

No. 25-2808

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, *et al.*,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*,

Defendants-Appellants.

**On Appeal from the United States District Court
for the Northern District of California**

No. 3:25-cv-02847-AMO

The Honorable Araceli Martínez-Olguín

**BRIEF OF THE STATES OF CALIFORNIA, ARIZONA, COLORADO,
CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA,
HAWAI'I, ILLINOIS, MAINE, MARYLAND, MASSACHUSETTS,
MICHIGAN, MINNESOTA, NEVADA, NEW JERSEY, NEW YORK,
OREGON, RHODE ISLAND, VERMONT, AND WASHINGTON AS
AMICI CURIAE IN SUPPORT OF APPELLEES AND AFFIRMANCE**

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Disability Rights California, <i>The Detention of Immigrant Children with Disabilities in California: A Snapshot</i> (2019), https://www.disabilityrightsca.org/system/files/file-attachments/DRC-ORR-Report.pdf	15
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<i>UAC Counts Released to Sponsors: States by Fiscal-Year</i> , Off. of Refugee Resettlement, https://acf.gov/sites/default/files/documents/orr/UAC-Count-of-Releases-to-Sponsors-to-States-and-by-Fiscal-Years--2015-2025-.xlsx (last visited Jul. 11, 2025)	1
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INTRODUCTION AND INTEREST OF AMICI STATES

California, Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington (Amici States) submit this brief in support of Plaintiffs-Appellees pursuant to Federal Rule of Appellate Procedure 29(a)(2). Amici States have a significant interest in this case because Amici States are home to thousands of unaccompanied children both in and released from the custody of the Office of Refugee Resettlement (ORR).¹ In recent years, approximately 40 % of all children who have been released from ORR custody have come to Amici States.² Additional unaccompanied children who are still in the custody of ORR reside in state-licensed ORR facilities in some Amici States. These children attend the schools and are valued members of the communities of Amici States. Amici States have a significant interest in protecting the safety, wellbeing, and rights of these children.

¹ “Unaccompanied children” as used in this brief includes children both in and released from ORR custody.

² *UAC Counts Released to Sponsors: States by Fiscal-Year*, Off. of Refugee Resettlement, <https://acf.gov/sites/default/files/documents/orr/UAC-Count-of-Releases-to-Sponsors-to-States-and-by-Fiscal-Years--2015-2025-.xlsx> (last visited Jul. 17, 2025). In Fiscal Years 2023 and 2024, Amici States received approximately 40 percent of all unaccompanied children released from federal immigration custody. Since Fiscal Year 2015, over 82,000 children have been released to sponsors in California alone, which is the second highest number of unaccompanied children released from federal immigration custody of all states.

As federal law recognizes, unaccompanied children are a particularly vulnerable population at risk for abuse, trafficking, and exploitation, and legal representation plays an important role in protecting them from mistreatment.³ Legal representation also ensures that unaccompanied children do not have to navigate the complex United States immigration legal system alone. Access to counsel further enables these children to pursue the immigration relief that is available to them under federal immigration law. Amici States have a significant interest in ensuring that these vulnerable children, many of whom have fled dangerous conditions in their home countries, have the legal representation to which federal law entitles them so that they are able to access available immigration relief and successfully integrate into and thrive in their communities in Amici States. This Court should affirm the district court’s grant of a preliminary injunction.

ARGUMENT

The district court correctly issued the preliminary injunction enjoining Defendants-Appellants from withdrawing the services or funds provided by ORR for legal services for unaccompanied children, including ORR funding for direct

³ See 8 U.S.C. § 1232(c)(5) (requiring the Secretary of Health and Human Services to “ensure, to the greatest extent practicable... that all unaccompanied alien children ... have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking”).

legal representation services. Amici States write to emphasize three reasons why this Court should affirm the preliminary injunction issued by the district court. First, both federal and some Amici States’ laws demonstrate the importance of providing legal services to unaccompanied children. Second, the termination of federal funding for legal representation of unaccompanied children would cause significant gaps in funding for legal services for these children in Amici States, which Amici States cannot fill. Third, the termination of federal funding for legal representation for unaccompanied children will cause significant, long-lasting harm to unaccompanied children in Amici States.

