

TESTIMONY

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**Oversight – Resources for Immigrant Youth Who Arrived in the United States as  
Unaccompanied Children**

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New York City Council  
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Althea V. Stevens, Chair, Committee on Children and Youth

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## **Introduction**

The Legal Aid Society (“LAS”) and Coalition for the Homeless jointly welcome this opportunity to testify before the New York City Council Committee on Immigration and the Committee on Children and Youth regarding the need for resources to support immigrant children and youth arriving unaccompanied to New York City. We thank Alexa Aviles, Chair of the Committee on Immigration, as well as Althea Stevens, Chair of the Committee on Children and Youth, for offering the opportunity to highlight some of the critical issues in this area.

## **About The Legal Aid Society**

The Legal Aid Society, the nation’s oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society operates three major practices — Civil, Criminal and Juvenile Rights - through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States, and it brings a depth and breadth of perspective that is unmatched in the legal profession.

Legal Aid’s Juvenile Rights Practice (“JRP”) provides comprehensive representation as attorneys for children who appear before the New York City Family Court in abuse, neglect, juvenile delinquency, and other proceedings affecting children’s rights and welfare. JRP also has an Education Advocacy Project. Our staff typically represent more than 30,000 children each year. Our perspective comes from daily contact with children and their families, and also from our frequent interactions with the courts, social service providers, and State and City agencies. The Society’s Civil Practice provides free direct legal assistance through a network of 10 neighborhood and courthouse-based offices in all five boroughs and 23 city-wide and specialized units, including an Immigration Law Unit, which houses Legal Aid’s Immigration Youth Project and New York Immigrant Family Unit Project. The Unit’s goal is to ensure that immigrant New Yorkers are provided meaningful representation in their immigration matters.

In addition to its individual representation, The Legal Aid Society also seeks to create broader, more powerful systemic change for society as a whole through its law reform representation. These efforts have benefitted some two million low-income families and individuals in New York City and the landmark rulings in many of these cases have had a state-wide and national impact. Our experiences engaging in courtroom and other advocacy on behalf of our clients as well as through coalition building with other stakeholders informs our testimony.

**Justice in Every Borough.**

### **About Coalition for the Homeless**

The Coalition for the Homeless (Coalition), founded in 1981, is a not-for-profit advocacy and direct services organization that assists more than 3,500 homeless and at-risk New Yorkers each day. The Coalition advocates for proven, cost-effective solutions to address the crisis of modern homelessness, which is now in its fifth decade. The Coalition also protects the rights of homeless people through litigation involving the right to emergency shelter, the right to vote, the right to reasonable accommodations for those with disabilities, and life-saving housing and services for homeless people living with mental illnesses and HIV/AIDS.

### **The Current State of Affairs for Newly Arrived Unaccompanied Minors in NYC**

According to the New York City Comptroller’s office, “[a]s of September 15, 2024, the City had approximately 61,700 people seeking asylum in City-funded shelter, and over 214,600 have come through the City’s system since the spring of 2022.”<sup>1</sup> To get a sense of approximately how many of those individuals are children and youth, more than 36,000 children residing in shelters were “enrolled for the first time in NYC public schools since July 2022 a[ drastic] increase driven by new arrivals.”<sup>2</sup> However, the City’s census does not include data on the number of *unaccompanied* minors. Indeed, leadership staff for the Mayor’s Office of Internal Affairs (“MOIA”), the Administration for Children’s Services (“ACS”), and the Department of Youth and Community Development (“DYCD”) all testified to a significant increase in the utilization of their services by children and youth over the past couple of years simultaneous with the influx of newly arrived immigrants (“new arrivals”) in New York City.<sup>3</sup> Yet, none of the aforementioned agencies called for additional resources to support this population.

Similarly, over the last several months, LAS and Coalition for the Homeless have received an uptick in informal referrals for unaccompanied minors being refused care from the ACS. Many of these youth are new arrival children from West Africa, some of whom traveled to the United States with documents falsified to make them over the age of majority so that they could escape the dangerous conditions of their home countries and travel on their own. In such cases, ACS initially: (1) failed to credit the youths’ own statements regarding their age (including the reasonable explanations provided regarding the use of falsified documents); and (2) improperly contacted the United States Department of State for verification, despite the fact that the State Department relies on documents used to enter the country, and therefore cannot actually verify an individual’s age. Of greater concern is that this

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<sup>1</sup> New York City Comptroller Brad Lander, *Accounting for Asylum Seeker Services: Asylum Seeker Census*, available at <https://comptroller.nyc.gov/services/for-the-public/accounting-for-asylum-seeker-services/asylum-seeker-census/>.

