**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

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| I.E.T.P., a minor, by and through Next Friend, A.R.T.P.,<br><br>*Petitioner-Plaintiff*,<br><br>v.<br><br>MARKWAYNE MULLIN, in his official capacity as Secretary of the U.S. Department of Homeland Security, TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; ROBERT F. KENNEDY, JR. in his official capacity as Secretary of Health and Human Services; ANGIE SALAZAR, in her official capacity as Acting Director of the Office of Refugee Resettlement; MARIANA VALDEZ in her official capacity as Office of Refugee Resettlement Federal Field Specialist; JUSTINE CHRISTAKOS in her official capacity as Chief Executive Officer of Abbott House; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement; U.S. Department of Health and Human Services; U.S. Office of Refugee Resettlement.<br><br>*Respondents-Defendants.* | Case No. 1:26-cv-06490<br><br>**VERIFIED EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT** |

**PETITION FOR WRIT OF HABEAS CORPUS**

I.E.T.P. petitions this Court for a Writ of Habeas Corpus, pursuant to 28 USC § 2241 and the Administrative Procedure Act, 5 U.S.C. § 701, et seq., to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition. In support of this Petition, Petitioner alleges as follows:

## INTRODUCTION

1. Respondents have detained I.E.T.P, a 17-year-old boy and citizen of Guatemala, since December 19, 2025, more than 200 days. Under federal law, the Office of Refugee Resettlement ("ORR"), which controls I.E.T.P.'s custody, should have promptly released him to his adult brother A.R.T.P. ("Mr. T.P.") in New York City once they completed the relevant sponsor vetting process. As soon as ORR contacted Mr. T.P., he immediately took steps to comply with ORR's sponsorship requirements: he applied for a state government ID card, he relocated to a new apartment, and he completed all required paperwork. Despite A.R.T.P.'s diligent efforts, I.E.T.P. remains detained–because ORR delayed, then inexplicably closed his brother's sponsorship application, without any justification.

2. At the time of the filing of this petition, ORR has plans to transfer all unaccompanied minors to Texas facilities by July 31, 2026–further destabilizing and causing emotional harm to I.E.T.P., and prolonging his detention and separation from his brother.

3. ORR's failure to act "promptly" and release I.E.T.P. "without unnecessary delay" violates I.E.T.P.'s constitutional rights to liberty, due process, and family integrity, his statutory rights under the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA") of 2008. 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1201(a) and rights under the Administrative Procedures Act, as ORR's continued delay and failure to release I.E.T.P. and reunite him with his brother is arbitrary, capricious, and not in accordance with the law. Additionally, in failing to release I.E.T.P to his brother's custody, ORR has failed to follow its own "existing valid regulations," in violation of *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

4. Accordingly, I.E.T.P. brings this Petition seeking his immediate release to ensure that ORR does not move him to another detention facility in Texas and so that he can finally reunite with his brother in New York City.

## PARTIES

5. Petitioner-Plaintiff I.E.T.P. ("I.E.T.P." or "Petitioner") is a 17-year-old boy who has been designated an "unaccompanied child" and is in the custody of ORR. He is detained by one of ORR's subcontractors, Abbott House, located in Irvington, New York. He is trying to reunify with his brother in New York City.

6. Next friend A.R.T.P. ("Mr. T.P.") is Petitioner's adult, biological brother whom ORR has identified as Petitioner's proposed sponsor and has been going through ORR's reunification process since December 2025. Mr. T.P. currently resides in Brooklyn, New York.

7. Respondent Markwayne Mullin is named in his official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, he is responsible for overseeing ICE's day-to-day operations, leading approximately 20,000 ICE employees, including Respondent Lyons. Secretary Mullin is the ultimate legal custodian of I.E.T.P.

8. Respondent Todd Blanche is the Acting Attorney General of the United States. As Acting Attorney General, Respondent Blanche oversees the immigration court system, including the immigration judges who conduct bond hearings as his designees, and is responsible for the administration of immigration law pursuant to 8 U.S.C. § 1103(g). He is legally responsible for administering I.E.T.P.'s removal proceedings, including the standards used in those proceedings, and as such, he is I.E.T.P.'s legal custodian. He is sued in his official capacity.

9. Respondent Robert F. Kennedy, Jr. is the Secretary of Health and Human Services ("HHS"). In this capacity, he ultimately oversees the Office of Refugee Resettlement ("ORR"), a

sub-component of HHS, that is responsible for the care of unaccompanied minors.

10. Respondent Angie Salazar is named in her official capacity as Acting Director of the Office of Refugee Resettlement. In this capacity, she oversees the staff of ORR who are responsible for the care of unaccompanied immigrant children.

11. Respondent Mariana Valdez is an ORR Federal Field Specialist in the Division of Sponsor Administration. Federal Field Specialist Mariana Valdez is the government official responsible for the care and custody of children that ORR has placed under the care of Abbott House. In this role, Federal Field Specialist Mariana Valdez is responsible for determining I.E.T.P.'s placement and has authority to approve his release to an appropriate sponsor's care. Accordingly, Respondent Mariana Valdez is a custodian of petitioner, with authority to produce and release him. Respondent Mariana Valdez is sued in her official capacity.

