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10 *Attorneys for Petitioners*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **DISTRICT OF ARIZONA**

13 Susan Kettlewell, on behalf of 108 minor
14 children, and

15 The Florence Immigrant and Refugee
16 Rights Project

17 Petitioners/Plaintiffs,

18 v.

19 Markwayne Mullin, Secretary of the
20 Department of Homeland Security, in his
21 official capacity;

22 David Venturella, Acting Director of U.S.
23 Immigration and Customs Enforcement, in
24 his official capacity;

25 Robert F. Kennedy Jr., Secretary of the
26 Department of Health and Human
27 Services, in his official capacity;

28 Angie Salazar, Acting Director of the
Office of Refugee Resettlement, in her
official capacity;

Case No. 26-CV-00340 (RM)

**FIRST AMENDED VERIFIED
PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Alex J. Adams, Acting Assistant
Secretary for the Administration for
Children and Families, in his official
capacity;

The United States Department of Health
and Human Services; and

The Office of Refugee Resettlement.

Respondents/Defendants.

I. INTRODUCTION

1. This case asks the Court to prevent Respondents from transferring a group of unaccompanied immigrant children away from the lawyers that Congress said they must be able to access. Federal law does not permit Respondents to treat unaccompanied children as movable pieces in an immigration enforcement system; it requires child-centered custody, the least restrictive placement *in the child's best interests*, and meaningful access to counsel. Respondents' own rules reinforce those obligations by requiring notice to counsel before transfer and mandating safeguards to preserve the child's legal rights. By moving Petitioner children away from existing counsel without meaningful notice, justification, or protections for the attorney-client relationship, Respondents turn placement authority into a barrier to representation and render Petitioner children's statutory and constitutional protections meaningless in practice.
2. Petitioner children are a group of 108 unaccompanied immigrant children in federal custody of the Office of Refugee Resettlement ("ORR") in the state of

1 Arizona who bring this action through their next friend, Susan Kettlewell. Their
2 legal services provider, the Florence Immigrant and Refugee Rights Project
3 (“Florence Project”), is also a petitioner and plaintiff.
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5 3. Petitioner children, by and through their next friend, Susan Kettlewell, seek a writ
6 of habeas corpus enjoining their transfer outside of the state of Arizona while they
7 are in ORR custody. As members of the public, they are also Plaintiffs in the
8 concurrently filed FOIA request.
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10 4. On information and belief, and as reported in multiple news outlets and as
11 detailed in a letter sent to Respondent ORR by multiple members of Congress,
12 Respondents plan to move Petitioner children out of state, possibly to Texas or
13 Louisiana, where they would not have access to the attorneys currently
14 representing them. On information and belief, Respondents have already moved
15 one Petitioner child out of Arizona to Texas.
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17 5. On August 4, 2026, ORR published an announcement of in the federal registry that
18 “ORR announces the intent to award a single-source cooperative agreement in an
19 amount of up to \$150,000,000 to Burke Law Group, a law firm headquartered in
20 Houston, Texas. The purpose of this proposed award is to provide legal
21 orientation, legal consultation, and attorney-of-record representation services for
22 eligible unaccompanied alien children (UACs) during immigration proceedings
23 before the Executive Office for Immigration Review (EOIR) and in hearings and
24 proceedings before the U.S. Citizenship and Immigration Services (USCIS) while
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1 children remain in ORR care. *See* Exh. 4, Notice. Per the firm’s website,
2 <https://burkegroup.law/our-team/>, none of the firm’s attorneys have offices in
3 Arizona.
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5 6. Petitioner children’s transfer is unlawful for at least four reasons:

- 6 a. It violates the Trafficking Victims Protection Reauthorization Act’s
7 (“TVPRA”) requirement of access to counsel to the greatest extent
8 practicable. Petitioner children have counsel in Arizona representing them
9 in state court, immigration court, and/or before federal agencies;
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11 b. It violates Petitioner children’s substantive due process rights by
12 preventing them from consulting and working with their chosen counsel,
13 accessing courts, and completing the prescribed child-centered processes
14 for applying for relief from removal;
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16 c. It violates their procedural due process rights, including ORR’s own rules
17 on point, by preventing them from consulting and working with their
18 chosen counsel and accessing courts; and
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20 d. It violates their First Amendment right to consult counsel, associate for
21 legal assistance, and petition and access the courts.
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23 7. Petitioners ask this Court for an order that Respondents may not transfer
24 Petitioner children to facilities outside Arizona unless Respondents are placing
25 Petitioner children in the least restrictive setting that is in the best interest of the
26 child, as determined by child welfare best practices, the child’s express wishes,
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1 ORR's own policy, and an individualized best interest report; and provide each
2 Petitioner, through counsel, with adequate notice and a meaningful opportunity
3 to contest any best interest finding and transfer decision. This would not prevent
4 children from being *released* from ORR custody under one of the following
5 circumstances:
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- 7 a. reunification with a sponsor in the United States;
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9 b. release to an Unaccompanied Refugee Minor Program;
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11 c. release on their own recognizance upon turning 18 as mandated by the
12 TVPRA; or
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14 d. safe repatriation pursuant to a voluntary departure order under TVPRA
15 safeguards or under a final removal order entered in INA § 240 (8 U.S.C.
16 § 1229a) removal proceedings before an immigration judge.

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18 Instead, it would merely preserve the status quo and allow Petitioner children
19 to continue their legal cases in federal and Arizona courts, with access to their
20 chosen and trusted counsel, and in their best interest.
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22 8. On July 31, 2026, the Office of Refugee Resettlement (ORR) allowed the federal
23 contract for unaccompanied children's legal representation services to lapse,
24 leaving more than 24,000 children around the country without funded legal
25 services. The instant request has become even more urgent because of the
26 extreme lack of clarity about what will happen with legal services for
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1 unaccompanied children and where they will be placed while they are in ORR
2 custody.

3 9. Plaintiff the Florence Project alleges that ORR created and then relied on policies,
4 manuals, staff instructions, and guidance about how it would administer, suspend,
5 transition, or terminate the legal services contract for unaccompanied children,
6 without making the governing policies public, even though FOIA requires
7 agencies to publish those kinds of policies so affected persons know the rules by
8 which the government is operating. The Florence Project asks the Court to declare
9 that ORR violated FOIA's affirmative publication requirements and order ORR to
10 publish all policies, manuals, directives, guidance, and staff instructions that fall
11 within 5 U.S.C. § 552(a)(2)(B) and (C) related to any planned transfer of children
12 in ORR custody and any changes to legal services for unaccompanied children.
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14 10. That lack of transparency impairs Petitioner/Plaintiff Florence Project's ability to
15 plan, protect existing attorney-client relationships, provide uninterrupted legal
16 services, communicate accurate and timely information to Petitioner children, and
17 to educate the public.
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22 II. PARTIES

23 11. Petitioners/Plaintiffs are a group of 108 unaccompanied immigrant children in
24 federal custody of the Office of Refugee Resettlement ("ORR") in the state of
25 Arizona and the legal services organization that represents them. Petitioner
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1 children are in the custody and under the direct control of Respondents Salazar
2 and Adams, and their agents. Petitioner children have all been designated as
3 unaccompanied immigrant children pursuant to 6 U.S.C. § 279(g)(2). Pursuant
4 to Fed. R. Civ. P. 17(c), Petitioner children appear in this action by their next
5 friend, retired Pima County Juvenile Court Commissioner Susan Kettlewell.
6 Their initials and ages are attached as Exhibit 1 (* indicates Petitioners who are
7 also plaintiffs in *Kettlewell v. Noem*, No. CV-25-00491-TUC-RM, 2025 WL
8 2733309 (D. Ariz. Sept. 25, 2025)).
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11 12. Plaintiff/Petitioner the Florence Project is a 501(c)(3) non-profit organization
12 and legal services provider that provides free orientations, legal representation,
13 and social services to unaccompanied immigrant children detained in Office of
14 Refugee Resettlement custody in Arizona. The Florence Project's mission is to
15 provide free legal and social services to detained adults and unaccompanied
16 children facing immigration removal proceedings in Arizona. In 2025, the most
17 recent year for which complete statistics are currently available, the Florence
18 Project provided 1,065 "Know Your Rights" presentations to unaccompanied
19 children. 889 children received direct legal representation from the Florence
20 Project that year, and 44 children under 5 received legal services. The Florence
21 Project is the legal representative of all of the Petitioner children and represents
22 additional ORR-detained and formerly detained unaccompanied children who
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1 are not Petitioner children. The Florence Project has offices in Phoenix,
2 Florence, and Tucson, Arizona. *See* Exh. 3 (Decl. of Roxana Avila-Cimpeanu).

3 13. Respondent Markwayne Mullin is the Secretary of the Department of Homeland
4 Security (“DHS”) and is responsible for the execution and administration of U.S.
5 immigration laws pursuant to 8 U.S.C. § 1103 and oversees Immigration and
6 Customs Enforcement. He is named in his official capacity.