I. LEGAL SERVICES ARE AN IMPORTANT ELEMENT OF SERVICES FOR UNACCOMPANIED CHILDREN

Both federal law and some Amici States’ laws recognize the importance of providing legal representation to unaccompanied children in immigration proceedings. Under federal law, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires the federal government to “ensure to the greatest extent practicable” that “all unaccompanied alien children ... have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking.”⁴ Additionally, in 2024, the United States Department of Health and Human Services (HHS) issued

⁴ 8 U.S.C. § 1232(c)(5).

the Unaccompanied Children Program Foundational Rule (the Foundational Rule), which requires ORR to fund legal service organizations to provide direct immigration legal representation for certain unaccompanied children, subject to ORR’s discretion and available appropriations.⁵ However, as the district court found, the TVPRA requires HHS to ensure unaccompanied children have counsel “to the greatest extent practicable.”⁶ Since Congress has appropriated funds for legal representation and thus made the provision of legal services “practicable,” ORR has no discretion to withhold funding for direct legal representation entirely with no plan to ensure that unaccompanied children have legal counsel “to the greatest extent practicable.”⁷ Also under the Foundational Rule, unaccompanied children are required to receive an orientation informing them of their rights and responsibilities in the immigration system.⁸

The Foundational Rule reflects ORR’s determination “that legal service providers who represent unaccompanied children undertake an important function;” under the Foundational Rule, “ORR strives for 100 percent legal representation of unaccompanied children and will continue to work towards that

⁵ 45 C.F.R. § 410.1309(a)(4).

⁶ Order Granting Plaintiffs’ Motion for Preliminary Injunction at 18, *Community Legal Servs. in East Palo Alto, et al., v. United States Dep’t of Health and Hum. Servs., et al.*, No. 25-cv-02847-AMO.

⁷ *Id.* at 19.

⁸ 45 C.F.R. § 410.1309(a)(2)(i)(A) (2024).

goal to the extent possible.”⁹ The Foundational Rule also establishes additional requirements and standards for the provision of legal services to unaccompanied children, including requiring ORR care provider facilities to provide children information about their rights and the availability of free legal assistance and a confidential legal consultation within 10 days of the child’s arrival at an ORR facility, as well as additional legal consultations for certain children and interpretation and translation services to the child’s legal service provider upon request.¹⁰

Just as the TVPRA and the Foundational Rule demonstrate the federal government’s recognition of the importance of providing legal services for unaccompanied children, some Amici States have enacted laws that demonstrate a similar goal of ensuring that unaccompanied children receive legal assistance for state and federal court proceedings.¹¹ For example, in its 2013-2014 legislative session, California enacted Senate Bill (SB) 873, which requires the California Department of Social Services (CDSS) to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented

⁹ Unaccompanied Children Program Foundational Rule, 89 Fed. Reg. 84, 34526 (Apr. 30, 2024).

¹⁰ See 45 C.F.R. §§ 410.1302(c)(12), 410.1306(h), 410.1309(a)(2) (2024).

¹¹ However, as discussed further in Section II, Amici States will be unable to fill the gap in funding for legal services for unaccompanied children if all federal funding for these services is terminated.

children, subject to the availability of funding.¹² Following the passage of SB 873, CDSS created in 2014, and then expanded in 2022, the Youth Legal Services (YLS) program, which provides grants to qualified nonprofit legal services organizations to provide legal services to unaccompanied children.¹³ California continues to demonstrate its commitment to providing legal services to unaccompanied children by appropriating funds for the YLS program, including allocating \$6.7 million to renew funds for pro-bono legal services for the period of July 1, 2025 through June 30, 2026.¹⁴

The federal government and Amici States enacted these laws in order to protect vulnerable unaccompanied children. The House Appropriations Committee explained in 2009 that “legal representation is absolutely critical to ensure that children understand their rights as they navigate the legal process to determine their status in the United States.”¹⁵ And in support of the passage of California’s SB 873 in 2014, former Governor Jerry Brown stated, “[h]elping these young

¹² Cal. Welf. & Inst. Code § 13300.