12. Respondent Justine Christakos is the Chief Executive Officer of Abbott House, where I.E.T.P. is being held at the time of this petition. As CEO of Abbott House, Respondent Justine Christakos is a custodian of the Petitioner, with authority to produce him. Respondent Justine Christakos is sued in her official capacity.

13. Respondent U.S. Department of Homeland Security ("DHS") is an executive department of the United States government headquartered in Washington, D.C. DHS is the parent agency of Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services.

14. Respondent U.S. Immigration and Customs Enforcement ("ICE") is a component agency of DHS and is responsible for enforcing federal immigration law, including the detention and removal of immigrants.

15. Respondent U.S. Department of Health and Human Services ("HHS") is an executive department of the United States government headquartered in Washington, D.C. HHS

is the parent agency of the Office of Refugee Resettlement.

16. Respondent Office of Refugee Resettlement ("ORR") is a component agency of HHS and is responsible for the care, custody, and well-being of unaccompanied immigrant children.

## JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 5 U.S.C. § 701 (the Administrative Procedure Act). This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act) to grant injunctive and declaratory relief.

18. This Court has additional remedial authority under 28 U.S.C. §§ 2201 and 2202 (the Declaratory Judgment Act) and Fed. R. Civ. P. 65. It may also order interim release during the pendency of this case under *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001).

19. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same).

20. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because I.E.T.P. is detained within the Southern District of New York.

## FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

21. I.E.T.P. was born on [redacted], to an [redacted] family in Solola, Guatemala. I.E.T.P. had a traumatizing childhood in Guatemala: he was bullied in school because of his ethnicity and witnessed as his family [redacted]

[redacted] These experiences caused him to flee Guatemala in early December of 2025, when I.E.T.P. was only sixteen years old.

22. I.E.T.P. entered the United States on or about December 19, 2025. Declaration of Lauren Fouda ("Fouda Decl.") ¶ 9. He was placed in ORR custody at Lincoln Hall Boys Haven. *Id.* ¶ 10. On April 22, 2026, he was transferred to a different ORR facility, Abbott House, where he currently remains. *Id.* ¶ 15. Upon his transfer, he was assigned to a new case manager (the ORR employee responsible for communicating with the proposed sponsor regarding the sponsorship process) and a new Federal Field Specialist (the official responsible for coordinating and approving the sponsor's application materials). *Id.* ¶ 18.

23. I.E.T.P.'s adult brother, A.R.T.P. ("Mr. T.P."), resides in Brooklyn, New York and is ready and able to care for him. Fouda Decl. ¶ 11. Mr. T.P. first applied to sponsor I.E.T.P. in December 2025, days after his arrival in the United States. *Id.* ¶ 12.

24. Mr. T.P. complied at every step of the process and submitted numerous documents to substantiate his qualifications as a sponsor. In December 2025, immediately after I.E.T.P's arrival at Lincoln Hall, Mr. T.P. was informed that he would require a US-government issued identification document as part of the sponsorship process, and he confirmed his intent to obtain one. Fouda Decl. ¶ 12. In February 2026, Mr. T.P. provided ORR with proof that he had applied for an Individual Tax Payer ID (ITIN) and New York State ID, which was one of the acceptable forms of US-government issued identification. *Id.* ¶14.

25. Mr. T.P. took extraordinary steps to comply with ORR's requirements, including by relocating to a new apartment in late January or early February 2026 without other household members, to ensure that everyone in his home could be properly vetted for the sponsorship process. Fouda Decl. ¶ 13. He promptly submitted evidence of his new address, along with his other

qualifications as I.E.T.P.'s sponsor. After relocating to a new apartment, Mr. T.P.'s first sponsorship application was closed, and he was required to restart the process with his new address, which created further delays. *Id.* ¶ 13. Then he waited for an update from the FFS about when his brother would be released to him. *Id.*

26. Recently, Mr. T.P. was informed that he still needed to complete a home study. ORR typically requires a home study to confirm that the sponsor's home is acceptable for release of the child. Home studies are required in a variety of circumstances, including if the child is a victim of trafficking or physical or sexual abuse; if the child's sponsor presents a risk of abuse, maltreatment, etc; if a non-relative sponsor is seeking reunification with the child; and if the sponsor has previously sponsored a child from ORR custody. None of these circumstances are present here. Even if Mr. T.P. were mandatorily required to comply with a home study, ORR made no efforts to effectuate a home study promptly. Furthermore, per ORRs own policy, a home study is *not* required to make a decision that the child should be released from custody. *See* UC Policy Guide 2.4.2.

27. ORR has also required all sponsors to complete DNA testing to prove their relationship to the child. However, per ORR's own records, I.E.T.P. and Mr. T.P.'s familial relationship has already been established by I.E.T.P. himself and through both of their birth certificates.