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8 14. Respondent David Venturella is the Acting Director of U.S. Immigration and
9 Customs Enforcement (“ICE”) and is responsible for the detention and removal
10 of noncitizens. He is responsible for ICE’s policies, practices, and procedures,
11 including those relating to the detention of immigrants during the removal
12 process. He is named in his official capacity.

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15 15. Respondent Robert F. Kennedy Jr. is the Secretary of the Department of Health
16 and Human Services (“HHS”). He oversees the Office of Refugee Resettlement
17 and is responsible for the execution and administration of the Trafficking
18 Victims Protection Reauthorization Act and other law and policy that apply to
19 unaccompanied immigrant children. He has ultimate custodial authority over
20 Petitioner children. He is named in his official capacity.

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23 16. Respondent Angie Salazar is the Acting Director of ORR and is responsible for
24 the care and custody of unaccompanied immigrant children. She is a legal
25 custodian of Petitioners. She is named in her official capacity.

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27 17. Respondent Alex J. Adams is the Acting Assistant Secretary for the
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1 Administration for Children and Families (“ACF”). ACF is the operating
2 division of HHS, is the agency responsible for the welfare of children and
3 families and is comprised of 23 offices including ORR, the component agency
4 responsible for Petitioners’ detention and custody. He is a legal custodian of
5 Petitioners. He is named in his official capacity.
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8 18. Defendant U.S. Department of Health and Human Services (“Defendant HHS”)
9 is an agency within the meaning of 5 U.S.C. § 552(1)(f). HHS is the parent
10 agency to Defendant Office of Refugee Resettlement. It has possession, custody,
11 and control of records responsive to Plaintiffs’ FOIA request.
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13 19. Defendant Office of Refugee Resettlement (“Defendant ORR” is an agency
14 within the meaning of 5 U.S.C. § 552(1)(f). It has possession, custody, and
15 control of records responsive to Plaintiffs’ FOIA.
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17 **III. JURISDICTION AND VENUE**

18 19. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, since
19 this Petition arises under the Constitution and laws of the United States, namely,
20 the detention provisions of the Immigration and Nationality Act; the Habeas
21 Corpus Act, 28 U.S.C. § 2241 *et seq.*; the Due Process Clause of the Fifth
22 Amendment; the First Amendment; the Trafficking Victims Protection and
23 Reauthorization Act, and the Freedom of Information Act (“FOIA”), 5 U.S.C. §
24 552;
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27 20. This Court may grant relief pursuant to the Habeas Corpus Act, 28 U.S.C. § 2241,
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1 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs
2 Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers. Federal district
3 courts have jurisdiction to hear habeas claims by noncitizens challenging the
4 lawfulness of their detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). This
5 Court has subject matter jurisdiction over Plaintiff's FOIA claims pursuant to 28
6 U.S.C. § 1331 (federal question) and 5 U.S.C. § 552(a)(4)(B) (FOIA). Plaintiff's
7 request for declaratory and other relief is properly subject to this Court's subject
8 matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 2201, and 2202.
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11 21. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C.
12 § 1391(b)(2) and (e)(1) because at the time of filing, Petitioners (except for one
13 petitioner child who was reportedly transferred to Texas on August 3, 2026) are
14 detained in ORR shelters in Arizona within the jurisdiction of this Court; and a
15 substantial part of the events and omissions giving rise to the claims occurred in
16 this district by officers of the United States acting in their official capacity. Venue
17 is proper within this District under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§
18 1391(b)(1) and (b)(2) as the District of Arizona is the location where the claim
19 arose and where the Florence Project is located.
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23 22. Petitioners' exhaustion of administrative remedies is not required in this case
24 because no administrative remedies are available for claims based on violations
25 of the Constitution and the TVPRA. With regard to the FOIA claim, Defendants
26 HHS and ORR have not made records about transfer or termination of the legal
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1 services contract publicly available despite their mandatory publication
2 obligations under 5 U.S.C. §552(a)(2). No administrative mechanism exists
3 through which Plaintiffs could compel compliance with those publication duties.
4 To the extent exhaustion is required, any further administrative efforts would be
5 futile because the injury arises from Defendants' continuing failure to satisfy an
6 affirmative statutory obligation owed to the public at large. "[E]xhaustion cannot
7 be considered a jurisdictional requirement." *See Animal Legal Def. Fund v. United*
8 *States Dep't of Agric.*, 935 F.3d 858, 876 (9th Cir. 2019) (internal citations
9 omitted).

12 **IV. STATEMENT OF RELATED CASES**

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14 23. Petitioners are aware of the following related case currently pending in this
15 Court: *Kettlewell v. Noem*, No. CV-25-00491-TUC-RM, 2025 WL 2733309 (D.
16 Ariz. Sept. 25, 2025), pending before Judge Márquez. That case arises from
17 substantially related facts and presents overlapping legal issues concerning the
18 repatriation of unaccompanied children. As indicated above, several of the
19 Petitioners in this matter are Plaintiffs in *Kettlewell* and are also represented
20 here by the same next friend. Petitioner discloses the related case to assist the
21 Court in determining whether reassignment, transfer, consolidation, or
22 coordination is appropriate under LRCiv 42.1.
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V. FACTS AND PROCEDURAL HISTORY

24. This case results from a nearly year-long push by Respondents to limit and circumvent laws that protect unaccompanied immigrant children and unlawfully expel them from the United States, including attacks on their ability to access counsel. *See Exhibit 2, Selection of BIA Cases and New Reporting on the Trump Administration’s Attacks on Immigrant Children.*

25. Over Labor Day weekend in 2025, Respondents at ORR launched a late-night operation to try to unlawfully repatriate Guatemalan unaccompanied children, which was swiftly enjoined by every court that heard challenges to those actions, including this Court. *See Kettlewell v. Noem*, No. CV-25-00491-TUC-RM, 2025 WL 2733309, at *1 (D. Ariz. Sept. 25, 2025); *L.G.M.L. v. Noem*, 800 F. Supp. 3d 100, 109 (D.D.C. 2025); *A.G.P.C. v. Olson*, No. 25 C 10729, 2026 WL 1398726, at *1 (N.D. Ill. May 12, 2026). Later reports showed that Respondents were working on a similar plan to unlawfully repatriate Honduran children, which this Court also found credible. *See Kettlewell v. Noem*, 2025 WL 2733309, at *1.

26. Respondents claimed that their plan was merely an attempt to “reunify children with parents who had requested their return.” *L.G.M.L.*, 800 F. Supp. 3d at 110. However, under the faintest scrutiny in the light of day, that explanation “crumbled like a house of cards.” *Id.* In fact, Defendants in that case could point

1 to no evidence that the parents of these children sought their return. *Id.* “To the
2 contrary, the Guatemalan Attorney General reports that officials could not even
3 track down parents for most of the children whom Defendants found eligible for
4 their ‘reunification’ plan. And none of those that were located had asked for
5 their children to come back to Guatemala.” *Id.*

7 27. Barred by courts from executing their plans to put children on planes under the
8 guise of “repatriation,” Respondents then launched a program to offer cash to
9 children in exchange for their speedy exit from the country. In October 2025, the
10 government reportedly initiated a program offering unaccompanied children a
11 \$2,500 “one-time resettlement support stipend” if they agreed to voluntarily
12 depart the United States. The offer applied to unaccompanied children aged 14
13 and older and would be paid only after an immigration judge approved the
14 child’s departure and the child returned to the country of origin. Christian
15 Martinez, *Trump Administration Offers Unaccompanied Migrant Children*
16 *\$2,500 to Voluntarily Leave US, Letter Shows*, Reuters (Oct. 3, 2025),
17 [https://www.reuters.com/legal/government/trump-administration-offers-](https://www.reuters.com/legal/government/trump-administration-offers-unaccompanied-migrant-children-2500-voluntarily-2025-10-04)
18 [unaccompanied-migrant-children-2500-voluntarily-2025-10-04](https://www.reuters.com/legal/government/trump-administration-offers-unaccompanied-migrant-children-2500-voluntarily-2025-10-04); Valerie
19 Gonzalez, *Trump Administration Offers Migrant Children \$2,500 to Voluntarily*
20 *Return to Home Countries*, Associated Press (Oct. 3, 2025),
21 [https://apnews.com/article/ice-immigration-orr-shelters-](https://apnews.com/article/ice-immigration-orr-shelters-b855b5a03a6be3ba62662a5999a5984f)
22 [b855b5a03a6be3ba62662a5999a5984f](https://apnews.com/article/ice-immigration-orr-shelters-b855b5a03a6be3ba62662a5999a5984f); José Olivares & Maanvi Singh, *Trump*