¹³ *See Youth Legal Services*, CAL. DEP’T OF SOC. SERVS., <https://cdss.ca.gov/inforesources/immigration/unaccompanied-undocumented-minors> (last visited Jul. 11, 2025); *see also* Cal. Welf. & Inst. Code §§ 13300-07.

¹⁴ CAL. DEP’T OF SOC. SERVS., YOUTH LEGAL SERVICES FUNDING AWARD ANNOUNCEMENT FOR STATE FISCAL YEAR 2025-26 (July 1, 2025), https://cdss.ca.gov/Portals/9/Immigration/UUM/SFY%2025-26%20YLS%20Funding%20Award%20Announcement-FINAL_ADA.pdf?ver=pWL_uSJV1A8otAitFsR1Wg%3d%3d.

¹⁵ H. Rep. 111-220, at 165 (2009).

people navigate our legal system is the decent thing to do.”¹⁶ These measures demonstrate that Amici States strongly support provision of legal services as an important part of a package of services protecting unaccompanied children.

II. THE TERMINATION OF FEDERAL FUNDING WILL CAUSE SIGNIFICANT GAPS IN LEGAL SERVICES FOR UNACCOMPANIED CHILDREN IN AMICI STATES

The termination of federal funding for direct legal representation for unaccompanied children will significantly increase the gaps in legal services for unaccompanied children and will result in a decrease in legal service provider staff in Amici States. Although some Amici States have appropriated state funding for legal representation and other related legal services for unaccompanied children, those appropriations cannot make up for the loss of federal funding. Indeed, state funding covers only a relatively small percentage of the total funding needed to provide legal representation for the thousands of unaccompanied children in Amici States.

For example, California, through CDSS’ YLS program, has awarded funding grants to qualified nonprofit organizations to provide immigration legal services to unaccompanied children both in the physical custody of ORR and those who are

¹⁶ Jeremy B. White, *Young immigrants would get \$3 million in legal help under California bill*, SACRAMENTO BEE (Aug. 21, 2014, 1:43 PM), <https://www.sacbee.com/news/politics-government/capitol-alert/article2607362.html>.

residing with a family member or other sponsor in the state after release from ORR custody.¹⁷ California's YLS program supported services during the State Fiscal Year 2024-25 funding cycle for 600 youth represented by California nonprofit legal service providers.¹⁸ California will not be able to provide additional funding to cover legal services for all unaccompanied children in California.¹⁹ In Fiscal Year 2024 alone, 10,809 unaccompanied children were released to sponsors in California.²⁰ Additional unaccompanied children have been placed in ORR-contracted placements in California.²¹

¹⁷ See CAL. DEP'T OF SOC. SERVS., YOUTH LEGAL SERVICES FUNDING AWARD ANNOUNCEMENT FOR STATE FISCAL YEAR 2024-25 (July 1, 2024), https://cdss.ca.gov/Portals/9/Immigration/UUM/SFY%202024-25%20YLS%20Funding%20Award%20Announcement%20ADA%20July%202024_FINAL.pdf?ver=8BxYnHEV_Wm9ATD3-MZthg%3d%3d; see also Cal. Welf. & Inst. Code §§ 13300-07. In July 2024, CDSS allocated \$4.2 million to renew funds for pro bono legal services for the period of July 1, 2024, through June 30, 2025. This funding also included \$1.3 million to expand services to immigrant youth who have not been processed by or held in the custody of ORR.

¹⁸ *Id.*

¹⁹ *Youth Legal Services*, *supra* note 13.