<sup>2</sup> Id.

<sup>3</sup> Oversight Hearing on Resources for Immigrant Youth Who Arrived to the United States as Unaccompanied Children before the Committees on Immigration and Children and Youth, New York City Council (Oct. 15, 2024).

practice sets in motion contact with the government in a youth's home country that poses grave risk to the safety of any remaining family or the youth's own safety should he/she be forced to return.

Notably, ACS has denied unaccompanied new arrival youth care even when staff at NYC's Department of Education has taken many of these youth at their word and permitted enrollment, as well as when advocates have referred the youth to ACS after identifying that the youth are indeed children. Unfortunately, the Office of Children and Family Services has not responded to requests to intervene and address these denials.

Meanwhile, many of the youth being denied care and services from ACS are forced to reside in single adult New Arrival Shelters, sometimes referred to as "Humanitarian emergency Response and Relief Centers," or "HERRCs". This is although the New Arrival Shelters are explicitly designed to accommodate only single adults and adult families pursuant to the recent settlement under *Callahan v. Carey*<sup>4</sup> and are, thus, woefully inadequate to meet their needs. Depending on the age listed on their documents, youth in New Arrival Shelters are subject to the 30- or 60-day time limits imposed on new arrivals residing in these shelters and some may not even be granted an extension of their stay. It is also because of these time limits that many youth have to move from shelter to shelter, disrupting their ability to attend school if they were lucky enough to navigate the enrollment process.

Placement in a single adult New Arrival Shelter is especially likely given the lack of beds available through the DYCD Runaway and Homeless Youth ("RHY") programs. Alarming, youth under the age of 16 are precluded from RHY programs due to licensing restrictions imposed by contractual obligations with DYCD, leaving younger unaccompanied migrants particularly vulnerable in the adult New Arrival Shelters. These barriers further pose significant risks to the welfare of 17-year-old youth as ACS runs out the clock to commence destitute child proceedings in New York Family Courts, thereby precluding them from ever receiving ACS care the moment they turn 18. An unintended consequence of the settlement in *C.W. v. N.Y.C.*<sup>5</sup> is that, because RHY shelters must understandably prioritize beds for youth 16 to 17 years old, youth who are 18 and 19 may be asked to leave to make room for the minors, even if they have nowhere else to go.

Although LAS has generally been successful in advocating with ACS to properly determine that these youth are destitute children, the City's failure to put a system in place to address the needs of children like them created unnecessary obstacles and undue delay at the detriment of these children. Indeed, in July 2024, LAS formally demanded that Deputy Mayor Anne Willams-Isom and ACS Commissioner Jess Dannhauser implement policies and procedures to ensure the protection of this population.<sup>6</sup> Having received no indication that the City would comply with those demands, LAS

<sup>4</sup> N.Y. Sup. Cnty, Index No. 42582/1979 dated March 15, 2024. The issues raised in this case concerned the right to shelter for adults in New York.

<sup>5</sup> Eastern District of N.Y., 13 Civ. 7376, dated February 14, 2020. The issues raised in this case concerned the due process rights of youth ejected from homeless shelters.

<sup>6</sup> This formal request followed many months of LAS and other advocates, including the Coalition for Homeless Youth, making the same request informally.

followed up via letter on October 15, 2024 and provided a number of more specific recommendations. To date, while leadership for the Administration for Children’s Services testified that a “protocol” has been developed, LAS has not received a copy and no other written policy, procedure, or guidance regarding the protection and support of unaccompanied youth has been issued.

Accordingly, LAS and Coalition for the Homeless will first provide as context the legal framework relevant to this population and share with the New York City Council the various recommendations for policies and procedures to be immediately implemented in order to: (1) better identify migrant youth in need of ACS care; (2) engage in child-centered age determinations; and (3) develop trainings for City staff targeted toward supporting migrant youth. We will also provide additional recommendations for increased funding for services to better protect the vulnerable migrant youth arriving at New York City’s shelter systems.

