

June 3, 2021

Honorable John D. Ragan
House of Representatives
State of Tennessee
425 Rep. John Lewis Way N.
Cordell Hull Building, Suite 614
Nashville, TN 37243

Dear Chairman Ragan:

Thank you for your May 21, 2021, letter regarding unaccompanied minors being transported into/through Tennessee by the federal government. Your letter seeks broad information, and we endeavor here to respond to the extent we have access to information about the federal program. Immigration issues, while governed and regulated at the federal level, have broad impacts on states, yet states have very little control over the movement of illegal immigrants who are subject to immigration proceedings in federal courts.

Earlier this year, the United States Department of Health and Human Services asked many states to identify potential state government housing options for migrants. Tennessee declined, and the Department circumvented the state altogether by contracting with private organizations and nonprofits to house unaccompanied minor children. Governor Lee and other Governors across the country raised their concerns about this issue through their May 11, 2021 letter to the President. As you know, members of Tennessee's federal delegation have also called for transparency at the federal level regarding transportation of minors into and through our state. Governor Lee and our departments support the request for additional transparency.

Tennessee Code Annotated § 37-5-501(4) and (5) define "child care" and "child care agency," respectively. Tennessee Code Annotated § 37-5-502 provides for the licensing of child care agencies, among others, and § 37-5-502(d) requires that the Tennessee Department of Children's Services "shall issue" a license to a child care agency when fire and environmental safety requirements are met, capable personnel are employed, and licensing laws are obeyed. The Baptiste Group has a contract with the United States Department of Health and Human Services Office of Refugee Resettlement Unaccompanied Refugee Minors Program. The contract between the Baptiste Group and the federal government allows Baptiste to house up to 100 unaccompanied minors for up to thirty (30) days while immigration proceedings are ongoing. In May 2020, Baptiste received a conditional license, pursuant to the statutes referenced above but did not serve children, reportedly due to the COVID-19 pandemic, until November 2020.

The state is currently not privy to information regarding the federal government's contracts for transportation through air, charter bus, or other ground transportation. As you know, on Friday, May 21, the White House Press Secretary said the following about unaccompanied children

being flown into Chattanooga: “[t]hese children have been traveling through Tennessee. ... As you know, geographically it’s right in a place where there are a lot of states around it, so it’s a place where some flights have gone through as children are moving to other destinations.”

Detailed information regarding the Department of Health and Human Services’ Unaccompanied Minor programs can be found here: <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>,

<https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied>,

<https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program>, and

<https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state>.

Many of the questions raised in your May 21 letter are addressed through these resources:

Policies for Placement and Transfer of Unaccompanied Alien Children in ORR Care Provider Facilities: <https://www.acf.hhs.gov/orr/report/children-entering-united-states-unaccompanied-section-1#1.1>

Medical Services, including management of communicable diseases: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-3#3.4>

Screening for Child Trafficking and Services for Victims: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-3#3.3.3>

Academic Educational Services: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-3#3.3.5>

Sponsor Assessment Criteria and Home Studies: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-2#2.4>

Preventing, Detecting, and Responding to Sexual Abuse and Harassment: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-4#4.1>

The undersigned departments cannot independently verify the application of the United States Health and Human Services policies referenced above beyond the non-discretionary licensure activities of state government (regarding staffing, fire, and environmental factors, for example), all of which are compliant with Tennessee statutory requirements.

Your letter also requests that the undersigned departments investigate the matters described in your letter. The investigatory authority of each of our departments is delineated in the following statutes:

Department of Children’s Services: Title 37, Chapter 1, Parts 4 and 6. See especially Tenn. Code Ann. §§ 37-1-406 and 37-1-606. As of this date, no reports of child abuse or institutional abuse have been received by the Department related to the Baptiste Group.

Department of Safety: Title 4, Chapter 67, Part 4. See Tenn. Code Ann. § 4-7-404, outlining the limited statutory authority of the Department’s Criminal Investigation Division.

Honorable John D. Ragan

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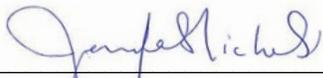
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Department of Health: Title 68, Chapters 1, 5, and 10

Department of Education: Title 49, Chapter 1, Part 2

Based on the information currently available to us, and except as otherwise described herein, there is no information or lawful basis to trigger our departments' statutory authority to initiate an investigation. If you receive additional information, we would be happy to discuss it with you. We appreciate and value your partnership.

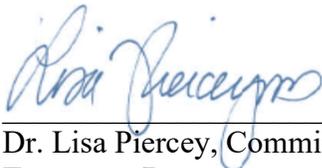
Sincerely,



Jennifer Nichols, Commissioner
Tennessee Department of Children's Services



Penny Schwinn, Commissioner
Tennessee Department of Education



Dr. Lisa Piercey, Commissioner
Tennessee Department of Health



Jeff Long, Commissioner
Tennessee Department of Safety &
Homeland Security

cc: Governor Bill Lee
Lieutenant Governor Randy McNally
Speaker of the House Cameron Sexton
Majority Leader William Lamberth
Majority Caucus Chair Jeremy Faison
Chairman Kerry Roberts
Members of the Joint Government Operations Committee