²⁰ OFF. OF REFUGEE RESETTLEMENT, UNACCOMPANIED ALIEN CHILDREN RELEASED TO SPONSORS BY STATE (current as of July 15, 2025), <https://acf.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state>. Other Amici States receive similarly high numbers of unaccompanied children; for example, New York received 6,938 children that same year.

²¹ See Melissa Adamson, et al., *Educational Advocacy for Unaccompanied Immigrant Youth in California*, NAT'L. CTR. FOR YOUTH LAW 10 (May 2024), <https://youthlaw.org/sites/default/files/attachments/2024-05/Toolkit-%20Educational%20Advocacy%20for%20Unaccompanied%20Immigrant%20Youth%20in%20California.pdf>.

By contrast, federal funding covers legal representation for significantly larger numbers of unaccompanied children in California. California-based plaintiffs in this lawsuit reported that they represent over 2,000 children in California through federal funding, and Public Counsel attested that they rely on federal funding to provide legal services to 200 children in the Los Angeles area.²² The New York City Comptroller reports that the canceled federal contract terminated funding that included legal representation for 1,800 children.²³ In Washington, the withdrawal of federal funding forced Kids in Need of Defense (KIND)—the primary provider of legal representation to unaccompanied children in Washington—to close its Seattle office in May 2025 and withdraw as unaccompanied children’s counsel; KIND directly represented approximately 300 unaccompanied minors.²⁴ Amici States will be unable to fill the gap in funding for

²² See Complaint for Declaratory and Injunctive Relief at 12, *Community Legal Servs. in East Palo Alto, et al. v. U.S. Dep’t of Health and Hum. Servs.*, No. 3:25-cv-02847; see also Supplemental Declaration of Joel Frost-Tift (Public Counsel) In Support of Plaintiffs’ Motion for A Preliminary Injunction, *Community Legal Servs. in East Palo Alto, et al. v. U.S. Dep’t of Health and Hum. Servs.*, No. 3:25-cv-02847.

²³ *Protecting our Neighbors: A Call to Rapidly Expand Immigration Legal Services in the Face of Federal Overreach*, OFFICE OF THE NEW YORK CITY COMPTROLLER BRAD LANDER (June 10, 2025), <https://comptroller.nyc.gov/reports/protecting-our-neighbors/>.

²⁴ Freddy Monares, *Legal aid nonprofit for migrant children closing its Seattle office*, KNKX PUBLIC RADIO (Apr. 14, 2025, 4:25 PM), <https://www.knkx.org/law/2025-04-14/legal-aid-nonprofit-kids-in-need-of-defense-migrant-children-immigration-unaccompanied-youth-closing-seattle-office>.

legal representation for unaccompanied children if federal funding for these services is terminated.

The withdrawal of federal funding for legal representation for unaccompanied children will also impact state-funded legal service providers whose staff are partially funded by federal funds. Legal services providers in Amici States already face staffing challenges, and the withdrawal of federal funding will only further exacerbate this issue. For example, legal service providers in California reported significant barriers with the hiring and recruitment of both legal representatives and social services professionals to fill positions under California's Children's Holistic Immigration Representation Project (CHIRP) program for unaccompanied children, in part due to salary limitations under state funding.²⁵ Without federal funding, many of these legal service providers will likely not be able to maintain current staffing levels and range of services and will thus be unable to continue to provide critical legal services for unaccompanied children in Amici States.

There is already a significant deficit of pro bono or low-cost attorneys throughout the country in relation to the number of unaccompanied children in

²⁵ See Athena Wong, et al., *Program Evaluation, Children's Holistic Immigration Representation Project September 2022 - August 2024*, ACACIA CTR. FOR JUST., 32-35, <https://acaciajustice.org/wp-content/uploads/2025/01/CHIRP-Pilot-Program-Evaluation-2024.pdf> (discussing hiring and funding challenges under the CHIRP program for unaccompanied children). The CHIRP program was a two-year pilot project funded by CDSS that provided holistic social and legal services to unaccompanied children in California. *Id.* at 2.

need of representation.²⁶ In January 2024, the Executive Office of Immigration Review reported that only 56 percent of children with pending cases overall had legal representation.²⁷ This shortfall in legal representation for unaccompanied children will be significantly increased by the termination of all federally-funded legal representation for these children, and Amici States will not be able to fill this significant gap in funding.