Finally, LAS wishes to use the opportunity to submit testimony to additionally raise awareness regarding the issues faced by migrant children and youth who are the subject of often unnecessary and invasive child maltreatment investigations in New York City.

### **Legal Framework Relevant to Unaccompanied Children**

#### ***I. New York State’s Child Welfare System and Its Obligation to Destitute Children***

New York’s statute and regulations have established the obligations of New York’s authorized social services agencies to ensure the care and protection of destitute children in New York. A destitute child is an individual who is under the age of eighteen, without a parent or caretaker available to care for him or her, and is “in a state of want or suffering due to lack of sufficient food, clothing, shelter, or medical or surgical care.”<sup>7</sup> Notably, the plain language of New York’s Social Services Law defines a child as being “a person actually or apparently under the age of eighteen years.”<sup>8</sup> Where a destitute child has been identified, public welfare officials are authorized to “assume the charge of and provide care and support” for that child.<sup>9</sup> The Family Court Act further mandates that commissioners of social services who accept the care and custody of a destitute child must “provide for such child as authorized

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<sup>7</sup> Soc. Serv. Law § 371(3)(a). *See also*, Fam. Ct. Act § 1092; *see e.g.* 18 N.Y. Admin. Code (“NY ADC”) § 430.10 (“Placement of a child in foster care shall occur when removal from the home is essential for ensuring the child receives proper care, nurturance or treatment.” “Parent unavailability” is such a “circumstance in which placement may be considered essential.”); 18 N.Y. Codes, Rules, and Regs. (“NYCRR”) § 400.1 (social services provided to children shall be directed toward the goal of “preventing . . . exploitation of children . . . unable to protect their own interest” and “preventing . . . inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.”).

<sup>8</sup> Soc. Serv. Law § 371(1).

<sup>9</sup> Soc. Serv. Law § 398(1)(c).

by law . . . and file a petition . . . within fourteen days upon accepting the care and custody of such child.”<sup>10</sup>

In accordance with New York State laws and regulations, the Office of Children and Family Services (“OCFS”) requires Runaway and Homeless Youth (“RHY”) shelter staff to refer destitute children to the Local Department of Social Services (“LDSS”) in the district where the RHY Program is located.<sup>11</sup> Importantly, New York State laws and regulations, as well as OCFS and the Administration for Children’s Services (“ACS”) policies do not discriminate between U.S. citizens and immigrants, including those who are undocumented, for the purposes of determining whether a child is destitute.<sup>12</sup>

Significantly, social services agencies must act in consideration of the child’s best interests.<sup>13</sup>

## **II. *Totality of Evidence Standard for Age Determinations in Federal Regulations***

Under United States law, a child who has no lawful immigration status, is under the age of 18 years of age, and has no parent or legal guardian in the United States to care for them is called an “unaccompanied alien child,” or, colloquially, “unaccompanied minor.”<sup>14</sup> Notably, the standard for determining minority status invoked by the Social Services Law is lower than the Federal Government’s already lenient standard for establishing age and identity. The Federal Office of the Administration for Children and Families’ Office of Refugee Resettlement (ORR) has a policy that defaults to crediting the youth and providing services. The policy provides that where there is conflicting evidence regarding age, a determination shall be made based on the totality of all the evidence, including statements of the individual in question. While a determination is pending, the unaccompanied youth is entitled to receive all services.<sup>15</sup>

Similarly, Chapter 5 of the United States Citizenship and Immigration Services’ Policy Manual on Verification of Identifying Information states that where a birth certificate is unobtainable because of country conditions or personal circumstances, the individual may “submit secondary evidence or affidavits to establish his or her identity.”<sup>16</sup>

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<sup>10</sup> FCA § 1093.

<sup>11</sup> 18-OCFS-ADM-19 at 4; *see also*, e.g. ACS Destitute Child Policy Dated December 17, 2012.

<sup>12</sup> *See*, e.g., 12-OCFS-ADM-08 (unaccompanied immigrant children may be considered destitute children).