1 *Administration to Offer Unaccompanied Minors \$2,500 to Self-Deport, Memo*
2 *Reveals*, Guardian (Oct. 3, 2025), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2025/oct/03/unaccompanied-minors-self-deport-payment)
3 [news/2025/oct/03/unaccompanied-minors-self-deport-payment](https://www.theguardian.com/us-news/2025/oct/03/unaccompanied-minors-self-deport-payment). Reporting also
4 indicated that children were given only 24 hours to respond, raising serious
5 concerns that the government was using financial pressure to induce vulnerable
6 children to waive TVPRA protections, abandon legal claims, and accept return
7 without meaningful consultation with counsel. Gonzalez, *supra*. Staff at the
8 Florence Immigrant & Refugee Rights Project (“Florence Project”) have
9 reported that several children in ORR custody in Arizona were approached
10 regarding “Incentivized Voluntary Departure” and that parents in home countries
11 were also receiving similar requests and being encouraged to tell children to
12 take the money.
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16 28. Recent agency action and reporting show that ORR’s child-welfare function has
17 become entangled with ICE enforcement against sponsors, delaying children’s
18 release from custody. In March 2025, ORR removed its Foundational Rule’s
19 prohibition on sharing sponsor immigration-status information with law-
20 enforcement and immigration-enforcement entities. *Unaccompanied Children*
21 *Program Foundational Rule; Update To Accord With Statutory Requirements*, 90
22 Fed. Reg. 13,554, 13,554–55 (Mar. 25, 2025), available at
23 [https://www.federalregister.gov/documents/2025/03/25/2025-](https://www.federalregister.gov/documents/2025/03/25/2025-04971/unaccompanied-children-program-foundational-rule-update-to-accord-)
24 [04971/unaccompanied-children-program-foundational-rule-update-to-accord-](https://www.federalregister.gov/documents/2025/03/25/2025-04971/unaccompanied-children-program-foundational-rule-update-to-accord-)
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1 with-statutory-requirements; Ted Hesson, *Trump Administration Rolls Back*
 2 *Restrictions on Sharing Migrant Minor Sponsors' Immigration Status*, Reuters
 3 (Mar. 24, 2025), [https://www.reuters.com/world/us/trump-administration-rolls-](https://www.reuters.com/world/us/trump-administration-rolls-back-restrictions-sharing-migrant-minor-sponsors-2025-03-24/)
 4 [back-restrictions-sharing-migrant-minor-sponsors-2025-03-24/](https://www.reuters.com/world/us/trump-administration-rolls-back-restrictions-sharing-migrant-minor-sponsors-2025-03-24/). The Associated
 5 Press ("AP") later reported that ORR required parents seeking reunification to
 6 appear in person for identity-verification interviews where federal law-
 7 enforcement agencies may be present, and that legal groups reported parent
 8 arrests while children remained in custody. Valerie Gonzalez, *ICE Is Showing Up*
 9 *to Interview Parents Hoping To Reunite with Their Children Who Entered US*
 10 *Alone*, Associated Press (Sept. 2, 2025),
 11 <https://apnews.com/article/81b20a1e3651337cec14b508f59cc52f>. The Guardian
 12 similarly reported that ICE "welfare checks" were being used to locate
 13 unaccompanied children and sponsors for enforcement purposes while ORR
 14 resumed sharing sensitive sponsor information with ICE. Jose Olivares, *ICE*
 15 *Seeking Out Unaccompanied Immigrant Children To Deport or Prosecute*,
 16 Guardian (Apr. 28, 2025), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2025/apr/28/ice-unaccompanied-immigrant-children)
 17 [news/2025/apr/28/ice-unaccompanied-immigrant-children](https://www.theguardian.com/us-news/2025/apr/28/ice-unaccompanied-immigrant-children).

- 18 29. These policies have also prolonged children's confinement: the AP reported that
 19 children released from ORR custody averaged 171 days in custody in July 2025,
 20 down from 217 days in April but far above 37 days in January. Gonzalez, *supra* ¶
 21 22. Advocates attributed the increase to the new sponsor-vetting and enforcement

1 policies. *Id.* This context undercuts any claim that ORR transfers and custody
2 decisions are neutral child-welfare measures when the same system is exposing
3 sponsors to arrest, chilling reunification, and keeping children in government
4 custody longer.
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6 30. Recent reporting confirms that the government has also sought to accelerate
7 removal proceedings for unaccompanied children in custody, creating precisely
8 the kind of rushed process that makes meaningful access to competent counsel
9 indispensable. In April 2026, CNN reported that the administration was moving
10 to fast-track deportations of migrant children in federal custody by pushing
11 immigration hearings forward by weeks or months, with children as young as
12 four appearing repeatedly in immigration court, at times without counsel.
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14 Priscilla Alvarez, *Exclusive: Trump Moves to Accelerate Deportations of*
15 *Migrant Children in US Custody*, CNN (Apr. 28, 2026),
16 <https://www.cnn.com/2026/04/28/politics/migrant-children-deportations-trump>.
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19 31. Many of the Petitioners here are appearing in immigration court with only three
20 weeks between hearings and under significant pressure by immigration judges to
21 file for relief from removal, even if they are not yet represented by counsel in
22 immigration proceedings. Advocates across the country, including attorneys at
23 the Florence Project, are reporting the fast-tracking of the removal proceedings
24 of detained unaccompanied minors. Florence Project attorneys and staff have
25 witnessed extremely quick initiation of proceedings; mass group master
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1 calendar hearings; short continuances and the *sua sponte* advancement of
2 hearings in cases where longer continuances were previously granted; children
3 being forced to proceed without an attorney, including answering to pleadings in
4 violation of federal regulations, 8 C.F.R. § 1240.10(c) (“[t]he immigration judge
5 shall not accept an admission of removability from an unrepresented respondent
6 who is incompetent or under the age of 18 and is not accompanied by an
7 attorney or legal representative, a near relative, legal guardian, or friend . . .”);
8 and serious barriers to accurate language interpretation in the child’s best
9 language, including the use of artificial intelligence (“AI”) interpretation
10 technology in court.
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14 32. The administration is also facilitating attempts to conduct children’s hearings in
15 secret. In June 2026, the Department of Justice (“DOJ”), through the Executive
16 Office for Immigration Review (“EOIR”), issued a fact sheet compiling
17 regulation and EOIR policy manual language regarding when removal
18 proceedings may be closed to the public. Exec. Off. for Immigr. Rev., *Observing*
19 *Immigration Court Hearings* (June 2026), available at
20 <https://www.justice.gov/eoir/media/1449716/dl?inline>. While the rules regarding
21 observation of hearings are ostensibly designed to protect survivors of abuse and
22 other sensitive parties, this document, when viewed in conjunction with an
23 overall pattern of attacks on immigrant children, can reasonably be construed to
24 constitute instructions to immigration judges to remove observers who could
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witness and report on miscarriages of justice occurring in immigration cases.

33. In sum, Respondents have demonstrated repeated and concerted efforts to diminish the rights of immigrant children in their care. Since taking office last year, Trump officials have chipped away at legal protections for unaccompanied children, including making it more difficult for relatives to obtain children in custody, arresting them after welfare checks, and suing to end a decades-long federal settlement agreement overseeing the rights of children in custody. Gonzalez, *supra* ¶ 22. Children are now staying in federal detention for months, prompting congressional scrutiny. *Id.*

34. In late June 2026, Senator Ron Wyden again raised alarm that Respondents at ORR have identified more than 500 unaccompanied migrant children in federal custody for possible removal from the United States, reportedly focusing on children held for at least 180 days and categorized as lacking a viable sponsor. Priscilla Alvarez, *Trump Administration Identifies More Than 500 Migrant Children for Removal from the US, Senator Says*, CNN (June 25, 2026), <https://www.cnn.com/2026/06/25/politics/trump-administration-migrant-children-removal>; *see also* Letter from Ron Wyden, Ranking Member, S. Comm. on Fin., to Robert F. Kennedy Jr., Sec’y, U.S. Dep’t of Health & Hum. Servs. (June 24, 2026).

35. On July 3, 2026, the Texas Tribune (“the Tribune”) reported on yet another scheme to create barriers for Petitioners: move children away from their

1 attorneys. Lomi Kriel, *Trump Administration Asks Texas for Help Providing*
2 *Legal Services to Immigrant Kids Facing Deportation*, Tex. Trib. (July 3, 2026),
3 [https://www.texastribune.org/2026/07/03/trump-texas-doj-indigent-defense-](https://www.texastribune.org/2026/07/03/trump-texas-doj-indigent-defense-unaccompanied-immigrant-children/)
4 [unaccompanied-immigrant-children/](https://www.texastribune.org/2026/07/03/trump-texas-doj-indigent-defense-unaccompanied-immigrant-children/). The article indicates that Respondents are
5 preparing to transfer hundreds of unaccompanied children to Texas. *Id.* “The
6 government has abruptly shuttered at least 50 federal shelters detaining
7 immigrant children across Democratic states such as New York, Illinois and
8 Michigan even as federal contractors in Texas advertised hundreds of shelter
9 jobs.” *Id.*; see also Isabelle Taft, *New York’s Beds for Unaccompanied*
10 *Immigrant Children Evaporate as Feds End Contracts*, N.Y. Focus (May 19,
11 2026), [https://nysfocus.com/2026/05/19/unaccompanied-immigrant-children-](https://nysfocus.com/2026/05/19/unaccompanied-immigrant-children-orr-contracts)
12 [orr-contracts](https://nysfocus.com/2026/05/19/unaccompanied-immigrant-children-orr-contracts); Compass Connections Careers,
13 https://np hosting.wd5.myworkdayjobs.com/CC_Careers, (last visited July 3,
14 2026) (advertising positions including Shelter Manager, Direct Care Worker,
15 and Regional Director of Residential Services). ORR officials confirmed that
16 there is sufficient capacity to detain the nearly 2,000 children currently in ORR
17 care across the country in Texas. Kriel, *supra*.

