



NEW YORK
CITY BAR

**COMMITTEE ON
IMMIGRATION & NATIONALITY LAW**

FARRIN ANELLO
CHAIR
833 McCARTER HIGHWAY
NEWARK, NJ 07102
farrin.anello@shu.edu

December 17, 2014

OLGA BYRNE
CHAIR, SUBCOMMITTEE ON
CHILDREN & YOUTH
150 WEST 62ND STREET
NEW YORK, NY 10023
olgabyrne11@gmail.com

The Honorable Andrew Cuomo
The Executive Chamber
State Capitol
Albany, NY 12224

LYNN CHO
SECRETARY
60 CENTRE STREET, ROOM 428
NEW YORK, NY 10007
lcho@nycourts.gov

**Re: Funding in 2015-2016 Executive Budget to Support Legal
Representation and Social/Educational Services for Unaccompanied
Immigrant Children**

Dear Governor Cuomo:

On behalf of the Committee on Immigration and Nationality of the New York City Bar Association, we write to urge that you provide funds in the 2015-2016 Executive Budget to support legal representation and social/educational services for unaccompanied immigrant children who have settled with family members in New York State.

In recent years, an epidemic of crime, gang threats, and violence has swept Guatemala, El Salvador, and Honduras, and this year tens of thousands of children have sought refuge in the United States.¹ Nearly 70,000 unaccompanied immigrant children entered the United States in fiscal year 2014 and nearly 6,000 have reunified with family living in New York State. In responding to this humanitarian crisis, we believe the government's top priority should be to protect vulnerable children by ensuring they are represented by counsel in their immigration proceedings. Congress has failed to act, and states and localities are left to fill the justice gap.

A recent study found that nearly half of children in removal proceedings are currently unrepresented.² The New York City Council has provided funding, in partnership with two private foundations, to support legal representation for children who live in New York City. However, the majority of unaccompanied immigrant children relocating to New York State (the second highest

¹ United Nations High Commissioner for Refugees, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (July 2014), <http://unhcrwashington.org/children>; Elizabeth Kennedy, *No Childhood Here: Why Central American Children are Fleeing Their Homes* (July 2014), <http://www.immigrationpolicy.org/perspectives/no-childhood-here-why-central-american-children-are-fleeing-their-homes>.

² Transactional Records Access Clearinghouse, *New Data on Unaccompanied Children in Immigration Court*, July 15, 2014, <http://trac.syr.edu/immigration/reports/359/>.

receiving state after Texas) are reuniting with family members outside of the five boroughs. In fiscal year 2014:

- Nassau and Suffolk: received 3,046 children
- Orange, Putnam, Rockland and Westchester: received 682 children.

Legal service providers report that up to 90 percent of unaccompanied children have a valid claim under U.S. immigration law to remain in the United States.³ Immigration proceedings are known to be exceedingly complex⁴ and the likelihood of winning protection is much lower for children without lawyers. Historical data show that:

- Without counsel, only one in ten children won permission to stay in the United States.
- Among those represented by legal counsel, 47% of children could remain lawfully in the United States.⁵

Congress has delegated the power to make factual findings that form the basis of a claim for special immigrant juvenile status (SIJS)—a form of immigration relief that many unaccompanied immigrant children qualify for—to the state courts. As a result, New York State family courts will see many more children filing motions for SIJS factual findings in light of the increase in new arrivals. Providing legal counsel would not only improve due process and results for children, but would also improve the efficiency of proceedings in New York State courts.⁶

Beyond legal representation, the State has a duty to ensure that immigrant children—regardless of their immigration status—are educated.⁷ We urge the State to consider providing additional support to school districts where larger numbers of unaccompanied immigrant children are enrolling to ensure that these vulnerable students have a chance to learn and thrive.

³ “Surge in Child Migrants Reaches New York, Overwhelming Advocates,” New York Times, June 17, 2014, http://www.nytimes.com/2014/06/18/nyregion/immigration-child-migrant-surge-in-New-York-City.html?_r=0.