<sup>13</sup> *Matter of O’Rourke v. Kirby*, 54 N.Y.2d 8, 15, n. 2, 444 N.Y.S.2d 566, 429 N.E.2d 85 (Ct. of App. 1981) (New York State child welfare agencies are obligated to act in the best interests of the child); *see also*, e.g. 18 NYCRR § 421.2(e) (agencies must ensure that siblings who are freed for adoption are placed in pre-adoptive homes together unless it would be detrimental their best interests); 18 NYCRR § 443.6 (agencies must endeavor to place a child returning to foster care into that child’s last placement if it is in the child’s best interests).

<sup>14</sup> 6 U.S.C. § 279(g)(2).

<sup>15</sup> ORR Unaccompanied Children Program Policy Guide: Section 1.6, available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-1#1.6>.

<sup>16</sup> Available at, <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-5>.

## **NYC Must Immediately Develop Policies and Procedures to Protect New Arrival Youth**

The experiences of the migrant youth that LAS and Coalition for the Homeless have advocated for highlight the need for *written* policies, accessible to advocates that ensure the protection and safety of immigrant youth arriving alone to NYC. Our clients' experiences demonstrate the real harm young new arrivals suffer due to the City's failure to implement such policies. Indeed, it is outrageous that it should take several months and threats of legal action for the various city agencies working with this population to comply with their statutorily mandated obligations.

To meet its obligation to unaccompanied new arrival youth (destitute children) under the Social Services Law, the City, including new arrival shelters as well as ACS and any other city agency responsible for the care of these youth, must implement a policy and procedures for identifying new arrival youth who are in need of care by ACS and offering them *immediate* access to ACS services. In addition, ACS must develop a policy and procedures for addressing unreliable or conflicting documentation relating to age that is consistent with federal guidance in crediting children's statements. Finally, the City must provide comprehensive training to all personnel who may interact with young new arrivals related to any policies and procedures aimed at meaningfully supporting this vulnerable population.

Although we make several more detailed policy recommendations immediately below, these recommendations are not exhaustive of all that should be done to adequately support this population and we urge the City to create a working group that includes The Legal Aid Society, Coalition for the Homeless, and other advocates and stakeholders in the process of developing needed policies and procedures.

### **I. *Identifying Youth in Need of ACS Care*** **a. *How Shelters Can Aid in Identification***

City Council should take the shelter case management systems to task by ensuring they include a number of steps to ensure that unaccompanied minors are identified when they land in NYC's new arrival shelters or other shelters overseen by the Department of Homeless Services ("DHS"). It is crucial that case managers understand that trust must be fostered with young people to ensure accurate reporting of their ages. Accordingly, to err on the side of over-inclusivity, a case manager should meet at least bi-weekly with any person who appears to be under the age of 30 and conduct regular age screenings. In such screenings, the case manager or shelter staff must ask for the young person's age, using interpretation services if necessary to communicate in the young person's native dialect, distribute Know Your Rights Materials developed by advocates, and assure the young person that the question regarding their age is solely to determine the appropriate services and shelter setting for them and that they will not be penalized by the City if their age is different from what is listed on their identification documents. Special attention should be paid to questions and comments made by the youth, including requests to enroll in school. Whenever shelter staff discovers or suspects that a young person is a minor, they must make a report to the designated ACS team as recommended below. Until that team is established, shelter staff must make a report to the State Central Register ("SCR") and

continue follow-up, including the initiation of additional reports to the SCR, until ACS begins an investigation.

### **b. How ACS Can Respond to Identification**

As it stands, ACS refuses to investigate referrals of destitute children unless a report is made to the State Central Registry (SCR), despite the fact that neither statute nor regulation mandates a call to the SCR before the Commissioner can take action to meet his obligations to destitute children. Indeed, such a requirement is in direct conflict with OCFS's policy regarding destitute children in RHY shelters, which requires program staff to refer destitute children to the LDSS in the district where the RHY program is located.<sup>17</sup> It is also worth highlighting that under the current practice, multiple reports may have to be made to the SCR before a case is finally accepted for investigation.