28. ORR has not identified any concerns regarding Mr. T.P.'s suitability as his brother's sponsor, but Mr. T.P. is still waiting to hear when I.E.T.P. will be released to him. Fouda Decl ¶ 24. ORR's own records underscore that months-long delays in adjudication of Mr. T.P.'s sponsorship occurred because the FFS responsible was unavailable, out of town, or otherwise unresponsive to Mr. T.P.'s evidence submissions and questions in a timely fashion–not because

Mr. T.P. has failed to comply with any of the requirements for reunification. *Id.* ¶ 27. After Mr. T.P. moved to his new address and initiated a new sponsorship application in early February 2026, he was unable to get in touch with the FFS, and he learned from I.E.T.P.'s case manager that the FFS was on vacation. Despite the fact that I.E.T.P. had already been detained in ORR custody for three months, no substitute FFS was appointed to ensure his case was evaluated promptly while the previous FFS was unavailable. The newly assigned FFS did not contact Mr. T.P. until March 17, 2026, more than a month late. On that date, the FFS informed Mr. T.P. that he needed to complete additional materials, but never emailed those materials to him as he stated he would. There is no evidence that the FFS assigned to I.E.T.P.'s case took any action at all to process Mr. T.P.'s sponsorship application, despite the FFS's mandate to promptly process applications and release children to their family members.

29. On April 22, 2026, I.E.T.P. was transferred to a new ORR facility, Abbott House, in Irvington, New York. I.E.T.P. was transferred to Abbott House, along with many other children who had been housed at Lincoln Hall, only because Lincoln Hall was shutting down on June 30, 2026. Upon his transfer, he was reassigned to a new case manager and a new FFS. Neither the originally assigned FFS at Lincoln Hall Boys Haven nor his new FFS at Abbott House took prompt steps to move forward with Mr. T.P.'s sponsorship application. I.E.T.P.'s current case manager does not appear to have received any sponsorship updates from the FFS since I.E.T.P. arrived at Abbott House.

30. Puzzlingly, ORR records note that Mr. T.P.'s sponsorship application was closed in May 2026. The FFS cited Mr. T.P.'s failure to provide an ITIN. However, on information and belief, Mr. T.P. did apply for an ITIN and provided proof to ORR of the pending application in February 2026 and then of the actual ITIN number when he received it in April 2026.

31. Mr. T.P. stated that a new FFS contacted him on July 28, 2026, requesting that he complete additional steps in furtherance of his sponsorship application–steps that he would have willingly completed in February 2026 if given the opportunity. Mr. T.P. expressed frustration that he did not hear from anyone at ORR for several months, and that no steps have been taken to complete the required sponsorship application in the meantime.

32. According to ORR records, I.E.T.P. does not present a risk to himself, his sponsor, or the community, and he is not deemed a flight risk. His case managers and clinicians at Abbott House have described him as "respectful," "calm," and "cooperative."

33. At no point did ORR or the FFS provide any justification for their failure to comply with their legal obligation to evaluate Mr. T.P.'s sponsorship application and release I.E.T.P. to a suitable sponsor. The arbitrary and capricious manner in which his case was handled has resulted in I.E.T.P., a seventeen-year-old child, being detained by ORR for 222 days. During that time, no neutral arbiter made a meaningful evaluation of whether his detention was proper.

34. Upon information and belief, Respondents intend to transfer minors in ORR custody from New York to Texas, thereby depriving these minors of access to their legal counsel.[1] In I.E.T.P.'s case, this additional transfer (and Israel's third placement) would not only be destabilizing, but it would require a transition to a new case manager and new FFS, hindering any progress on his reunification with his brother. Furthermore, a transfer to Texas would also prevent Mr. T.P. from visiting him regularly, as he has been doing while I.E.T.P. has been in New York

[1] *See* Lomi Kriel, *Trump Administration Asks Texas for Help Providing Legal Services to Immigrant Kids Facing Deportation,* Tex. Trib. (July 3, 2026), https://www.texastribune.org/2026/07/03/trump-texas-dojindigent-defense-unaccompanied-immigrant-children/; *see also* Isabelle Taft, *New York's Beds for Unaccompanied Immigrant Children Evaporate as Feds End Contracts*, N.Y. Focus (May 19, 2026), https://nysfocus.com/2026/05/19/unaccompanied-immigrant-childrenorr-contracts.

State, and would thereby deprive him of access to his one family member in the United States.

35. A recent study by Children's Rights documented the experiences of young adults in congregate placements in New York State and analyzed the impacts congregate placements had on participants.[2] The study concluded that "[c]ongregate placements," such as the facility where I.E.T.P. is detained, "inflict deep trauma that causes youth to deteriorate physically, mentally, and emotionally."[3]

36. No amount of time in detention is safe for children, but the longer the government detains a child, the more profound the harm.[4] As children remain in custody for longer and longer, their mental and physical health deteriorates. The United States Department of Health and Human Services Office of Inspector General has reported that "some children [in ORR custody] who did not initially exhibit mental health or behavioral issues began reacting negatively as their stays grew longer . . . longer stays resulted in higher levels of defiance, hopelessness, and frustration among children."[5] Mental health clinicians "described that a child's mental health often deteriorates as the length of their stay in ORR custody increases"[6] and noted that "because of the restrictive nature of custody settings, the protective and resilience factors that many children possess gradually erode

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[2] *See* Sarah Fathallah & Sarah Sullivan, *Away From Home – Youth Experiences of Institutional Placements in Foster Care*, Think of Us (July 21, 2021), https://assets.website-files.com/60a6942819ce8053cefd0947/60f6b1eba474362514093f96_Away%20From%20Home%20-%20Report.pdf.

[3] *Id* .at 4.

[4] Elizabeth S. Barnert, M.D., et al., *How Does Incarcerating Young People Affect their Adult Health Outcomes?*, Pediatrics J. of the Am. Acad. of Pediatrics at *10 (Feb. 1, 2017), https://pmc.ncbi.nlm.nih.gov/articles/PMC5260153/.