²⁶ A 2025 study found that, assuming all attorneys in their dataset represent children and maintain an average caseload of 35 children per attorney, meeting the representation needs of all unaccompanied children would require nearly a fourfold increase in the number of free and low-cost attorneys nationwide. Jill M. Williams, & H. B. Gosch, *Assessing Access to Legal Representation for Unaccompanied Migrant Children: National, State, and County-Level Analysis of Free- and Low-Cost Attorney Prevalence in Relation to Children's Locations*, J. ON MIGRATION AND HUM. SEC. (May 2025), <https://doi.org/10.1177/23315024251339778>.

²⁷ WILLIAM A. KANDEL, CONG. RESEARCH SERV., R43599, UNACCOMPANIED ALIEN CHILDREN: AN OVERVIEW 16 (2024) <https://sgp.fas.org/crs/homsec/R43599.pdf>. Additionally, only 60 percent of those with cases pending for more than one year had legal representation. *Id.*; see also EXEC. OFF. FOR IMMIGR. REV., ADJUDICATION STATISTICS, CURRENT REPRESENTATION RATES (2023), <https://www.justice.gov/eoir/page/file/1062991/dl>; Chiara Galli & Tatiana Padilla, *New Data on Unaccompanied Minors in US Immigration Court (2000-2023)*, Int'l Migration Rev. (2025), <https://journals.sagepub.com/doi/full/10.1177/01979183251316528> (finding that between 2009 and 2023, through March, only 51 percent of unaccompanied children were represented by an attorney at any time during their immigration proceedings).

III. UNACCOMPANIED CHILDREN WILL EXPERIENCE LEGAL, EDUCATIONAL, SAFETY, AND OTHER HARMS WITHOUT LEGAL REPRESENTATION

Amici States are concerned about the varied harms that unaccompanied children will experience without access to the multidisciplinary support and advocacy that immigration counsel provides. Access to immigration counsel serves the significant public interest in avoiding these harms, and in ensuring that unaccompanied children have access to important services.

Immigration-related Harms

A child with a valid claim for immigration relief is nonetheless unlikely to prevail in court without the assistance of an attorney. According to data from the Congressional Research Service, only 0.3% of unrepresented children receive grants of relief in immigration proceedings, while 7.2% of represented children—a 24-fold increase—achieve these positive outcomes.²⁸ Children without attorneys are also more than twice as likely to receive removal orders in such proceedings, with 47% of unrepresented children, but only 21% of children with attorneys, receiving orders of deportation.²⁹ Another study indicated that nearly all children who were granted relief in immigration court—98%—were represented by counsel.³⁰ Amici States are concerned that, without access to counsel, many youth

²⁸ Kandel, *supra* note 27.

²⁹ *Id.*

³⁰ Galli & Padilla, *supra* note 27.

with meritorious immigration claims will not be able to access relief, and that families who are residents of Amici States will be separated when youth are denied available paths to remain with family members in the United States.

Counsel also help youth understand the rights they have to receive certain treatment and conditions when they are held in ORR custody. Under the Foundational Rule, legal services include those necessary to protect children's interests "in certain matters relating to their care and custody," including their placement in ORR facilities.³¹ Recent cases reflecting use of overly restrictive conditions, over-medication without consent, lack of family contact, and other harmful aspects underscore the need for the attention of counsel to protect the well-being of children in custody.³²

Educational Harms

Unaccompanied children also rely on attorneys to inform them of their educational rights and perform collateral advocacy to help them access quality educations upon their arrival in the United States. The Foundational Rule recognizes counsel's role in protecting educational rights and requires children in ORR custody to receive a presentation from a legal services provider that includes

³¹ 45 C.F.R. § 410.1309(b) (2024).