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23 36. The AP reports that the Trump administration also plans to open a 528-bed
24 holding facility for migrant families and unaccompanied children in Alexandria,
25 Louisiana, conveniently located next to an airport hub. See Jack Brook, *A New*
26 *ICE Facility Could Speed Up Deportations for Families and Kids*, Associated
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1 *Press* (July 5, 2026), [https://apnews.com/article/ice-new-deportation-facility-](https://apnews.com/article/ice-new-deportation-facility-louisianachildren-families-02ce99eb592b4e392b5685b11368ca58)
2 [louisianachildren-families-02ce99eb592b4e392b5685b11368ca58](https://apnews.com/article/ice-new-deportation-facility-louisianachildren-families-02ce99eb592b4e392b5685b11368ca58). Opening up
3 facilities next to airports “would remove logistical headaches caused by
4 wrangling children from foster homes and shelters across the country and not
5 having anywhere to put them during final preparations for flight”, such as what
6 happened over Labor Day weekend 2025. *Id.*

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9 37. The administration has also been moving away from the existing federally funded
10 system (Unaccompanied Children Program, or “UCP”) that provides legal
11 services to unaccompanied immigrant children. Paul Flahave, *Trump*
12 *Administration in talks with Texas over lawyers for migrant children*, Austin-
13 American Statesman (July 3, 2026),
14 [https://www.statesman.com/news/article/trump-migrant-children-legal-aid-](https://www.statesman.com/news/article/trump-migrant-children-legal-aid-texas-22331975.php)
15 [texas-22331975.php](https://www.statesman.com/news/article/trump-migrant-children-legal-aid-texas-22331975.php). HHS issued a stop work order for the UCP in February 2025
16 and then attempted to terminate the UCP in its entirety in March 2025, after which
17 11 legal service providers, including the Florence Project, successfully argued for
18 a preliminary injunction enjoining the government from withdrawing the services
19 or funds provided for unaccompanied children under the TVPRA and ORR’s
20 Foundational Rule. *Cnty. Legal Servs. E. Palo Alto v. U.S. Dep’t of Health &*
21 *Hum. Servs.*, 780 F.Supp. 3d 897 (N.D. Cal. 2025) (“CLSEPA”). Until July 31,
22 2026 the Florence Project, along with other organizations across the country,
23 subcontracted with the Acacia Center for Justice (“Acacia”), the prior prime
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1 contract holder for the UCP contract, to provide federally mandated legal services
2 to unaccompanied children.

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4 38. Despite prevailing on the Motion for Preliminary Injunction, Plaintiffs in
5 *CLSEPA* have continued to fight to protect funding for services for children. On
6 July 1, 2026, the *CLSEPA* Plaintiffs filed a Motion for an Order to Show Cause
7 Why Defendants Should Not Be Held in Civil Contempt, according to which ORR
8 has stopped paying invoices to Acacia for the network since December 2025. *See*
9 Pls.' Notice of Mot. & Mot. for an Order to Show Cause Why Defs. Should Not
10 Be Held in Civil Contempt for Violating the Prelim. Inj., *CLESPA*, No. 4:25-cv-
11 02847-AMO (N.D. Cal. July 1, 2026), ECF No. 157. According to this filing,
12 ORR is withholding payment until it receives information from providers that was
13 not previously required, the disclosure of which would constitute a breach of
14 attorney-client privilege should attorneys provide it, and which would be
15 logistically impossible to compile. *Id.* The Motion for Order to Show Cause was
16 granted on July 2, 2026, leading to a hearing and to Petitioners in that case filing
17 a subsequent Motion to Enforce the Preliminary Injunction in that case, again
18 based on the ongoing non-payment for services to unaccompanied children since
19 December 2025. *See* Pls.' Notice of Emergency Mot. & Mot. To Enforce the
20 Prelim. Inj., *CLESPA*, No. 4:25-cv-02847-AMO (N.D. Cal. July 23, 2026), ECF
21 No. 166.

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27 39. This long-delayed payment is impeding legal service providers' abilities to
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1 provide legal representation services, as they are forced to find other resources to
2 support their work or consider furloughs or other staffing changes, or terminating
3 their contract with Acacia. *See id.* Providers are being forced to use emergency
4 money to stay afloat. Though there are many competent and experienced legal
5 service providers across the country, the lack of payment and uncertainty that the
6 Government is creating in the funding and provision of services puts providers in
7 the position of being forced to limit services to children due to lack of resources
8 and staffing, delayed payment, and uncertainty in the future of the contract. *Id.*
9 One provider, Kids in Need of Defense (“KIND”), even severed their subcontract
10 with Acacia due to the delay of \$20 million dollars owed to it for services rendered
11 under the contract, and in order to ensure long-term viability. *See* Press Release,
12 KIND, KIND Severs Current Federal Legal Service Provider Subcontract (June
13 30, 2026), [https://supportkind.org/press-releases/kind-severs-current-federal-](https://supportkind.org/press-releases/kind-severs-current-federal-legal-service-provider-subcontract/)
14 [legal-service-provider-subcontract/](https://supportkind.org/press-releases/kind-severs-current-federal-legal-service-provider-subcontract/). Through these tactics, the government is
15 artificially creating legal deserts across the country, and the result is that children
16 who need and are entitled to attorneys cannot get one.
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22 40. On Friday, July 31, 2026, ORR declined to extend a contract that provided legal
23 services to unaccompanied children. Exh. 3, Decl. of Roxana Avila-Cimpeanu. As
24 a result, more than 20,000 children around the country, including Petitioner
25 Children, are without federal funding for their legal representation. Sonja Sharp,
26 *More than 24,000 Migrant Children Could Lose Legal Representation as Federal*
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1 *Contract Expires, L.A. Times (July 29, 2026),*

2 <https://www.latimes.com/california/story/2026-07-29/24-000-migrant-children->

3 [could-lose-legal-representation-as-contract-is-set-to-expire](https://www.latimes.com/california/story/2026-07-29/24-000-migrant-children-could-lose-legal-representation-as-contract-is-set-to-expire) (reporting that the

4 loss of federal funding for legal representation could result in thousands of

5 children facing removal proceedings without counsel). *Trump Administration to*

6 *Let Contract Aiding Unaccompanied Minors Expire*, The Guardian (July 30,

7 2026), [https://www.theguardian.com/us-news/2026/jul/30/trump-administration-](https://www.theguardian.com/us-news/2026/jul/30/trump-administration-children-immigration)

8 [children-immigration](https://www.theguardian.com/us-news/2026/jul/30/trump-administration-children-immigration) (noting that the federal government allegedly owes

9 approximately \$65 million to legal service providers, that nonprofit organizations

10 have already laid off attorneys after months without payment, and that providers

11 declined a proposed temporary contract because they asserted that it would have

12 required disclosure of confidential client information). The future of legal services

13 mandated under the TVPRA and the Foundational Rule for unaccompanied

14 children is extremely unclear following ORR's decision to allow this contract to

15 lapse. *See* Exh. 3, Dec'l. of Roxana Avila-Cimpeanu.

16 41. Other reporting confirms the DOJ's engagement in talks with the Texas

17 Attorney General's Office and The Indigent Defense Commission to take over the

18 federally mandated representation of immigrant children, and advocate concerns

19 that "[w]hat the administration appears to be proposing would involve uprooting

20 vulnerable children from the lawyers and advocates they are working with,

21 requiring them to start their cases over in a state where there is no independent

1 oversight of the care children receive, to set up a rubber-stamp system for a mass
2 child deportation agenda.” Paul Flahave, *Trump Administration in talks with*
3 *Texas over lawyers for migrant children*, Austin-American Statesman (July 3,
4 2026), [https://www.statesman.com/news/article/trump-migrant-children-legal-](https://www.statesman.com/news/article/trump-migrant-children-legal-aid-texas-22331975.php)
5 [aid-texas-22331975.php](https://www.statesman.com/news/article/trump-migrant-children-legal-aid-texas-22331975.php). A recent posting on a federal government contracting
6 site indicating that ORR is looking to contract to find an “influx” site for up to
7 3,000 children. *See* Exh. 3, Decl. of Roxana Avila-Cimpeanu ¶ 15. Given that
8 there are only about 1,700 children in ORR custody right now, that would mean
9 that all children could be shifted into a consolidated central facility. *Id.*