[5] *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, U.S. Dep't of Health and Hum. Servs., Off. of the Inspector Gen., OEI-09-18-00431, 1, 12 (Sept. 4, 2019), https://oig.hhs.gov/documents/evaluation/3153/OEI-09-18-00431-Complete%20Report.pdf.

[6] *Id.* at 20.

over time in detention."[7]

37. Reports of prolonged detention at ORR have found that "children's experiences in ORR custody are characterized by these exact factors: they are restricted in their autonomy and agency, they have little knowledge or control over requirements or processes for release, they feel helpless in their circumstance, they experience chronic worry about their well-being (or that of their loved ones), and they experience various barriers to engaging with the coping and support resources that have traditionally helped them."[8]

38. Although I.E.T.P. has remained calm and cooperative and has not been involved in any behavioral incidents while in ORR custody, his prolonged detention has taken a toll on his emotional health. ORR records note his sadness, loneliness, and difficulty sleeping due to his extended separation from his brother.

## LEGAL FRAMEWORK

### A. Legal Framework and Policies Governing Custody and Release of Immigrant Children

39. Each year, thousands of children flee violence, persecution, and abuse in their home countries, and seek protection in the United States. Many of these children come from countries where gang violence, government corruption, and instability create conditions that make these regions among the most dangerous for children. According to the United Nations, nearly two-thirds of immigrant children from these regions have experienced harms that qualify them for international refugee protection. Federal law recognizes that minors are distinctively vulnerable

[7] Neha Desai et al., *The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children,* Nat'l Ctr. for Youth L., 1, 18 (Sept. 2025), https://youthlaw.org/wp-content/uploads/ncyl_the-unraveling-of-orr_sept2025_final.pdf.
[8] Neha Desai et al., *supra* at note 12.

and establishes a child-welfare framework, not a carceral one, to govern their custody and release.

40. In the 1980s and 1990s, immigrant children who arrived in the United States were routinely locked up for months in unsafe and unsanitary jail cells, in remote facilities across the country. These conditions prompted a federal lawsuit, *Flores v. Reno*, which resulted in a 1997 consent decree that set national standards for the detention, release, and treatment of immigrants in government custody. In addition to setting certain minimal detention standards, *Flores* guarantees that children shall be released "without unnecessary delay" and requires the Government to undertake "prompt and continuous efforts" towards family reunification, as well as guarantees children the right to a bond hearing before an immigration judge. Although the government has attempted to replace *Flores* by regulation, federal courts have preserved its core protections for decades. In 2024, after HHS promulgated comprehensive regulations governing the Unaccompanied Children ("UC") program, the *Flores* court partially terminated the consent decree as to HHS, finding that the new rule "meets or exceeds" *Flores*'s key standards, while leaving *Flores* in place as to DHS.

41. In 2002, Congress passed the Homeland Security Act ("HSA"),[9] which transferred the care and custody of unaccompanied immigrant children from the Immigration and Naturalization Service[10] ("INS") to the Office of Refugee Resettlement ("ORR"), housed within the Department of Health and Human Services. ORR is not a security agency; its mission is to "incorporat[e] child welfare values" into the care and placement of unaccompanied immigrant children.

42. Congress further codified and strengthened these protections. The 2008 William

[9] Pub. L. No. 107-296 (codified at 6. U.S.C. 101 et seq. (2002)).
[10] The INS is the predecessor agency to ICE.

Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA") requires that (1) DHS transfer unaccompanied children to HHS custody within 72 hours (absent exceptional circumstances), 8 U.S.C. § 1232(b)(3); (2) ORR "promptly place[]" such children "in the least restrictive setting that is in the best interest of the child," *id.* § 1232(c)(2); and (3) with limited exceptions not relevant here, place them in full removal proceedings under 8 U.S.C. § 1229a rather than expedited removal, *id.* § 1232(a)(5)(D).

43. ORR's policy guide[11] also contains procedures governing the release of children in its care. The guide provides for ORR to "begin[] the process of finding family members and others who may be qualified to care for an unaccompanied alien child as soon as the child enters ORR's care." ORR also has policies and procedures that "require the timely release of children and youth to qualified parents, guardians, relatives or other adults, referred to as 'sponsors.'"

44. In 2024, HHS/ORR issued the Unaccompanied Children Program Foundational Rule—the first comprehensive, binding regulations governing ORR's custody, care, placement, and release of unaccompanied children. 45 C.F.R. part 410 (effective July 1, 2024). The rule formalizes long-standing *Flores*/TVPRA principles: child-welfare decision-making; least-restrictive placement; prompt family reunification with appropriate sponsor vetting; access to counsel and supportive services; and robust grievance, oversight, and monitoring structures. It became effective July 1, 2024.

45. The Foundational Rule establishes the process through which ORR determines if a potential sponsor is suitable to take custody of a UC, which must be conducted "without unnecessary delay." 89 Fed. Reg. at 34439. The Foundational Rule is consistent with the agency's

[11] *ORR Unaccompanied Alien Children Bureau Policy Guide*, ORR (Aug. 8, 2025), https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide.

