); *Dep'ts of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2023, Explanatory Statement*, <https://www.appropriations.senate.gov/imo/media/doc/Division H - LHHS Statement FY23.pdf>.

¹¹ *HHS and DOL Announcement*.



Robert P. Casey, Jr.
United States Senator



Catherine Cortez Masto
United States Senator



Tammy Duckworth
United States Senator



Edward J. Markey
United States Senator



Robert Menendez
United States Senator



Jeffrey A. Merkley
United States Senator



Christopher S. Murphy
United States Senator



Gary C. Peters
United States Senator



Jack Reed
United States Senator



Tina Smith
United States Senator



Chris Van Hollen
United States Senator



Elizabeth Warren
United States Senator



Peter Welch
United States Senator

Cc: Secretary Alejandro Mayorkas, Department of Homeland Security

Director Robin Dunn Marcos, Office of Refugee Resettlement