⁴ See National Association of Immigration Judges, Letter dated July 22, 2014 to U.S. Senators Harry Reid and Mitch McConnell, available at <http://www.aila.org/content/default.aspx?docid=49562>.

⁵ *Id.* These data include all forms of legal representation, whether from the private bar, pro bono lawyers, or specialized legal service providers. We believe that when specialized legal service providers represent immigrant children, positive outcomes result in even more than 47 percent of cases.

⁶ Economists have found that providing legal counsel to indigent immigrants can reduce other costs to the state. A recent report by Dr. John D. Montgomery of NERA Economic Consulting demonstrates that providing counsel to indigent non-citizens can reduce other government costs by: 1) preventing unnecessary court proceedings; 2) reducing the amount of time individuals spend in detention; and 3) relieving the burden of government support to disrupted families. A system of appointed counsel for all individuals in removal proceedings could save the government approximately as much money as it would cost, primarily because such representation would increase efficiency and decrease the amount of time individuals must be detained before their cases are completed. Dr. John D. Montgomery, *Cost of Counsel in Immigration: Economic Analysis of Proposal Providing Public Counsel to Indigent Persons Subject to Immigration Removal Proceedings* (2014), http://www.nera.com/67_8564.htm.

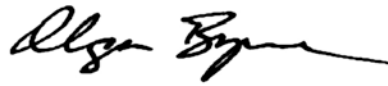
⁷ See Letter from Cosimo Tangorra, Jr., Deputy Commissioner for P-12 Education, to District Superintendents, regarding Educational Services for Recently Arrived Unaccompanied Children, September 10, 2014, <http://www.p12.nysed.gov/sss/documents/EducationalServicesforRecentlyArrivedUnaccompaniedChildren.pdf>.

Given the unprecedented number of unaccompanied immigrant children who have relocated to New York during this past year, the Committee strongly urges New York State to act now and take all necessary steps to provide funding for lawyers to represent unaccompanied children as well as to support their educational opportunities to the fullest. Children who are able to secure a guardianship or custody order in family court will be on the path to more stable lives supporting their integration into school and appropriate access to our existing child health systems. Providing lawyers will help ensure that we discharge our obligation—fairly and with full respect for due process—to determine who among these children has a right to stay in this country and who must return home. We urge you to support unaccompanied immigrant children living in New York State by helping to ensure that they are provided with legal representation and the educational support to which they are entitled.

Truly yours,



Farrin Anello



Olga Byrne

Cc: Alphonso David, Deputy Secretary and Counsel for Civil Rights
Robert Megna, Budget Director
Assembly Speaker Sheldon Silver
Senate Majority Leader Dean Skelos
Senate Independent Democratic Conference Leader Jeffrey Klein
Assembly Minority Leader Brian Kolb
Senate Democratic Conference Leader Andrea Stewart-Cousins
Senator Simcha Felder, Chair, Senate Children & Families Committee
Assembly Member Donna Lupardo, Chair, Assembly Children & Families Committee
Assembly Member Steven Englebright, Chair, Assembly Governmental Operations Committee
Senator Carl Marcellino, Chair, Senate Investigation & Government Operations Committee
Senator John Bonacic, Chair, Senate Judiciary Committee
Assembly Member Helene Weinstein, Chair Assembly Judiciary Committee
Assembly Member William Magnarelli, Chair, Assembly Local Government Committee
Senator Jack Martins, Chair, Senate Local Government Committee
Senator John DeFrancisco, Chair, Senate Finance Committee
Assembly Member Herman Farrell, Jr., Chair, Assembly Ways and Means Committee
Assembly Member Karim Camara, Chair, Black, Puerto Rican, Hispanic & Asian Legislative Caucus
Assembly Member Marcos Crespo, Chair, Task Force on New Americans