"strong belief that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility … is in the best interests of unaccompanied children." *Id.* Under the Foundational Rule, "ORR shall adjudicate the completed sponsor application of a parent or legal guardian; brother, sister, or grandparent; or other close relative who has been the child's primary caregiver within 10 calendar days . . . absent an unexpected delay". *Id.* § 410.1205(b). Other completed sponsor applications by close relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* § 410.1205(c).

46. Critically, the law's "least restrictive setting" and "best interests" mandates are not satisfied by mere transfer to ORR; they require prompt reunification or release to a suitable sponsor whenever safe and feasible. Congress charged ORR with making "continuous efforts" toward family placement, and ORR's governing policies prioritize release to a parent, legal guardian, or other qualified adult relative able to provide care and physical custody. *See* 6 U.S.C. § 279(b)(1)(C)–(D); 8 U.S.C. § 1232(c)(2).

**B. New policies adopted since 2025 have caused prolonged delays in the release of children from ORR custody.**

47. Beginning in 2025 with the Trump Administration, Respondents have drastically restricted the placement of children in ORR custody with sponsors by modifying the ORR regulations and adding new onerous requirements for sponsor vetting to the UC Policy Guide. As a result, the sponsor reunification process has slowed to a near-stop. *See, e.g.* KUT NEWS, "The Trump administration has all but stopped reuniting detained migrant children with families," Dec. 19, 2025, available at https://www.kut.org/crime-justice/2025-12-19/texas-trump-immigration-children-reunification (last accessed June 23, 2025). The average length of time in ORR custody

rose from an average of 33 days in December 2024 to 182 days in August 2025; *See* Neha Desai, et al., *The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children,* The National Center for Youth Law, at 11, published Sept. 2025, available at https://youthlaw.org/wp-content/uploads/ncyl_the-unraveling-of-orr_sept2025_final.pdf (last accessed June 23, 2026). *see also* KIND, *A Timeline Spotlight: ORR's Indefinite Detention of Unaccompanied Children Inflicts Trauma and Thwarts Due Process*, published March 2026, available at https://supportkind.org/wp-content/uploads/2026/04/26_Timeline-Spotlight-Indefinite-Detention-2.pdf (last accessed June 23, 2026).

48. Specifically, on March 25, 2025, the Administration promulgated an Interim Final Rule (IFR) to amend the ORR Foundational Rule and remove protections for undocumented sponsors of children in ORR custody. The amended rule now allows ORR to share sponsor immigration status information with law enforcement and immigration enforcement agencies and removes restrictions that previously prevented ORR from denying sponsors solely based on immigration status. This has led to Respondents engaging in unprecedented immigration enforcement activity, including detaining sponsors when they go through the sponsor application process and sending law enforcement officers to the homes of sponsors after a child's release. *See* Desai *et al*, *supra* at 3.

49. The Trump Administration has also made drastic changes to the ORR Policy Guide, heightening the sponsor vetting process. These changes include: narrowing documents accepted to prove identity, address, and relationship to those forms of documents largely available only to people with lawful immigration status; mandating that prospective sponsors appear for ORR interviews at which ICE agents have appeared and arrested prospective sponsors due to lack of lawful immigration status; requiring DNA testing for all claimed biological relationships;

mandating home studies; expanding fingerprinting and background check requirements to all sponsors, adult household members, and alternate caregivers; and requiring that all sponsors adult household members, and alternate caregivers provide a Social Security Number or Individualized Taxpayer Identification Number ("ITIN") or proof of ITIN application. These changes to the Policy Guide are subject to ongoing litigation in *Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369 (D.D.C. June 9, 2025) (granting a motion for class certification and enjoining the new sponsor documentation and income requirements for youth in ORR custody on or before April 22, 2025 and finding that "it is substantially likely that ORR acted arbitrarily and capriciously by not providing adequate justification for its new sponsor documentation requirements").

50. Several of these additional requirements have been added in a piecemeal fashion, creating a moving target for document-collection for sponsors seeking reunification with a child in ORR custody. For example, while the requirement for a U.S.-issued identification was added in March 2025, it was not until February 2026 that the SSN or ITIN requirement was added, or until April 2026 that ORR confirmed that a home study was required in all cases, unless a very narrow exception applied. *See e.g.* Feb. 27, 2026 Update to UC Policy Guide 2.2.4, "ORR Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and Revision Dates" (introducing "requirements for all potential sponsors, adult household members, and alternate caregivers to provide proof of Social Security Number (SSN) or Individual Tax Identification Number (ITIN) with the Sponsor Application for Release"), available at https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates (last accessed June 23, 2026).