³² See, e.g., *Lucas R. v. Azar*, 2018 WL 10111336 at *2 (C.D. Cal. 2018); *Flores v. Sessions*, 2018 WL 10162328 at *15 (C.D. Cal. 2018).

notice of “services to which they are entitled, including educational services.”³³

Educational rights and services vary based on whether a child is placed with family, in foster care, or in one of the different types of ORR facilities.³⁴ For example, some types of placements allow for the child to attend public school while others do not allow for the child to receive external public education or services.³⁵ Counsel serve an important role in helping the child understand educational rights and services available under their particular circumstances. Youth held in ORR facilities may face difficulties in attaining education without the attention of engaged counsel, as there is not sufficient transparency to evaluate the overall quality of educational services in ORR facilities, and there is evidence that ORR has failed to provide adequate basic education to youth placed under its care.³⁶ Unaccompanied children face numerous issues with respect to the educational services they receive while in ORR custody, including insufficient

³³ 45 C.F.R. § 410.1309(a)(2)(i)(A) (2024).

³⁴ Melissa Adamson et al., *Educational Advocacy for Unaccompanied Immigrant Youth in California*, NAT’L CTR. FOR YOUTH LAW 11 (2024), https://youthlaw.org/sites/default/files/attachments/2024-05/Toolkit-%20Educational%20Advocacy%20for%20Unaccompanied%20Immigrant%20Youth%20in%20California_0.pdf.

³⁵ *See id.* at 13.

³⁶ *See* Kate Rheume, *Unaccompanied, Unnoticed, and Undereducated: An Analysis of the Administrative Challenges of Educating Unaccompanied Children in Federal Custody*, 34 GEORGETOWN IMMIGR. L. J. 159, 164 (2019) <https://www.law.georgetown.edu/immigration-law-journal/wp-content/uploads/sites/19/2020/01/GT-GILJ190048.pdf> (discussing a lack of transparency about how federal funding for education was spent in ORR facilities).

hours of educational time, lack of access to educational materials and instruction in their native languages, lack of routine evaluations for educational disabilities, and difficulty accessing special education services, among other challenges.³⁷

Amici States also have an interest in ensuring that child residents have access to special education services and fair and consistent treatment in school discipline. As a public entity, ORR must comply with federal laws and regulations supporting education services for youth with disabilities, including Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act.³⁸ Immigration attorneys often help their child clients with disabilities to understand and access needed accommodations that they would not otherwise have the knowledge to obtain.³⁹ Children also face the risk of immigration consequences for

³⁷ *Id.*; see also Adamson et al., *supra* note 34; Disability Rights California, *The Detention of Immigrant Children with Disabilities in California: A Snapshot* (2019), <https://www.disabilityrightscalifornia.org/system/files/file-attachments/DRC-ORR-Report.pdf>.

³⁸ 29 U.S.C. § 794; 20 U.S.C. §§ 1400-1482.

³⁹ See, e.g., Adamson et al., *supra* note 34 (describing actions advocates can take to support unaccompanied children with disabilities, including making a written referrals for special education assessments). See also *Children's Representation Program*, IMMIGR. DEFENDERS LAW CTR., <https://www.immdef.org/childrens-representation> (last visited June 16, 2025) (describing addressing immigrant child clients' needs including education, health care, housing, and other benefits); Jennifer Stave et al. (2017) *Evaluation of the New York Immigrant Family Unity Project*, VERA INSTITUTE OF JUSTICE 11 (2017), <https://vera-institute.files.svdcn.com/production/downloads/publications/new-york-immigrant-family-unity-project-evaluation.pdf> (finding as part of study of benefits of universal counsel in immigration cases in New York that attorneys also address collateral legal matters).

suspensions or other adverse school-related events, and may not be able to successfully navigate school disciplinary proceedings on their own.⁴⁰ Without this support, unaccompanied children are likely to experience educational disruption that goes unnoticed and unaddressed during key critical periods of social and intellectual development.

