



ADMINISTRATION FOR **CHILDREN & FAMILIES**

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

DATE: June 14, 2019

ORR Division of Policy and Procedures

FAQ: Deficiency Restrictions on ORR Care Provider Educational and Recreation Services

1. If a care provider continues to incur expenses (but not use ORR funds) related to those that are restricted, will they be reimbursed at a later date for those expenses?

There is no guarantee at this point that care providers will be able to be reimbursed for educational and recreational activities that are restricted as of May 22, 2019. Any such reimbursement would require authorization from Congress.

However, grant funds obligated by the agency and awarded prior to May 22, 2019, (remaining balances from previous balance of funds payments) may still be used for educational and recreational costs during this period. In addition, your program should immediately notify your Project officer if a State official contacts you to inform you that a restriction of services poses an immediate threat with respect to your program's license or ability to continue operating. See also response to FAQ 11 below.

2. The care provider plans to assess how much money was unspent from the previous award. If the care provider has funds available, are they able to request a budget revision to sustain them through this restriction?

Budget revisions that reassign grant funds obligated by the agency and awarded prior to May 22, 2019 to educational and recreational activities conducted during the restriction period are allowable.

3. If the care provider continues to provide these activities using personnel, will those line items related to education and recreation program activities and personnel funded be made retroactive to May 22, 2019, once funds have been restored?

There is no guarantee at this point that a new appropriation would restore funding for these activities retroactive to May 22, 2019. However, any grant funds obligated by the agency and awarded prior to May 22, 2019, (remaining balances from previous balance of funds payments) may still be used for educational and recreational costs during this period.

4. Can staff, who have to be on the schedule to meet ratios, continue to take residents to free activities in the community (i.e., libraries, parks, etc.)?

Yes.

5. Also, when ORR says “personnel related to recreation and educational activities” are you speaking of staff above the ratios in education and residential who would assist with these types of activities? And, are including teachers as personnel related to educational activities?

Yes. However, these positions may be counted towards mandatory staff-to-child ratios for budgetary purposes. Provided that the program is not obligating funds awarded after May 22, 2019 to provide educational services.

6. Does this mean our program must conduct a RIF (reduction in force) for these positions? If these funds are disallowed our program will not be able to support them if we are not allowed to draw down for the expense.

Grantees may revise budgets to reassign restricted expenses per the ORR notice date (May 22nd) to allowable expenses under a deficiency apportionment. Funds for these activities are currently restricted rather than disallowed, so award amounts are not actually reduced. If there is a way to keep staff on board but working on non-restricted activities through temporary reassignments (related to health and safety requirements, including supervision), their duties could be restored to education/recreation after the restriction is lifted.

7. What activities, if any, are allowed during this restriction? What if education personnel and services are a requirement for their state license? A program was recently cited by state licensing for not having a state-certified curriculum administered at the program.

If care providers are unable to meet minimum state-licensing mandates regarding educational services due to these budgetary restrictions, they should contact their Project Officer for further guidance. Again, unobligated funds awarded prior to May 22, 2019, may be used to cover these expenses. For example, programs activities that may fall outside the minimum requirements such as off-site field trips that incur costs would not be supported at this time (with funding awarded after May 22, 2019). However, programs may continue to count teacher positions toward child-to-youth care worker ratios. Additionally, programs may continue to hold structured recreational activities that as part of child supervision activities; however, no new recreational equipment may be purchased using post-May 22, 2019 awarded funding at this time.

ORR points out that the Department of Health and Human Services has limited gift authority for the remainder of FY19:

“The Department of Health and Human Services may accept donations from the private sector, nongovernmental organizations, and other groups independent of the Federal Government for the care of unaccompanied alien children (as defined in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) in the care of the Office of Refugee Resettlement of the Administration for Children and Families, including medical goods and services, school supplies, toys, clothing, and any other items intended to promote the wellbeing of such children.”

Programs are not permitted to *solicit* donations but are allowed to *accept* donations. If you have questions regarding donations please notify your Project officer. Your Project officer may confer with ORR's Division of Policy and Procedures for further clarification.

8. What is the expected time frame on any further changes to these new restrictions?

Once ORR is no longer operating under a deficiency additional guidance will be provided.

9. So do care providers stop sending UAC to school, i.e., stop the education program all together and ignore all ORR related standards? Same for recreation services? Is this temporary or permanent?

The current funding restrictions are only for educational and recreational services, no other care provider services have restrictions at this time. If you believe restrictions to education or recreation place the program's license at imminent risk, please consult with your project officer and provide evidence from the appropriate state licensing agency (such as a letter or email) clearly stating that the program is at risk of losing its license if education and/or recreation services are not reinstated. Please also provide information concerning the requirements and timeframes for demonstrating a return to compliance, and, if not, the date that the program's license would be revoked. If, based on this information, the project officer determines that restrictions to education or recreation place the program's license at imminent risk, then funds may be drawn down.

At this time, until ORR receives a supplemental funding from Congress, ORR cannot incur new obligations for recreational and educational services.