51. Courts across the country have concluded that these new sponsorship requirements are unlawful for various reasons. In terms of the overall delay caused by this process, "[s]everal

courts have agreed that 'significant' and 'unexplained delay[s] in responding to [a proposed sponsor's]unification request' violate due process." *M.A. v. Molina*, No. 4:26-CV-415, 2026 WL 741623, at*6 (N.D. Ohio March 17, 2026) (*quoting Lucas R. v. Becerra*, No. 18-CV-5741, 2022 WL 2177454, at *27 (C.D. Cal. March 11, 2022), and *citing J.E.C.M. v. Marcos*, 689 F. Supp. 3d 180, 197 (E.D. Va. 2023)), *Maldonado v. Lloyd*, No. 18-CV-3089, 2018 WL 2089348, at *1 (S.D.N.Y. May 4, 2018), *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017) (alteration in original). Likewise, courts have found the U.S.-issued identification requirement to present due process concerns. *See E.F.E.L. v. Noem*, No. 26-CV-02507, 2026 WL1045550, at *2 (N.D.Ill. Apr. 17, 2026) (ordering immediate release of unaccompanied minor held in ORR custody for five months for vetting where release was delayed due to a new Trump-era requirement that sponsor obtain a U.S.-issued identification card despite the fact that sponsor had previously been approved by ORR to receive the petitioner and describing these new vetting practices as "gross weaponization of the ORR process to further this administration's immigration enforcement efforts"); *see also Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369 (D.D.C. June 9,2025) (enjoining for a sub-class of youth in ORR custody on or before April 22, 2025 the new U.S. identification requirement).

52. In recent months, Respondents have begun invoking missing ITIN information as a reason for delaying a child's release to an immediate family member—even when ORR has no evidence to suggest that the family member is unfit to serve as the child's sponsor. This too has been successfully challenged. *See I.T. by & through Next Friend B.V.T.R. v. Kennedy,* No. 26-CV-02563 (JAV), 2026 WL 882917, at *2 (S.D.N.Y. Mar. 31, 2026) (granting preliminary relief where "ORR acknowledge[d]"a mother's sponsorship application was complete and "the only step that remain[ed]before a determination can be made [was] ORR's internal consideration of the waiver

of the requirement that B.V.T.R. submit an ITIN."); *Molina*, 2026 WL 741623, at*6 (ordering the immediate release of unaccompanied minor in ORR custody and holding that the petitioner's due process rights were violated when he was detained nearly eight months after his immediate family member sponsor submitted a sponsorship application where, among other delays, the government compelled the sponsor to apply for an ITIN despite previously approving her as a sponsor without said ITIN).

**C. Legal Background of Prolonged Detention of Unaccompanied Immigrant Children**

53. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.; *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

54. "[T]he interest in being free from physical detention" by the state is "the most elemental of liberty interests[.]"*Hamdi v. Rumsfeld*, 542U.S.507, 529 (2004). A child's interest in being free from confinement is no narrower than that of an adult. *In re Gault*, 387 U.S. 1, 13 (1967)("neither the Fourteenth Amendment nor the Bill of Rights is for adults alone"); *see also Reno v.Flores* at 316 (O'Connor, J. and Souter, J., concurring), quoting *Gault*, 387 U.S.at 13 ("[The Supreme Court] ha[s] consistently […] rejected the assertion that 'a child, unlike an adult, has a right 'not to liberty but to custody.'"). Further, "incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends." *O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest "in avoiding unjustified physical restraint." *Molina*, 2026 WL 741623 at *3 ("[a]lthough minors, unlike adults, are "always in some form of custody," minors still "retain a strong interest in being free from unnecessary government

interference with their liberty,", *quoting Saravia v. Sessions*, 280 F. Supp. 3d at 1195); *see also J.E.C.M. v. Marcos*, 689 F. Supp. 3d 180 at 198 (explaining that age "does not negate a minor's interest in being free from restraints"); *Lucas R. v. Becerra*, 2022 WL 2177454, at *14; *see also, e.g.*, *Parham v. J.R.*, 442 U.S. 584, 600 (1979) (children, like adults, have substantial liberty interest in not being confined in medical setting); *cf. Diego N. et al. v. U.S. Dept. Health and Human Svcs. et al.*, 2026 WL 1179706 (D.D.C. Apr. 30, 2026) (recognizing children's legitimate liberty interests in family integrity, freedom from unwarranted imprisonment, and release).

55. Moreover, the constitutional right to family integrity or to familial association is well-established. *See Tenenbaum v. Williams,* 193 F.3d 581, 600 (2d Cir. 1999) (observing that a family has, "in general terms, a substantive right under the Due Process Clause 'to remain together without the coercive interference of the awesome power of the state'") (quoting *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2nd. Cir. 1977)); *see also Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that parents and children have a well-elaborated constitutional right to live together without government interference); *Angelica S. v. U.S. Dep't. of Health and Hum. Svcs.*, 786 F.Supp.3d 158, 175 (D.D.C. 2025) ("Courts have found that family separation and prolonged detention qualify as irreparable injury.") (citing *Jacinto-Castanon de Nolasco,* 319 F.Supp.3d 491, 502 (D.D.C. 2018).

56. Numerous courts have also held that a child's right to familial association is not limited to parents. *See Moore v. City of East Cleveland*, 431 U.S. 494, 504 (1977) ("The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition."); *Duchesne v. Sugarman*, 566 F.2d at 825 (the right to familial association is shared by all members of the family, who enjoy "reciprocal rights" to preserve their family's integrity.); *J.E.C.M. v. Lloyd*,

352 F. Supp. 3d 559, 585 (E.D. Va. 2018) (rejecting argument that child's interest in family unity is unique to parents, and finding "siblings, aunts or uncles, grandparents, or first cousins" are family "captured in ORR's second-level category of would-be sponsors" and also "constitutionally significant"); *Aristotle P. v. Johnson*, 721 F. Supp. 1002, 1006 (N.D. Ill. 1989) (children have "constitutionally protected right to associate with their siblings").