12 42. On August 4, ORR published a notice to award a contract of up to
13 \$150,000,000 starting on August 15, 2026 to a Texas-based law firm, the Burke
14 Law Group. Exh. 4, Notice. The firm, which does not indicate any experience
15 representing unaccompanied immigrant children on its website, *see*
16 <https://burkegroup.law/practice-areas/>, is based in Texas. Its website does not
17 indicate that it has attorneys in licensed Arizona who could step in to provide
18 representation to Petitioner children, including representation before
19 state courts, a requirement for Special Immigrant Juvenile petitions, USCIS for
20 the asylum interviews that have been scheduled this summer (*see* Exh. 3,
21 indicating that many of the Florence Project’s clients have been set for USCIS
22 interviews on the merits of their asylum petitions in upcoming weeks), and the
23 immigration courts in Phoenix and Tucson.
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1 43. These efforts have real consequences for children. Even though Respondents
2 were unsuccessful in their previous repatriation attempts, the harm from the
3 Labor Day attempted removals has continued well beyond the incident itself:
4 children transported during the operation were “crying, praying, vomiting,”
5 some became catatonic, one child required hospitalization for days, and another
6 child refused for months to board buses for medical appointments or court
7 hearings. Valerie Gonzalez & Rebecca Santana, *US Senator Warns of*
8 *Administration Plan to Hastily Remove Over 500 Unaccompanied Migrant*
9 *Children*, Associated Press (June 25, 2026), [https://apnews.com/article/migrant-](https://apnews.com/article/migrant-children-deportation-border-trump-wyden-853585bc4efd13e59eccfb43fc4d0ceb)
10 [children-deportation-border-trump-wyden-](https://apnews.com/article/migrant-children-deportation-border-trump-wyden-853585bc4efd13e59eccfb43fc4d0ceb)
11 [853585bc4efd13e59eccfb43fc4d0ceb](https://apnews.com/article/migrant-children-deportation-border-trump-wyden-853585bc4efd13e59eccfb43fc4d0ceb).
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15 44. The Florence Project represents several children who were targeted over Labor
16 Day weekend and who are still in ORR custody nearly a year later, and who
17 would be further traumatized if moved away from the attorneys they have grown
18 to trust in the middle of legal proceedings. Florence Project staff reported that
19 children in ORR care in Arizona cried all day on Friday, July 3, and could not
20 sleep over the weekend after being informed of a potential plan to transfer them
21 out of Arizona. Florence Project social workers are preparing to do mental
22 health safety checks due to the trauma of hearing reports of these various
23 schemes to move or remove them.
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1 45. Upon information and belief, as of August 3, 2026, one Petitioner child in this
2 matter, L.M.D.A., was in the process of being transferred from Arizona to
3 Texas, and the Florence Project is working on learning more about the
4 circumstances and agency decision-making that led to the transfer.
5

6 46. If Respondents are allowed to proceed with removing more children out of
7 Arizona and away from their chosen and trusted counsel, the harm would be
8 staggering: children could be unlawfully ejected from the country, likely placed
9 in harm's way, lose access to their trusted counsel, be placed in a jurisdiction
10 where they would not be provided with competent counsel or adequate oversight
11 for their care, and would lose their ability to pursue pathways for relief from
12 removal like asylum or Special Immigrant Juvenile Status, in addition to the
13 emotional toll of another attack against them committed by the United States
14 government.
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19 V. LEGAL FRAMEWORK

20 **A. Unaccompanied Minors Have Robust Protections Under the Law, But Many** 21 **Protections Expire When Children Turn 18**

22 47. Children who enter the United States without lawful immigration status who
23 have no parent or legal guardian available to provide care and custody in the
24 United States are designated as unaccompanied children ("UCs"). 6 U.S.C. §
25 279(g)(2). Through a framework of federal legislation, regulations, policy, and
26 court settlements, UCs in federal custody receive heightened protections and
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1 child-sensitive treatment; are subject to special rules and procedures while in
2 removal proceedings and in applications for relief such as asylum; and may
3 qualify for additional forms of relief from removal, such as Special Immigrant
4 Juvenile Status (“SIJS”). This more child-friendly scheme generally only applies
5 to UCs under the age of 18, and many of the additional protections and
6 eligibility for special rules or forms of relief ends when a UC reaches 18.
7

8 48. Created and expanded through bipartisan legislation, SIJS is a form of
9 immigration relief for foreign-born children living in the United States who
10 have been abused, neglected, abandoned, or similarly mistreated by a parent and
11 who meet other criteria, including having a state court determination that return
12 to their country of origin would not be in their best interest. 8 U.S.C. §
13 1101(a)(27)(J); *see also* 8 U.S.C. §§ 101-225, 1255(h)(1), (2). Under the SIJS
14 statutory scheme, beneficiaries receive numerous protections, including the
15 ability to seek lawful permanent residency (“LPR”) status once a visa becomes
16 available to them without leaving the United States, 8 U.S.C. § 1153(b)(4); and
17 exemption from grounds of inadmissibility based on having entered the United
18 States without admission or parole or at an unauthorized time or place, failure to
19 maintain status, or unauthorized employment. 8 U.S.C. § 1255(h)(1), (2).
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23 49. Noncitizens seeking SIJS file a petition with the U.S. Citizenship and
24 Immigration Services (“USCIS”). SIJS petitioners must be under the age of 21,
25 unmarried, and physically present in the United States; have been declared
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1 dependent or placed in a custody or guardianship arrangement by a state court of
2 competent jurisdiction; and have been issued an order by such court with
3 findings that (1) it is not viable for the petitioner to reunify with their parent or
4 parents due to abuse, neglect, abandonment, or a similar basis under state law,
5 and (2) it would not be in the petitioner's best interest to be returned to their or
6 their parent's country of nationality or last habitual residence. 8 U.S.C. §
7 1101(a)(27)(J); 8 C.F.R. § 204.11.
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10 50. The statutory requirement that SIJS petitioners submit a predicate state court
11 order necessarily means that SIJS eligibility varies based on state juvenile
12 dependency and guardianship laws. Potential SIJS beneficiaries are most
13 impacted by differences between state juvenile court jurisdictional age limits:
14 while noncitizens may file a SIJS petition with USCIS until the age of 21, in
15 many states, the jurisdiction of juvenile courts ends or is limited when the
16 subject of a proceeding reaches the age of 18 or 19. *See, e.g., State-by-State*
17 *Age-Out Database*, Project Lifeline, [https://projectlifeline.us/resources/state-by-](https://projectlifeline.us/resources/state-by-state-age-out-database/)
18 [state-age-out-database/](https://projectlifeline.us/resources/state-by-state-age-out-database/) (last visited Jul. 3, 2026) (in Texas and Arizona, among
19 other states, a predicate order must be issued before age 18). Thus, eligibility for
20 SIJS effectively ends in many states if state juvenile court proceedings have not
21 been initiated and timely filed, and a predicate order issued, before the UC "ages
22 out" when they turn 18.
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1 51. Under the Trafficking Victims Protection Reauthorization Act of 2008

2 (“TVPRA”), UCs in removal proceedings who are seeking asylum are entitled
3 to special procedures that recognize their special vulnerability and needs. While
4 the default rule for individuals in removal proceedings is that the immigration
5 court has exclusive jurisdiction over their asylum applications, *see* 8 C.F.R. §
6 208.2(b), the TVPRA creates a statutory exception to that rule for UCs and
7 grants USCIS initial jurisdiction over their asylum applications. 8 U.S.C. §
8 1158(b)(3)(C). When an asylum application is adjudicated by USCIS, rather
9 than by an immigration judge, more age-appropriate and trauma-informed
10 procedures are utilized, including a non-adversarial interview setting rather than
11 immigration court. Further, if an affirmative asylum application is denied by
12 USCIS, the case is re-referred to immigration court, where the UC has a second
13 opportunity to have their case reviewed by an immigration judge.
14

15 52. While asylum seekers generally must file their applications within one year of
16 entry to the United States, 8 U.S.C. § 1158(a)(2)(B), UCs are exempt from this
17 one-year deadline. 8 U.S.C. § 1158(a)(2)(E). UC asylum applicants are further
18 exempt from the “safe third country” bar to asylum. 8 U.S.C. § 1158(a)(2)(A).
19

20 53. UC-specific asylum rules and procedures do not automatically end upon a UC’s
21 aging out, but these protections are less clear-cut once the UC reaches the age of
22 18. While current USCIS policy, implemented as a result of litigation following
23 previous attempts to circumvent special UC asylum procedures, *see* Settlement
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1 Agreement, Doc. No. 199-2, *J.O.P. v. DHS*, No. 19-01944 (D. Md. Jul. 30,
2 2024), requires USCIS to take jurisdiction over UC asylum applications filed
3 after the UC turns 18, immigration courts are not bound by this policy and
4 judges may choose to exercise jurisdiction over an applicant who filed for
5 asylum after reaching the age of 18, even where USCIS is simultaneously
6 exercising jurisdiction. *See Matter of M-A-C-O-*, 27 I&N Dec. 477 (BIA 2018).
7 USCIS may also reject jurisdiction over a UC applicant filing once over the age
8 of 18 if the applicant was placed in adult immigration detention. Brett Lassen,
9 Chief, USCIS Asylum Division, *Revised Updated Procedures for Determination*
10 *of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien*
11 *Children and Implementation of the J.O.P. Settlement Agreement* (Oct. 30,
12 2025). Thus, to fully preserve the protective rules and procedures available to
13 UC asylum seekers under the TVPRA, children must file prior to the age of 18.

