

**EXHIBIT A**



August 9, 2023

VIA HHS-ACF PUBLIC ACCESS LINK AND U.S. MAIL

FOIA Officer Celeste Smith  
Administration for Children and Families  
Freedom of Information Act Office  
Mary E. Switzer Building  
330 C St SW, Suite 4004  
Washington, DC 20201  
<https://pal.acf.hhs.gov/App/Home.aspx>

RE: Freedom of Information Act Request

Dear FOIA Officer,

The National Immigration Litigation Alliance (NILA) and VECINA (collectively, Requestors) submit this letter as a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.* In accordance with 5 U.S.C. § 552(a)(6)(A)(i), Requestors seek a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). In addition, pursuant to 5 U.S.C. § 552(e), Requestors submit that the requested records should be “ma[d]e available for public inspection in an electronic format.”

**Records Requested**

Requestors seek disclosure of the following records<sup>1</sup> prepared, received, transmitted, collected and/or maintained by the Administration for Children and Families (ACF), including but not

---

<sup>1</sup> The term “records” as used herein includes, but is not limited to: communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

Administration for Children and Families  
FOIA Request  
Page 2

limited to by its program office the Office of Refugee Resettlement (ORR):

- A full and complete copy of the Unaccompanied Child Manual of Procedures (UC MAP).

This request will remain as an ongoing FOIA request until such time as the agency conducts a lawful and adequate search. Therefore, any records that come within the possession of the agency prior to the final response to this FOIA request are within the scope of this request.

### **Request for Proactive Disclosure**

Section 552(a)(2) of FOIA, known as the proactive disclosure provision, “identifies certain categories of records the agency must make available on an ongoing basis, no request necessary.” *Animal Legal Def. Fund v. USDA*, 935 F.3d 858, 862 (9th Cir. 2019). This “affirmative obligation,” *id.*, requires proactive disclosure of several categories of records, including:

- “[T]hose statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;” and
- “[A]dministrative staff manuals and instructions to staff that affect a member of the public . . . .”

5 U.S.C. § 552(a)(2)(B)-(C). A full and complete copy of the UC MAP falls within the above-referenced categories, as an adopted statement of agency policy which is not published in the federal register, an administrative staff manual that affects members of the public, and/or under any other applicable provision of 5 U.S.C. § 552(a)(2).

Accordingly, in addition to releasing a full and complete copy of the UC MAP to Requestors, ACF also must proactively disclose these records “for public inspection in an electronic format,” 5 U.S.C. § 552(a)(2), on an ongoing and up-to-date basis.

### **Request for Waiver of Fees**

Requestors ask that ACF waive all fees and costs associated with this FOIA request. Such waiver is warranted because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor.” 5 U.S.C. § 552(a)(4)(A)(iii).

First, disclosure of the requested records will contribute significantly to the public understanding of government operations and activities related to the care, custody, release, and safety of unaccompanied children in immigration custody and/or immigration proceedings. The requested records relate directly to governmental operations and activities—UC MAP serves as ORR’s policy manual for processes involving unaccompanied immigrant children. Such activities and operations are of great interest to the public, as reflected in longstanding and ongoing media interest in the treatment of children in immigration custody, including by ORR.<sup>2</sup> Furthermore,

---

<sup>2</sup> See, e.g., Caitlin Dickerson, *We Need to Take Away Children: The Secret History of the*

Administration for Children and Families  
FOIA Request  
Page 3

public access to the requested records will allow for additional procedural oversight to ensure that the rights of detained children and the individuals who are seeking to sponsor them are not violated.

Requestors have the capacity, intent and demonstrated ability to disseminate the requested information to a broad cross-section of the public. NILA is a non-profit membership organization established to realize systemic change in the immigrant rights' arena by engaging in impact litigation and by building the capacity of social justice attorneys to litigate in federal court through co-counseling individual cases and providing strategic assistance. In addition to litigation, NILA disseminates records obtained through FOIA on its public website,<sup>3</sup> disseminates practice materials,<sup>4</sup> and frequently presents on immigration issues. VECINA, too, intends to disseminate these records on their website, as well as to stakeholders who regularly collaborate with VECINA regarding the release of detained unaccompanied children.

Second, disclosure of the requested records is not primarily in Requestors' commercial interest. Requestors are seeking the requested records for the purpose of disseminating them to members of the public and not for commercial gain.

Accordingly, disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it is liberally construed in favor of waivers for noncommercial requesters.") (internal quotation omitted).

\* \* \* \* \*

We look forward to your response to our request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

If you have any questions regarding this request, please contact Kristin Macleod-Ball at [kristin@immigrationlitigation.org](mailto:kristin@immigrationlitigation.org) or (617) 506-3646. Please furnish copies of all applicable information to:

---

*U.S. Government's Family Separation Policy*, THE ATLANTIC (Aug. 7, 2022), <https://www.theatlantic.com/magazine/archive/2022/09/trump-administration-family-separation-policy-immigration/670604/>; Ted Hesson, *U.S. Whistleblowers Aiding Migrant Children Feared Retaliation, Watchdog Report Says*, REUTERS (Sept. 27, 2022), <https://www.reuters.com/world/us/us-whistleblowers-aiding-migrant-children-feared-retaliation-watchdog-2022-09-27/>; Camilo Montoya-Galvez, *Watchdog Report Details Distress Among Migrant Children Who Languished at Fort Bliss Facility*, CBS NEWS (Sept. 27, 2022), <https://www.cbsnews.com/news/immigration-fort-bliss-hhs-inspector-general-report/>.

<sup>3</sup> See *NILA's Transparency Litigation Docket*, NATIONAL IMMIGRATION LITIGATION ALLIANCE, <https://immigrationlitigation.org/transparency-litigation-foia>.

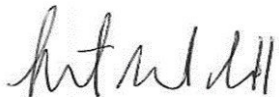
<sup>4</sup> See *Practice Advisories*, NATIONAL IMMIGRATION LITIGATION ALLIANCE, <https://immigrationlitigation.org/practice-advisories/>.

Administration for Children and Families  
FOIA Request  
Page 4

Kristin Macleod-Ball  
National Immigration Litigation Alliance  
10 Griggs Terrace  
Brookline, MA 02446  
kristin@immigrationlitigation.org

Thank you for your timely cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristin Macleod-Ball". The signature is cursive and somewhat stylized.

Kristin Macleod-Ball  
Trina Realmuto  
National Immigration Litigation Alliance

10 Griggs Terrace  
Brookline, MA 02446  
(617) 506-3646  
kristin@immigrationlitigation.org