57. The serious harm of prolonged detention of unaccompanied children is well documented. *See Lucas R.*, 2022 WL 2177454 at *17 ("Numerous child welfare experts have expounded on the harm that detention causes children, particularly young children," and "[i]t is undisputed that being separated from family members is inimical to a child's well-being.") Similar to now, in 2018 under the first Trump administration, ORR also made policy changes which caused unaccompanied children's length of custody in ORR to increase significantly, with children spending months in congregate care designed to hold children for only a few weeks. *See, e.g.*, Dep't of Health and Hum. Servs., Office of the Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 13 (Sept. 2019), https://perma.cc/YLT7-R3HP ("HHS OIG Report") ("[C]hildren's average length of stay in ORR custody increased markedly after ORR implemented the new fingerprinting policy in June 2018," from 61 days in June 2018 to 93 days in November 2018 and then decreased after ORR ended fingerprinting requirements for adult household members and then for parents, reaching 48 days in April 2019.) The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not "add [] anything to the protection and safety of the children."[2] Extended lengths of stay in ORR custody harmed children's mental health and wellbeing. *See, e.g.*, HHS OIG Report, 13 (After implementing new restrictive reunification policies,"[ORR f]acilities reported that it became more difficult to identify sponsors willing to accept children after

the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty."); *see also id.* at 12–13 ("According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.").

58. The substantive component of due process forbids the Government from infringing in any way upon fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling state interest. *United States v. Salerno*, 481 U.S.739, 749 (1987). In the immigration context, whether the infringement is narrowly tailored to serve a compelling governmental interest is determined by evaluating whether the infringement on liberty: 1) is impermissible punishment or permissible regulation; and 2) is excessive in relation to the regulatory goal Congress sought to achieve. *Id.*at747; *see also Zadvydas v. Davis*, 533 U.S. at 690 ("[G]overnment detention violates [the Due Process] Clause . . . [except] in certain special and narrow nonpunitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." (internal citations omitted)); *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

59. Only a compelling government interest can justify the deprivation of a fundamental interest in family integrity and even then, only for a brief time without judicial process. *Kia P. v. Mcintyre*, 235 F.3d 749, 759 (2d Cir. 2000) (holding Constitution allowed child to be withheld from her mother for only a "short time," in that case "a day or two," while government actors determined if her placement with her mother was safe); *Southerland v. City of New York*, 680 F.3d 127, 154 (2d Cir. 2012) (holding that due process permits brief removal of child from his or her parents prior to judicial proceeding); *see also Reno*, 507 U.S. at 310 ("Our society and this Court's jurisprudence have always presumed [parents] to be the preferred and primary custodians of their

minor children.").

60. The government must show a compelling interest in withholding a child from his immediate family. *See Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) ("[T]he Due Process Clause would be offended if a State were to attempt to force the breakup of a natural family…without some showing of unfitness"); *United States v. Loy*, 237 F.3d 251, 269-70 (3d Cir. 2001) ("[W]here there is insufficient evidence to support a finding that children are potentially in danger from their parents, the state's interest cannot be said to be 'compelling,' and thus interference in the family relationship is unconstitutional.")

61. As a federal court in the Southern District of California found, when "government actors responsible for the 'care and custody' of migrant children…become their persecutors…that arbitrarily tears at the sacred bond between parent and child, and is emblematic of the 'exercise of power without any reasonable justification in the service of an otherwise legitimate governmental objective." *Ms. L. v. ICE,* 310 F.Supp.3d 1133 (S.D. Cal. June 26, 2018) (quoting *Cty. Of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998) and finding likely substantive due process violation stemming from "zero tolerance" policy of family separation.)

62. As for what process is due, the Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). The *Mathews* test requires balancing of: "[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute

procedural requirement would entail." *Mathews v. Eldridge,* 424 U.S. 319, 335 (1976).

63. Courts have found that delays in reunifying unaccompanied minors with family members who are otherwise fit to look after them violates their procedural due process rights. *See, e.g., D.B. v. Cardall,* 826 F.3d 721, 741 (4th Cir. 2016) (holding that procedural due process afforded to a mother seeking reunification with her minor child in ORR custody did not meet the test set out in *Mathews* and granting immediate release); *Paixao v. Sessions*, No. 18 CV 4591, 2018 WL 10436696, at *1 (N.D. Ill., July 5, 2018) (granting injunctive relief and ordering the immediate release of a minor upon finding that there was insufficient post-deprivation process applied where ORR delayed release to a parent due to pending background checks of other adult family members in the home and finding that "additional process only serves to interfere in the family's integrity with little to no benefit to the government's interests"); *see also Souza v. Sessions*, No. 18 CV 4412, 2018 WL 10436697, ay *1 (N.D. Ill., June 28, 2018).

64. Applying the first *Mathews* factor, courts have recognized that a person deprived of their liberty and separated from family has a significant liberty interest that is infringed upon. *See, e.g., Lucas R. v. Becerra,* 2022 WL 2177454, at *14 (C.D. Cal. Mar 11, 2022) (recognizing that minors, like adults, have a substantial liberty interest in "avoiding unjustified physical restraint"); *see also D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (just as parents possess a fundamental right with respect to their children, children also enjoy a "familial right to be raised and nurtured by their parents").