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18 **B. Petitioners Have the Right to Counsel Under the TVPRA.**

19 54. The TVPRA reflects Congress's deliberate decision to create heightened
20 protections for unaccompanied noncitizen children because of their age,
21 isolation, and vulnerability in the immigration system. Rather than treating UCs
22 as ordinary immigration detainees, the TVPRA establishes a child-protective
23 statutory scheme requiring prompt transfer to the Office of Refugee
24 Resettlement, safe and appropriate placement, access to counsel, trafficking
25 screening, and procedures that preserve children's ability to seek humanitarian
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1 relief. *See* 8 U.S.C. § 1232; 6 U.S.C. § 279(g)(2). The statute thus recognizes
2 that a child’s physical custody, access to legal assistance, and ability to pursue
3 immigration protection are deeply interconnected, and that agency action
4 undermining those safeguards frustrates the very purposes Congress sought to
5 protect. A child in ORR custody has the right to be placed in the least restrictive
6 setting that is in the best interest of the child. *See* 8 U.S.C. §§ 1232(c)(2)(A) and
7 (B).
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10 55. In recognition of their particular vulnerability, the TVPRA creates an
11 affirmative right-to-counsel framework for unaccompanied immigrant children
12 that goes beyond the ordinary statutory right to retain counsel at no government
13 expense found in the INA, *see* 8 U.S.C. § 1229a(b)(4)(A). Under the statute,
14 unaccompanied children placed in removal proceedings must be “provided
15 access to counsel,” 8 U.S.C. § 1232(a)(5)(D)(iii), and HHS “shall ensure, to the
16 greatest extent practicable and consistent with section 292 of the Immigration
17 and Nationality Act,” that unaccompanied children who are or have been in
18 HHS or DHS custody “have counsel to represent them in legal proceedings or
19 matters and protect them from mistreatment, exploitation, and trafficking.” *Id.* §
20 1232(c)(5); *see also* 8 U.S.C. § 1362. Congress also directed HHS, “[t]o the
21 greatest extent practicable,” to use pro bono counsel willing to represent
22 children without charge. 8 U.S.C. § 1232(c)(5). Thus, while the TVPRA does
23 not itself create an unrestricted right to government-funded appointed counsel, it
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1 imposes a concrete federal obligation to facilitate meaningful access to counsel
 2 for unaccompanied children, rooted in Congress’s judgment that legal
 3 representation is central to protecting children in immigration proceedings and
 4 related matters.
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6 **C. Petitioners Have Substantive Due Process Rights to Access to Counsel Under**
 7 **the Fifth Amendment**

8 56. The Fifth Amendment’s Due Process Clause prohibits the federal government
 9 from depriving any person of “life, liberty, or property, without due process of
 10 law.” U.S. Const. Amend. V. These protections extend to noncitizens present in
 11 the United States. *See, e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (*per*
 12 *curiam*) (“It is well established that the Fifth Amendment entitles aliens to due
 13 process of law’ in the context of removal proceedings” (quoting *Reno v. Flores*,
 14 507 U.S. 292, 306 (1993)); *see also Zadvydas v. Davis*, 533 U.S. at 693.
 15

16 57. Unlike some legal rules, due process “is not a technical conception with a fixed
 17 content unrelated to time, place and circumstances”; instead, it is a critical
 18 liberty interest which must be considered in factual context. *Cafeteria & Rest.*
 19 *Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) (quoting *Joint Anti-Fascist*
 20 *Refugee Committee v. McGrath*, 341 U.S. 123, 162–63 (1951) (Frankfurter, J.
 21 concurring)).
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23 58. The transfer of an unaccompanied child away from existing counsel violates
 24 both procedural and substantive due process when it effectively severs the
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1 attorney-client relationship or impairs the child's ability to pursue legal
2 protection.

3 59. The Ninth Circuit has characterized the right to counsel in removal proceedings
4 as fundamental and has emphasized that it "must be respected in substance as
5 well as in name." *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 554 (9th
6 Cir. 1990) (quoting *Baires v. INS*, 856 F.2d 89, 91 n.2 (9th Cir. 1988)); *see also*
7 *Rios-Berrios v. INS*, 776 F.2d 859, 862–63 (9th Cir. 1985). Transfers to remote
8 or inaccessible facilities, in areas of the country where there may be limited
9 competent counsel, may therefore be unlawful where they prevent the client
10 from obtaining or communicating with counsel, interfere with an existing
11 attorney-client relationship, or prejudice the client's ability to pursue relief. *See*
12 *Orantes-Hernandez*, 919 F.2d at 564–66; *Orantes-Hernandez v. Meese*, 685 F.
13 Supp. 1488, 1500, 1508–10 (C.D. Cal. 1988), *aff'd*, 919 F.2d 549 (9th Cir.
14 1990).

15 60. Such a transfer also violates due process if it is arbitrary, punitive, retaliatory, or
16 deliberately indifferent to the child's particular vulnerability and statutory
17 protections, including Congress's commands that UCs be placed in the least
18 restrictive setting that is in the child's best interest and that agencies facilitate
19 access to counsel to protect children from mistreatment, exploitation, and
20 trafficking. *See* 8 U.S.C. §§ 1232(c)(2)(A), (c)(5); *Reno v. Flores*, 507 U.S. 292,
21 301–06 (1993). Thus, while the government retains some discretion over
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1 placement, that discretion cannot be exercised in a manner that renders a child's
2 statutory and constitutional safeguards meaningless in practice.

3 **D. Petitioners Have Procedural Due Process Rights to Preserve Access to Counsel**
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5 61. ORR's own Foundational Rule recognizes that transfers of unaccompanied
6 children are not ordinary administrative logistics. The rule requires care provider
7 facilities to "continuously assess" whether a child's placement remains
8 appropriate and provides that a UC "shall be placed in the least restrictive setting
9 that is in the best interests of the child," subject only to considerations regarding
10 danger to self or the community and runaway risk. 45 C.F.R. § 410.1601(a). If an
11 alternate placement would best meet the child's needs, the care provider must
12 recommend transfer to ORR within three business days. *Id.* § 410.1601(a)(1).
13 Before the child's physical transfer, the referring facility must notify "all
14 appropriate interested parties," including the child's attorney of record, DOJ
15 Accredited Representative, legal service provider, or child advocate, "within 48
16 hours prior to" transfer. *Id.* § 410.1601(a)(3). Advance notice may be withheld
17 only in unusual and compelling circumstances, such as a safety threat, runaway-
18 risk determination, or waiver, and in those circumstances notice must be provided
19 within 24 hours after transfer. *Id.* §§ 410.1601(a)(3)(i)–(iii). The child must also
20 be transferred with legal papers and other required records. *Id.* § 410.1601(a)(4).
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22 62. These requirements are directly relevant to procedural due process. When the
23 government holds an unaccompanied child in custody and transfers the child in a
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1 manner that impairs counsel's ability to communicate, prepare, and protect the
2 child's legal claims, the required process must be meaningful, not merely formal.
3 ORR's transfer rule supplies the procedures the agency itself has deemed
4 necessary to protect a child's placement interests, continuity, legal papers, and
5 access to counsel. ORR's failure to provide required notice to counsel, to justify
6 the transfer under the child's best interests and least-restrictive-placement
7 standard, or to preserve counsel's ability to represent the child deprives the child
8 of a fair opportunity to be heard and violates procedural due process. *See* U.S.
9 Const. amend. V; 8 U.S.C. §§ 1232(c)(2)(A), (c)(5); 45 C.F.R. §§ 410.1601,
10 410.1309; *Rios-Berrios*, 776 F.2d at 862–63; *Orantes-Hernandez*, 919 F.2d at
11 564–66. And because federal agencies must follow their own binding procedures
12 when individual rights are affected, any violation of ORR's transfer rule
13 independently renders the challenged custody and transfer unlawful. *See United*
14 *States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954).

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20 **E. Petitioners Have a First Amendment Right to Hire and Associate With Counsel
of Their Choice**

21 63. A transfer that effectively severs a detained client from counsel violates the
22 client's First Amendment rights, particularly where the transfer substantially
23 interferes with the client's ability to consult counsel, associate for legal
24 representation, or petition and access the courts. *See Mothershed v. Justices of*
25 *the Supreme Court*, 410 F.3d 602, 611 (9th Cir. 2005) (“[T]he right to hire and
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1 consult an attorney is protected by the First Amendment's guarantee of freedom
 2 of speech, association and petition." (quoting *Denius v. Dunlap*, 209 F.3d 944,
 3 953 (7th Cir. 2000)); *Eng v. Cooley*, 552 F.3d 1062, 1069 (9th Cir. 2009) ("[T]he
 4 attorney is . . . the client's speaker hired to deliver the client's message.").

