



## FAQs: Separated or At-Risk Families

### 1. Why are some children separated from their families at the border by U.S. officials?

Parents and legal guardians should generally not be separated from their children by U.S. officials. (See #9 below for more information.) However, there are times when children are separated from other family members, including grandparents, siblings, aunts and uncles, and other caretakers, where the adult does not possess legal guardianship or custody of the child. This is because those children are considered unaccompanied by the U.S. government under the Trafficking Victims Protection Reauthorization Act (TVPRA) and are entitled to certain protections that are intended to prevent human trafficking and ensure that children in that situation are not returned to harmful situations before their cases can be heard.

An unaccompanied child is an individual under the age of 18, who does not have lawful immigration status, and who, at the time of entry into the United States, is traveling *without a parent or legal guardian*. A child may be considered unaccompanied even if they are traveling with a close family member or caretaker if that person has never received custody of the child from a court.

Unaccompanied children have special legal protections under U.S. law, and there is a process that the government must follow that ensures the children have a safe place to live before they can be reunified with their family in the United States. This process is not a punishment; it is meant to ensure that children who arrive in the United States without their parents or legal guardians are safe and have someone to care for them. Families do not lose custody of their children through this process, and parental rights are not affected.

Immigration agents, including Customs and Border Protection (CBP) who encounter unaccompanied children must refer them to the Office of Refugee Resettlement (ORR). ORR provides unaccompanied children with temporary shelter until a sponsor is identified and approved to reunify with the child.

### 2. What is a sponsor?

A sponsor is a person who is willing and able to receive the child in their home and provide care for them. They can be a parent who is already in the United States or other family members, such as aunts, uncles, cousins, or adult siblings. If no family members are willing or able to act as sponsors, another trusted adult such as a family friend can also apply to be a sponsor for this process although the reunification process may take longer in that case. ORR will communicate with the potential sponsor and have them fill out paperwork and request documents that verify the family relationship and other criteria before making a decision on reunification. See more information on ORR's website at <https://www.acf.hhs.gov/orr/about/ucs/sponsors>.

### 3. Can the adult who was separated from the child be a sponsor, if they are also allowed to enter the United States?

Yes, they can apply to sponsor the child. However, they should know the reunification process can take several weeks or longer and will require them to have a safe place to live in the United States, among other requirements.



**4. I am assisting a family in Mexico who is traveling with an unaccompanied child and plans to request entry to the United States. The adults have taken care of the child for a long time in their country of origin. Will they still be separated?**

Unless the adult traveling with the child can show that they have documents granting them *legal custody or guardianship*, the child will be considered unaccompanied and will have to go through the ORR process. A legal custody document is usually something that is issued by a judge or a court official, though the exact process to get one is different in every country. Adults who have documents they believe show that they have guardianship of a child should provide them to CBP for review upon entry.

**5. What if the child is very young, like a baby or a toddler? Will they still be separated?**

Yes, the process for unaccompanied children is the same regardless of a child's age. The child will be sent to an ORR shelter that is age-appropriate, and ORR will pursue family reunification and work to identify family members who can care for the child.

**6. Will having a power of attorney or *carta poder* avoid separation at the Port of Entry?**

While CBP has the discretion to determine if a particular document is sufficient to establish if a child is traveling with a parent or legal guardian, a power of attorney document, or a *carta poder*, is typically insufficient for this purpose. A *carta poder* can take different forms but is generally a notarized letter from a parent stating that a trusted adult has permission to be traveling with their child and providing them care. While the letters are typically notarized by an attorney in the parent's home country, notarization is usually not sufficient to transfer custody or guardianship.

As there is no standard custody document accepted by CBP, if the family has a document that they think shows that they have legal guardianship or custody, they should show it to CBP officers when they present themselves at the Port of Entry and an officer will decide if it is enough to avoid separation. *Families in these circumstances should still prepare themselves for a likely separation.*

If a family is at the border traveling with a document other than a *carta poder* and has questions about whether it may establish guardianship, information about the case can be sent to KIND at [kindmx@supportkind.org](mailto:kindmx@supportkind.org). KIND has limited capacity to assist in these cases and may not be able to respond to every inquiry.

**7. What can a family do to prepare for a possible separation from a child before showing up to the Port of Entry for their appointment?**

Families can prepare for the separation in the following ways:

- a. Save the ORR National Hotline number, 800-203-7001, in case they need to follow up and request communication with the child or their caseworker
- b. Share that number with the child's sponsor in the United States in case there is an issue with the family's admission or if the family has trouble with cell phone service while en route to their final destination
- c. Talk to the child about the separation, including the fact that it is temporary, and the child will have communication with their family during the reunification process



- d. If a child has medical or other special needs, ensure either that the child is prepared to notify CBP officers or that information on their condition is available to provide to officers at their appointment
- e. *On the day of the appointment, have the child carry a copy of their own identity documents and contact information for the family member in the United States who will receive them, including name, phone number, address, and family relationship. This may facilitate faster contact between ORR staff and the family.*

**8. I am in contact with a family who was separated from an unaccompanied child at the Port of Entry. How can I help them?**

Families seeking information about the ORR process can visit the ORR website at <https://www.acf.hhs.gov/orr/about/ucs/sponsors> or contact the ORR National Hotline at 800-203-7001 if they have questions about a child who is already in custody.

**9. What if a child in ORR custody does not want to remain in the United States?**

Children who do not wish to remain in the United and be reunified with a sponsor, or parents who do not want their children to remain in the United States can notify their ORR caseworker of their wishes and request information about their options.

**10. Are there any situations in which a parent or legal guardian can be separated from a child at the border?**

Yes. While it is uncommon, there are cases in which a biological parent or legal guardian may be separated from their child by CBP. For example, a parent or legal guardian may be separated if they have serious criminal or immigration history that warrants their detention, or if there are other circumstances which may present a danger to the child. Children separated in these situations will also be placed in ORR custody.

If a parent or legal guardian was separated from their child by CBP, the first step is to call the ORR hotline to communicate with the child and speak to their caseworker. KIND is interested in receiving information about situations in which these separations occurred, and a summary of separations involving unusual factors can be sent to [KINDMX@supportkind.org](mailto:KINDMX@supportkind.org) for review. KIND has limited capacity to assist with these cases and may not be able to reply to all inquiries.