ACS's insistence that a report be made to the SCR imposes an unnecessary burden on those assisting new arrival youth, including other City agency staff, and contributes to delays in getting these children into ACS's care and custody. In one instance, it took approximately a month before ACS finally commenced an investigation into a youth reported by LAS to be a destitute child, despite multiple reports made to the SCR by advocates. Two more weeks later and this youth still remains in an adult shelter awaiting placement into ACS care.<sup>18</sup> Accordingly, to streamline referrals of minor new arrival youth to ACS, City Council must direct ACS to create a designated team for destitute child referrals and make the contact information for that team available to shelter staff, staff of other City agencies, community organizations, and advocates. Once ACS has been made aware of an unaccompanied minor, ACS must *immediately* make services available to that youth. Additionally, ACS must abstain from contact with any foreign consulate in cases where the individual has applied or may apply for asylum, unless done in consultation with immigration legal services representation. This includes refraining from contacting the United States Department of State, which in many instances contacts the foreign consulate, as exemplified by communications with the State Department regarding youth LAS has brought to the attention of ACS.

In addition, City Council must enforce ACS's compliance with obligations under local laws related to confidentiality and non-citizens' access to critical services. Executive Orders 31 and 41 prohibit City officials or employees from inquiring about a person's immigration status unless it is "necessary for the determination of program, service or benefit eligibility or the provision of City Services," except when it is required by law. Local Laws 30 and 73 require that City agencies, including ACS, provide language assistance services to those with limited English proficiency.

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<sup>17</sup> 18-OCFS-ADM-19 at 4; *see also*, e.g. 12-OCFS-ADM-08 (unaccompanied immigrant children may be considered destitute children); ACS Destitute Child Policy Dated December 17, 2012 (making no mention of a requirement to make a report to the SCR).

<sup>18</sup> This is a correction to Ms. Schertz's oral testimony that ACS had not yet contacted this youth. As of submission of this written testimony, she has been made aware that ACS finally made contact.



## II. *Assessing a Youth's Age*

Instead of implementing a coherent policy, ACS appears at times to rely on the age stated in passports to the exclusion of other documents, while at other times disregarding passports and relying on other sources of proof. In both scenarios, ACS fails to give appropriate weight to the declarations of the young people in question, instead denying them care. In at least one other instance, ACS demanded that a youth resolve the question of his age by submitting to a bone density test. Such a demand is intrusive, far exceeds what is required by state law and the federal Administration for Children and Families' Office of Refugee Resettlement ("ORR") policy regarding age determinations and is certainly contrary to the best interests of any child already suffering the trauma of immigration to this country. Our clients' cases illustrate the urgent need for ACS to design and implement a rational policy to resolve discrepancies regarding the age of unaccompanied new arrival youth to ensure they are given appropriate services.

It is crucial that City Council hold ACS accountable for taking a child-centered approach whenever there exist conflicting documents regarding a youth's age. Importantly, the reality is that many migrant children present travel documents with false birthdays when they flee dangerous conditions in their home countries and travel unaccompanied by an adult. Therefore, ACS must give these documents the appropriate weight and should heavily credit the youth's own statements, particularly when such an explanation is proffered. In designing a policy, the City should consider federal regulations as a minimum starting point. Notably, the ORR has a policy that defaults to crediting the youth and providing services. The policy provides that where there is conflicting evidence regarding age, a determination shall be made based on the totality of all the evidence, including statements of the individual in question. While a determination is pending, the unaccompanied youth is entitled to receive all services.<sup>19</sup> In sum, a person who states that they are under 18 should be taken at their word, pending review and confirmation based upon a totality of the all the evidence.

Furthermore, because ACS is obligated to act in the best interests of the child, not only should ACS refrain from requiring the youth to submit to invasive bone density testing, but ACS absolutely must cease its practice of contacting the U.S. Department of State in an effort to "verify" a youth's birthdate. Notably, the State Department often relies on false documentation procured as a means of survival so that the youth could escape the dangerous conditions of their home country and, thus, this communication ultimately fails to provide any meaningful verification of the young person's true age. Of graver concern is the risk of danger such a practice poses to the young person's family remaining back home and on the young person him- or herself should he/she be forced to return.

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<sup>19</sup> ORR Unaccompanied Children Program Policy Guide: Section 1.6, available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-1#1.6>; see also, Chapter 5 USCIS Policy Manual on Verification of Identifying Information similarly states that where a birth certificate is unobtainable because of country conditions or personal circumstances, the individual may "submit secondary evidence or affidavits to establish his or her identity" <https://www.uscis.gov/policy-manual/volume-1-part-e-chapter-5>.