5 Although a detained person generally has no freestanding constitutional right to
 6 confinement in a particular facility, see *Meachum v. Fano*, 427 U.S. 215, 225
 7 (1976), officials may not use transfer authority to obstruct protected legal
 8 activity or impair access to counsel. See *Rhodes v. Robinson*, 408 F.3d 559, 567–
 9 68 (9th Cir. 2005); *Pratt v. Rowland*, 65 F.3d 802, 807 (9th Cir. 1995); *Gomez v.*
 10 *Vernon*, 255 F.3d 1118, 1127–28 (9th Cir. 2001).
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14 **F. Defendants HHS and ORR Have Failed To Comply With Their Affirmative**
 15 **Obligation Under FOIA to Make Information About Transfer, Contract Transition,**
 16 **and Contract Termination Publicly Available.**

17 63. Congress designed FOIA "to pierce the veil of administrative secrecy and to open
 18 agency action to the light of public scrutiny." *Animal Legal Def. Fund v. United*
 19 *States Dep't of Agric.*, 935 F.3d 858, 861 (9th Cir. 2019) (citations omitted). While
 20 FOIA is more commonly used as a way for the public to request specific records,
 21 the statute also creates an affirmative obligation for the agency to produce and
 22 publish documents that are particularly relevant to the public. *Id.* This affirmative
 23 obligation applies to:
 24

25 (A) final opinions, including concurring and dissenting opinions, as well as
 26 orders, made in the adjudication of cases;

27 (B) those statements of policy and interpretations which have been adopted
 28 by the agency and are not published in the Federal Register;

1 (C) administrative staff manuals and instructions to staff that affect a
2 member of the public;

3 (D) copies of all records, regardless of form or format—

4 (i) that have been released to any person under paragraph (3) [§
5 552(a)(3)]; and

6 (ii)(I) that because of the nature of their subject matter, the agency
7 determines have become or are likely to become the subject of
8 subsequent requests for substantially the same records; or

9 (II) that have been requested 3 or more times; and

10 (E) a general index of the records referred to under subparagraph (D)[.]

11 *Id.* at 862 (citing § 552(a)(2)).

12 64. To comply with this requirement, agencies have generally published these
13 affirmative disclosures in their reading rooms. *Id.* at 862 (“[a]s a result, agencies
14 today simply post records in electronic reading rooms on their websites rather than
15 requiring citizens to visit an agency's physical reading room in person.”).

16 65. FOIA vests jurisdiction in federal courts “to enjoin the agency from withholding
17 agency records and to order the production of any agency records improperly
18 withheld from the complainant.” *Id.* at 863 (citing § 552(a)(4)(B)).

19 **VI. CAUSES OF ACTION**

20 **FIRST CLAIM**

21 **Violation of the TVPRA – Interference With Right to Counsel**

22 67. Petitioners repeat and reallege all prior paragraphs as if fully set forth herein.

23 68. The TVPRA requires that unaccompanied children in ORR custody be provided
24 with access to legal counsel and representation in legal matters “to the greatest
25 extent practicable.” 8 U.S.C. § 1232(c)(5). In 2024, the ORR Foundational Rule
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27
28

1 was issued by HHS/ORR to implement protections for unaccompanied children
2 and expressly states that it implements portions of the Flores Settlement
3 Agreement while operating alongside the TVPRA. *See generally*
4 *Unaccompanied Children Program Foundational Rule*, 89 Fed. Reg. 34,384
5 (Apr. 30, 2024) (codified at 45 C.F.R. § 410); *see also* Stipulated Settlement
6 Agreement, *Flores v. Reno*, No. CV 85-4544-RJK(Px) (C.D. Cal. Jan. 17,
7 1997), *available at* [https://acf.gov/sites/default/files/documents/orr/Flores-](https://acf.gov/sites/default/files/documents/orr/Flores-Settlement-Agreement.pdf)
8 [Settlement-Agreement.pdf](https://acf.gov/sites/default/files/documents/orr/Flores-Settlement-Agreement.pdf).
9
10

11 69. Children in ORR custody have the right to be placed in the least restrictive
12 setting that is in their best interests. 8 U.S.C. §§ 1232(c)(2)(A)-(B).
13

14 70. The transfer of Petitioners out of state and away from existing counsel to
15 locations where availability of competent counsel may be limited or nonexistent
16 is contrary to the TVPRA's mandate that Petitioners have access to counsel to
17 the greatest extent practicable. In Arizona, Petitioners have access to legal
18 counsel. Outside of Arizona, Petitioners lose access to their existing legal
19 counsel and may not have the time or ability to initiate a new attorney-client
20 relationship before they turn 18, especially in placements located in rural areas,
21 areas without a contracted legal service provider, areas where the rules on the
22 vesting of jurisdiction would prevent the filing of new petitions, or areas with
23 legal service providers who would be overwhelmed with transfer cases and
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1 unable assist all children in the event of a mass simultaneous transfer of
2 children.

3 71. The transfer of Petitioners outside of Arizona and away from existing counsel is
4 not in the best interests of the children, and thus violates their TVPRA right to
5 placement in the least restrictive setting that is in their best interests. In Arizona,
6 Petitioner Children have developed rapport with their existing counsel. Many
7 Petitioners have initiated legal proceedings, including state juvenile court
8 proceedings and applications for relief from removal in their immigration cases.
9 Transfers out of state, where Petitioners may or may not have continued access
10 to competent counsel, adversely impacts Petitioners' ability to continue pursuing
11 their legal cases. Some forms of relief like Special Immigrant Juvenile Status
12 require state juvenile court proceedings, whose jurisdiction generally ends when
13 a child turns 18. *See, e.g.,* Ariz. Rev. Stat. Ann. § 8-202(G). Even where
14 Petitioners may have continued access to different legal counsel, by moving the
15 child out of Arizona, the child's dependency case could be dismissed in Arizona
16 and the child may have to start all over in the new state. Additionally, the
17 process of developing familiarity and building trust with new and unfamiliar
18 counsel may cause delays and setbacks in the child's legal proceedings. Counsel
19 outside of Arizona may not have licensure or competency to represent children
20 in Arizona Juvenile Court, or the rules of the state court in the new State could
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1 prevent children from being able to access relief.¹ Respondents' transfer of
 2 Petitioners out of Arizona and away from existing legal counsel unlawfully
 3 deprives Petitioners of their rights under the TVPRA to access counsel and to be
 4 in the least restrictive placement in their best interest. And without competent
 5 counsel who is licensed and trained to file state court petitions, it is
 6 unreasonable to assume a child would be able to navigate complicated state
 7 court processes on their own, nor is it guaranteed that they would even be
 8 legally able to file depending on individual state rules.

11 72. Petitioners' detention and transfer in a manner that ignores their best interests
 12 and right to access counsel of their choice is in violation of the laws of the
 13 United States and they are therefore entitled to habeas relief under 28 U.S.C. §
 14 2241.

16 SECOND CLAIM

17 Violation of Fifth Amendment Substantive Due Process — Arbitrary Transfer 18 Severing Access to Counsel

19 73. Petitioners repeat and reallege all prior paragraphs as if fully set forth herein.

21 74. The Fifth Amendment protects noncitizens in custody from arbitrary executive
 22 action that deprives them of liberty. That protection is especially important for
 23

24 ¹ For example, if the child has resided in Texas for over six months, Texas is the child's
 25 home state and may exercise jurisdiction over an initial Suit Affecting the Parent-Child
 26 Relationship ("SAPCR"). Tex. Fam. Code §§ 152.102(7), 152.201(a)(1). Otherwise, the
 27 child must demonstrate another basis for jurisdiction, including significant connections to
 28 Texas or circumstances warranting temporary emergency jurisdiction. Tex. Fam. Code §§
 152.201(a)(2), 152.204. This means that a child who is transferred close to their 18th
 birthday will face additional hurdles to filing a new petition in Texas.

1 unaccompanied children, whose custody is governed by the child-protective
2 safeguards of the TVPRA. *See* 8 U.S.C. § 1232; *Reno v. Flores*, 507 U.S. 292,
3 301–06 (1993).

4
5 75. Respondents’ plan to transfer Petitioners away from existing counsel without a
6 legitimate child-welfare or placement justification substantially interferes with
7 Petitioners’ attorney-client relationship and deprives Petitioners of meaningful
8 access to counsel in matters affecting Petitioners’ liberty, custody, and ability to
9 seek protection.
10

11 76. Respondents understand that Petitioners, as unaccompanied children, are
12 uniquely vulnerable and entitled to meaningful access to counsel. *See* 8 U.S.C. §
13 1232(c)(5). By transferring Petitioners in a manner that will effectively prevent
14 counsel from communicating with, advising, and representing Petitioners,
15 Respondents act arbitrarily and with deliberate indifference to Petitioners’
16 constitutional and statutory protections.
17
18

19 77. Placement discretion does not authorize Respondents to sever access to counsel,
20 frustrate the TVPRA’s protections, or impair Petitioners’ ability to seek legal
21 relief.
22

23 78. Respondents’ transfer and custody of Petitioners under conditions that prevent
24 meaningful access to counsel violate the Fifth Amendment’s substantive due
25 process guarantee and they are therefore entitled to habeas relief under 28
26 U.S.C. § 2241.
27
28

THIRD CLAIM

Violation of Fifth Amendment Procedural Due Process and ORR's Foundational Rule — Unlawful Transfer Interfering with Access to Counsel

79. Petitioners repeat and reallege all prior paragraphs as if fully set forth herein.

80. The Due Process Clause of the Fifth Amendment protects individuals against detention that is arbitrary, unjustified, or punitive.