Harms to Children with Dependency Cases

Immigration attorneys also help unaccompanied children achieve helpful outcomes in child welfare proceedings, which has a profound impact on their safety and stability in addition to offering potential access to immigration relief. Special Immigrant Juvenile Status (SIJS), a path to relief for children who have suffered abuse, abandonment, or neglect, requires a child to present evidence to obtain certain findings from the juvenile court.⁴¹ Other forms of relief may also

⁴⁰ See Sarah Kim Pak et al., *Caught in an Educational Dragnet: How the School-to-Deportation Pipeline Harms Immigrant Youth and Youth of Color*, NAT'L IMMIGR. LAW CTR. (May 19, 2022), <https://www.nilc.org/articles/caught-in-an-educational-dragnet-how-the-school-to-deportation-pipeline-harms-immigrant-youth-and-youth-of-color/>; Hannah Dreier, *He Drew His School Mascot – and ICE Labeled Him a Gang Member*, PROPUBLICA (Dec. 27, 2018), <https://features.propublica.org/ms-13-immigrant-students/huntington-school-deportations-ice-honduras/>.

⁴¹ Charles D.R. Baily et al., *The Psychosocial Context and Mental Health Needs of Unaccompanied Children in United States Immigration Proceedings*, 13 GRADUATE STUDENT J. OF PSYCH. 4, 8 (2011), <https://journals.library.columbia.edu/index.php/gsjp/article/view/10856/5385>; Rachel Prandini et al., *Strengthening Child Welfare Practice for Immigrant Children & Families: A Toolkit for Child Welfare Professionals in California*

(continued...)

involve crossover with the child welfare system, including asylum, the T-visa for survivors of trafficking, or the U-visa for individuals who have experienced abuse due to criminal activity.⁴² Legal representation helps ensure children can make the necessary showings in their child welfare proceedings to apply for and obtain immigration relief.

Healthcare Harms

Attorneys also often connect their child clients with needed mental health and medical services, both to obtain evaluations when medical or mental health status is a required element for one of these forms of relief, and to provide for the well-being of the child.⁴³ Amici States have an interest in ensuring that all children experiencing abuse or neglect receive timely intervention and appropriate care, regardless of immigration status. Unaccompanied children who are not represented may lack any engaged adult who is aware of their needs for health care, guardianship, housing, and other sources of stability and thriving.⁴⁴

Lawyers serving unaccompanied children perform an important stabilizing function for these vulnerable youth, and removing access to counsel will in turn

IMMIGR. LEGAL RES. CTR., 27 (Aug. 2019)
<https://youthlaw.org/sites/default/files/attachments/2022-02/2019-Child-Welfare-and-Immigration-Toolkit.pdf>.

⁴² See Prandini, *supra* note 41 at 29-30.

⁴³ Baily et al., *supra* note 41, at 6.

⁴⁴ *Id.*; see also Children's Representation Program, *supra* note 39.

limit their access to multiple systems designed to provide care. Amici States oppose this reduction in legal services and the increase in avoidable harms that will result to unaccompanied children, their families, and their communities.

CONCLUSION

Amici States have a significant interest in protecting the rights, safety, and wellbeing of unaccompanied children. The legal services required by the TVPRA and the Foundational Rule play a key part in advancing that interest. Without the legal representation required by federal law, unaccompanied children in Amici States are at greater risk of legal, educational, and other long-lasting harms. This Court should affirm the district court's grant of Plaintiff-Appellees' Motion for Preliminary Injunction.

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Respectfully submitted,

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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I hereby certify that on July 17, 2025, an electronic copy of the foregoing brief was filed with the Clerk of Court using the ECF system and thereby served upon all counsel appearing in this case.

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