Finally, we kindly request that we be provided with a copy of the age assessment “protocol” leadership for ACS testified to developing and providing to its staff.<sup>20</sup>

### **III. Training**

It is also imperative that the City implement programming for all staff of all City agencies that might interact with new arrival youth geared toward supporting this population. Such programming must include implicit bias training, particularly with regard to the adultification of Black children,<sup>21</sup> as well as ensuring, specifically, that ACS take a consistent approach to requests for documentation among youth who are referred as destitute children. Importantly, ACS’s approach should be that of support and safety, rather than concerted efforts to reveal falsified documentation that makes a youth “ineligible” for ACS care. Training must further include: the importance of ensuring that youth are provided interpreters in their own native dialect; migrant survival methods (including the use of false documents) to flee their home countries; fostering trust with young people; and immigration related trauma.

### **NYC Must Allocate Appropriate Resources to Support and Protect New Arrival Youth**

The City must also begin tracking and reporting the number of youth identified as being minors without adult caretakers in order to better assess the demand for services to this population. ACS must, specifically, begin tracking and reporting the number of destitute child referrals, including data regarding: the referral source; the number of referred children who are unaccompanied migrant children; the countries of origin of referred children and youth; the languages spoken by each referred children and youth; the ages of referred children and youth; and the number of destitute children accepted into care by ACS.

The City must also allocate more funding to DYCD to increase the number of beds available in DYCD RHY programs so that all 16- and 17-year-old youth awaiting placement into ACS care and all youth 18 to 25 years old are able to reside in a shelter setting better equipped to meet their needs. According to the most recent report required by Local Law 79 of 2018, over 1,100 youth were turned away from DYCD shelter programs from January 1 through June 30, 2024. DYCD must begin collecting and reporting data regarding the number of the youth being turned away who are known to be migrant youth. Importantly, New York City is the only locality in New York State that does not provide shelter to youth under 16. Therefore, the City must introduce local legislation to mandate that DYCD’s any new contracts with RHY providers eliminate lower age restrictions.

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<sup>20</sup> Oversight Hearing on Resources for Immigrant Youth Who Arrived to the United States as Unaccompanied Children before the Committees on Immigration and Children and Youth, New York City Council (Oct. 15, 2024) (Testimony by Stephanie Gandel, Deputy Commissioner for External Affairs for ACS).

<sup>21</sup> See, e.g. Amie Koch DNP, FNP-C, RN, ACHPH, Arthi Kozhumam BS, MSc-GH, *Adultification of Black children negatively impacts their health: Recommendations for health care providers*, Nursing Forum, Vol. 57, Iss. 5, at 963-967.

Furthermore, the City must ensure that there is meaningful language access provided to migrant youth. We direct the City Council to our joint testimony submitted before the Committee on Immigration regarding a hearing held on September 24, 2024, “Assessing the Mayoral Administration’s Compliance with Local Law 30 of 2017.” However, to sum, youth are quite often forced to attempt communication in a dialect that is not their own, creating confusion and misunderstanding regarding their needs and wishes, including any desire to go into ACS care. This is particularly the case for youth from West Africa when, for example, youth who speak Guinean Pulaar are provided only a Senegalese Pulaar interpreter.

Finally, while the Mayor’s office has allocated funding to legal clinics assisting asylum seekers in preparing their asylum applications in order to meet filing deadlines imposed by the U.S. Government,<sup>22</sup> many of them remain unrepresented and are forced to navigate an incredibly complex system of laws and regulations, leaving them unable to meaningfully defend themselves against possible orders or threats of deportation. Immigrant youth are especially vulnerable in the face of removal (also known as “deportation”) proceedings and rapidly approaching deadlines for immigration applications such as Asylum and Special Immigrant Juvenile Status. Importantly, youth deserve representation in order to ensure that they: (1) fully understand any implications of the information included in any materials that they file on their own; (2) do not miss any crucial deadlines and court dates; and (3) receive continued assistance to respond to federal government notices for requests for additional information and evidence as well future applications such as those for work authorization and, eventually, legal permanent residency. Simply put, the *pro se* models of these clinics are woefully inadequate to serve the needs of this population. Therefore, it is imperative that the City allocate additional funding to immigration legal services providers, specifically those with subject matter expertise like the members of the ICARE Coalition,<sup>23</sup> so that they may provide meaningful and ongoing representation to this vulnerable population. Additionally, given the complexities of representing a child in foster care in their simultaneous immigration proceedings, designated funding should be created for immigration representation of youth in the foster care system.