81. Petitioners are unaccompanied children in federal custody and are entitled to the protections of the Fifth Amendment, the TVPRA, and ORR's binding regulations governing the care, placement, transfer, and legal representation of unaccompanied children. *See* U.S. Const. amend. V; 8 U.S.C. § 1232; 45 C.F.R. § 410.

82. ORR's Foundational Rule requires that unaccompanied children be placed in the least restrictive setting that is in the child's best interests, subject only to danger-to-self, danger-to-community, and runaway-risk considerations. 45 C.F.R. § 410.1601(a). It also requires the referring facility to notify appropriate interested parties, including the child's attorney of record, DOJ Accredited Representative, legal service provider, or child advocate, "within 48 hours prior to" the child's physical transfer, absent unusual and compelling circumstances. *Id.* § 410.1601(a)(3).

83. Respondents' planned transfer of Petitioners away from existing counsel without providing the notice, justification, and safeguards violates ORR's Foundational

1 Rule. Respondents cannot establish that the transfer is necessary to serve
2 Petitioners' best interests and that it is the least restrictive appropriate placement.

3 84. The transfer substantially impairs Petitioners' ability to communicate
4 confidentially with counsel, prepare for legal proceedings, preserve legal claims,
5 and seek protection from removal, mistreatment, exploitation, or trafficking. By
6 severing or substantially burdening counsel's ability to represent Petitioners,
7 Respondents deprive Petitioners of a meaningful opportunity to be heard.
8

9
10 85. Respondents' failure to follow ORR's own mandatory transfer procedures
11 violates procedural due process. It also violates the settled principle that federal
12 agencies must follow their own binding rules when individual rights are affected.
13
14 *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954).

15 86. Respondents' planned transfer and continued custody of Petitioners under these
16 circumstances violates their procedural due process rights under the Fifth
17 Amendment and they are therefore entitled to habeas relief under 28 U.S.C. §
18 2241.
19

20 21 **FOURTH CLAIM**

22 **Violation of the First Amendment — Interference with Access to Counsel,** 23 **Association, and Petition**

24 87. Petitioners repeat and reallege all prior paragraphs as if fully set forth herein.

25 88. The First Amendment protects Petitioners' rights to consult counsel, associate
26 with counsel for legal representation, and petition the government and courts for
27 relief. These protections are especially important for an unaccompanied child
28

1 whose liberty, custody, and ability to seek humanitarian protection depend on
2 meaningful legal representation. *See Mothershed v. Justices of the Supreme*
3 *Court*, 410 F.3d 602, 611 (9th Cir. 2005); *Eng v. Cooley*, 552 F.3d 1062, 1068–
4 69 (9th Cir. 2009); 8 U.S.C. § 1232(c)(5).
5

6 89. Respondents’ plan to transfer Petitioners away from existing counsel and place
7 Petitioners where counsel cannot meaningfully communicate with, advise, or
8 represent Petitioners substantially burdens Petitioners’ protected relationship
9 with counsel and impairs Petitioners’ ability to seek relief from removal.
10

11 90. Placement discretion does not authorize Respondents to sever a child’s
12 attorney-client relationship, obstruct protected legal advocacy, or render access
13 to counsel merely theoretical.
14

15 91. Respondents’ transfer plan prevents Petitioners’ meaningful access to counsel
16 and violates the First Amendment of the Constitution and they are therefore
17 entitled to habeas relief under 28 U.S.C. § 2241.
18

19 **FIFTH CLAIM**

20 **Violation of FOIA’s Affirmative Disclosure Requirements Under 5 U.S.C.**

21 **§552(a)(2)**

22
23 91. Petitioners repeat and reallege all prior paragraphs as if fully set forth herein.
24

25 92. Defendants HHS and ORR are obligated under 5 U.S.C. § 552(a)(2)(B) to
26 proactively disclose, in electronic format and on an ongoing basis, “those
27 statements of policy and interpretations which have been adopted by the agency
28

and are not published in the Federal Register.” *See also Animal Legal Def. Fund v. U.S. Dep’t of Agric.*, 935 F.3d 858, 862 (9th Cir. 2019) (“Unlike FOIA’s ‘reactive’ mechanism in § 552(a)(3), § 552(a)(2) identifies certain categories of records the agency must make available on an ongoing basis, no request necessary.”)

93. Defendants HHS and ORR are obligated under 5 U.S.C. § 552(a)(2)(C) to proactively disclose, in electronic format and on an ongoing basis, “administrative staff manuals and instructions to staff that affect a member of the public.” *See also Animal Legal Def. Fund*, 935 F.3d at 862.

94. Defendants HHS and ORR have not made guidance to staff, contractors, policy memoranda or any other records about transfer or termination of the legal services contract publicly available in the ORR reading room despite their mandatory publication obligations under 5 U.S.C. §552(a)(2). *See* <https://acf.gov/e-reading-room> (reflecting that the website was “Current as of: May 4, 2026”)).

95. Because Defendants HHS and ORR have not made records about transfer plans or termination of the legal services contract publicly available despite their mandatory publication obligations under 5 U.S.C. §552(a)(2), Plaintiff Florence Project, Petitioner children, and the public are forced to operate without knowing the rules under which ORR is acting. That lack of transparency has impaired

1 Plaintiff Florence Project's ability to plan, protect existing attorney-client
2 relationships, counsel child clients, and provide uninterrupted legal services.

3 96. Without affirmative publication, Plaintiff Florence Project will be forced to
4 expend resources requesting those records through individual requests or will
5 have to go without that vital information. The Florence Project lacks staff
6 resources to file and litigate such FOIA claims. Without Defendant ORR's
7 guidance on what to expect after the end of the legal services contract, and any
8 plans that Defendants have to transfer children, Plaintiff Florence Project is
9 unable to adequately advise clients, train staff, plan for legal representation of
10 child clients, and make informed staffing decisions.

11 97. Defendants HHS and ORR have failed to proactively disclose the guidance, and
12 no legal basis exists for Defendant's failure to proactively disclose it.

13 98. Defendants' failure to proactively disclose policies, manuals, directives,
14 guidance, and staff instructions about termination or changes to the legal services
15 contract and any plans to transfer children is in violation of 5 U.S.C. §
16 552(a)(2)(B) and (a)(2)(C).
17

18 **VII. PRAYER FOR RELIEF**

19 WHEREFORE, Petitioners respectfully request that this Court:

- 20 a) Assume jurisdiction over this matter;
21
22 b) Enjoin Respondents from transferring Petitioner children away from the
23 jurisdiction of this District unless Respondents 1) are placing Petitioner children
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1 in the least restrictive setting that is in the best interest of the child, as determined
 2 by child welfare best practices, ORR's own policy, the child's express wishes,
 3 and an individualized best interest report; and 2) provide the child, via email to
 4 undersigned counsel and copying kidsteammanagers@firrp.org, with adequate
 5 notice and a meaningful opportunity to contest any best interest finding and
 6 transfer decision. This would not prevent children from being released from ORR
 7 custody under one of the following circumstances: reunification with a sponsor
 8 in the United States; release to an Unaccompanied Refugee Minor program;
 9 release on their own recognizance upon turning 18 as mandated by the TVPRA;
 10 or safe repatriation pursuant to a voluntary departure under TVPRA safeguards
 11 or under final removal order entered in INA § 240 (8 U.S.C. § 1229a) removal
 12 proceedings before an immigration judge, and issue an order to this effect;
 13

14
 15
 16 c) Order Respondents to show cause why the writ should not be granted within three
 17 days, and set a hearing on this Petition within five days of the return, as required
 18 by 28 U.S.C. § 2243;
 19

20 d) Declare that Petitioner children's transfer outside the state of Arizona outside of
 21 the circumstances and considerations described in paragraph (b) violates the
 22 TVPRA, the Due Process Clause of the Fifth Amendment, ORR's own
 23 regulations on point, and the First Amendment;
 24

25 e) Declare that Defendants HHS and ORR have violated 5 U.S.C. §552(a)(2) and
 26 order that they immediately publish in their electronic reading room all relevant
 27
 28

1 information about policies, manuals, directives and guidance to staff and
2 contractors about how they would administer, suspend, transition, transfer, or
3 terminate the legal services contract for unaccompanied children, including any
4 future updated versions on an ongoing basis, in accordance with 5 U.S.C. §
5 552(a)(2);
6

7 f) Award reasonable attorney's fees and costs pursuant to the Equal Access to
8 Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412, 5 U.S.C. § 552(a)(4)(E) and any
9 other applicable provision of law; and
10

11 g) Grant such further relief as this Court deems just and proper.
12

13 Dated: August 4, 2026

Respectfully submitted,

14
15
16 /s/ Laura Belous

17 Laura Belous, 028132
18 Florence Immigrant & Refugee Rights Project
19 P.O. Box 86299
20 Tucson, AZ 85754
21 lbelous@firrp.org
22 (520) 934-7257
23
24
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28

**VERIFICATION BY SOMEONE ACTING ON PETITIONERS' BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioners because I am
Petitioners' attorney. I hereby verify that the statements made in the attached Petition
for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: August 4, 2026

Respectfully submitted,

/s/ Laura Belous