August 31, 2018

To the Administrators Addressed:

Subject: Unallowable double funding for unaccompanied children held in custody by or for the federal government being served by Texas public schools

This correspondence relates information regarding the provision of educational services by Texas public schools to children held or maintained by the federal government in residential facilities and under the care of the U.S. Department of Health & Human Services' (HHS) Office of Refugee Resettlement (ORR). If Texas public schools provide educational services to children held in custody by the federal government, under Texas law payment for those services must come from sources such as tuition, not from state funds.

Federal law, 8 U.S.C. §1522(d)(2)(B)(ii) of the United States Refugee Act of 1980, provides [emphasis added]:

> (ii) The [ORR] Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the *Director shall assume legal responsibility (including financial responsibility)* for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

Additionally, the Stipulated Settlement Agreement (the *Flores Agreement*) entered in the Flores v. Reno case, heard by the U.S. District Court for the Central District of California on remand from the U.S. Supreme Court decision of 507 U.S. 292 (1993) requires facilities that contract with ORR that house unaccompanied children to provide certain education services.

Furthermore, in accordance with guidelines issued by ORR at on rl (e)10 (n t)2 (o)10 (pn (1)10)1g1nt:

activities by HHS grantees. Thus, these children do not enroll in local schools

while living in HHS shelters.

These provisions, as espoused by federal guidance, ensure these children receive

educational services.