### **Migrant Families Negatively Impacted by the Family Policing System**

LAS urges the New York City Council to call a separate hearing to also delve more deeply into the plight of recently arrived immigrant *families*. However, we take this opportunity to briefly share some of our concerns – namely that our staff have seen an increase in child maltreatment filings in New York Family Courts across the City involving this population. Many of these cases are resolved with Adjournments in Contemplation of Dismissal (“ACD”).<sup>24</sup> Given that ACDs require the consent of all parties, including ACS, such pre-fact-finding resolutions are not offered unless the children are

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<sup>22</sup> 8 C.F.R. § 208.4(a)(2)(ii).

<sup>23</sup> The ICARE Coalition is comprised of The Legal Aid Society, The Door, Catholic Charities of the Archdiocese of New York, Kids in Need of Defense (KIND), and the Safe Passage Project.

<sup>24</sup> Fam. Ct. Act § 1039.

residing with respondent parents who have been cooperative with services ACS has requested they complete.

The frequency of ACDs thus indicates that many of these families who have suffered trauma fleeing the dire and often violent conditions in their home countries are in need of supports and services, rather than subjection to the traumatic experience of what advocates now call the family policing system. Although The Legal Aid Society lauds ACS's stated goal of diverting families reported to the SCR away from the investigative track toward its Collaborative Assessment, Response, Engagement & Support ("CARES") approach when a child is not in imminent danger of serious child abuse, in practice, such a program is simply another extension of the family policing system. On October 9, 2024, Commissioner Jess Dannhauser testified before the New York State Assembly's Hearing on the State Central Registry and reported that 20% of families are being diverted to CARES.<sup>25</sup> Yet, 80% of those families in 2022 and 75% of families in 2023 were involved in CARES for between 41 and 60 days – which is the length of a traditional investigation.<sup>26</sup> Sadly, although "voluntary," many families participating in CARES do so under that threat of investigation, particularly because ACS may convert the case to an investigation at any point during participation in CARES. Therefore, it is imperative that new arrival families are connected to *community-based* services, which may require additional funding from the City to ensure the capacity of community-based organizations to support new arrival families.

Unfortunately, a lack of immigration status leaves the families without health insurance to help them afford the cost of services like mental health and substance abuse treatment. Furthermore, there is a dearth of services available in the families' native dialects. Accordingly, similar to requests to meet the needs of unaccompanied minors, it is also imperative that the City increase funding to immigration legal services so that they may have meaningful representation and a greater chance at remaining together. Furthermore, this population is also in need of adequate language access to ensure that they are able to meaningfully participate in supportive services in their native language.

To further increase stability for these children, and minimize the likelihood of ACS intrusion, the City must also end the requirement that new arrival families re-enter the new arrival shelters after 60 days. Such a policy increases the likelihood of school disruption for children and also leaves them vulnerable to SCR reports initiated by the Department of Education out of concern for the child's absence. At the very least, the requirement to re-enter the new arrival shelters should be extended to match more realistic timeframes for families to be able to obtain the documents and resources needed to move on from the shelters. To assess the proper timeframe, new arrival shelters should be tracking and reporting the average stay for a migrant family, including data on the number of families who are refused re-entry and those families moving on at their own volition.

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<sup>25</sup> Available at, [https://nystateassembly.granicus.com/player/clip/8612?view\\_id=8&redirect=true](https://nystateassembly.granicus.com/player/clip/8612?view_id=8&redirect=true)

<sup>26</sup> These statistics come from a set of raw data prepared by ACS, but not yet published. Data is on file with author and forthcoming.

### **Conclusion**

Thank you again to the Committees on Immigration and Children and Youth for looking closely at how to best support migrant youth in New York City. We are happy to answer any questions.

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