65. In assessing the second *Mathews* factors—the sufficiency of safeguards—ORR has a statutory and regulatory responsibility to determine the safety and suitability of the sponsor without unnecessary delay in order to adequately protect against the risk of erroneous deprivation. Where there is delay in processing reunification requests or an unreasonable burden placed on

sponsors, courts have found that inadequate process has been afforded. *See, e.g. Lucas R. v. Becerra*, 2022 WL 2177454, at *27 (C.D. Cal. Mar. 11, 2022) (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017) ("'significant' and 'unexplained delay[s] in responding to a [a proposed sponsor's] unification request' violate due process irrespective of other procedural defects."); *Santos v. Smith*, 260 F. Supp. 3d 598, 613 (W.D. Va. 2017) (finding that ORR placed an improper burden on the parent sponsor to disprove ORR's initial determination and justify reunification); *see also Maldonado v. Lloyd*, No. 18 CIV. 3089 (JFK), 2018 WL 2089348, at *7 (S.D.N.Y. May 4, 2018) ("With respect to the second Mathews factor, it is appropriate to review the process that has been provided to Petitioners so far.")

66. Finally, under the third *Mathews* factor, the government has an interest in not only the safety of the public but also the welfare of the child, as well as the safe release of the unaccompanied child consistent with ORR's mandate under the TVPRA. *See Saravia*, 280 F.Supp.3d at 1199-1200 (recognizing the government's asserted interests in "public safety and welfare, including the welfare of the minor"); *Santos,* 260 F. Supp. 3d at 614-15; *Maldonado,* No. 18 CIV. 3089 (JFK), 2018 WL 2089348, at *10 ("The most obvious Government interests here are protecting the welfare of children and the safety of the public.")

## CLAIMS FOR RELIEF

### COUNT I

### Fifth Amendment: Violation of Procedural Due Process

67. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs.

68. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or

property interests. *Mathews*, 424 U.S. at 332. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

69. Due process requires that the government may not deprive an individual of their constitutional rights without meaningful notice and an opportunity to be heard before a neutral arbiter to protect against the risk of erroneous deprivation. *Mathews v. Eldridge,* 424 U.S. at 335. Under the *Mathews* test, the government's decision to close Mr. T.P.'s sponsorship application, without affording him or I.E.T.P. the opportunity to meaningfully challenge I.E.T.P.'s detention, clearly violates his procedural due process rights.

70. Due process also requires that government action be rational and non-arbitrary (*see U.S. v. Trimble,* 487 F.3d 752, 757 (9th Cir. 2007)) and that only a compelling government interest can justify the deprivation of fundamental interests in liberty and family integrity. *See Kia P. v. Mcintyre,* 235 F.3d at 759.

71. I.E.T.P. has a substantial, legally protectable liberty interest. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) ("the interest in being free from imprisonment" is "the most significant liberty interest there is").

72. The risk of erroneously depriving I.E.T.P. of that interest is severe. At only seventeen years old, he has been separated from his family and community for over six months without constitutionally sufficient due process. The government has subjected I.E.T.P.'s sponsor to an excruciatingly halting and seemingly interminable process in which each of his sponsor's submissions of required evidence has been met with extended delays. ORR has changed the custodian and FFS for I.E.T.P. multiple times, and there has been no continuity of the sponsorship process. Without even acknowledging receipt of Mr. T.P.'s new lease and ITIN application, the

FFS seems to have simply lost interest in ever returning I.E.T.P. to his brother. No one from ORR ever sought to conduct a home study of A.R.T.P.'s newly secured apartment, allegedly a sponsorship requirement. In fact, ORR simply ceased to contact A.R.T.P. in or around March or April 2026–Mr. T.P. reports not receiving any communication from an FFS and only communicating with his brother's case manager during visits to the shelter. Then, inexplicably, ORR closed Mr. T.P.'s sponsorship application, after many months of silence, never providing an explanation or justification for doing so. The process has been piecemeal and desultory, during which Mr. T.P.'s prompt responses have been met with months of silence and ORR shows no inclination to "promptly" release I.E.T.P.

73. Additionally, the government's interest in detaining I.E.T.P. is minimal. The government has no interest in detaining noncitizens—especially children—who present no flight risk or danger to themselves or the community. Throughout his six-month detention, I.E.T.P. has never had a behavioral incident or been the subject of disciplinary action. ORR staff have characterized I.E.T.P. as "calm and cooperative," "respectful," and having "no mental or behavioral concerns." By the government's own admission, I.E.T.P. has "no prior immigration/criminal history, No gang affiliation…No disciplinary, compliance, or management incidents while in custody. Juvenile is not considered an escape risk."[12] I.E.T.P. has applied for asylum under the TVPRA and will continue to willingly participate in the immigration system through his I-589 application process.

74. I.E.T.P.'s continued detention without an opportunity to be heard violates his right to due process under the Fifth Amendment of the Constitution.

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[12] This information is taken from the Form I-213, Record of Deportable/Inadmissible Non-citizen, which DHS submitted as part of its evidence in I.E.T.P.'s immigration court proceedings.

## COUNT II

### Violation of the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) and the Immigration and Nationality Act (INA)

75. Petitioner incorporates by reference the allegations in the preceding paragraphs.

76. Under the TVPRA, the government has a non-discretionary duty to promptly place I.E.T.P. in the "least restrictive setting" that is in his best interests, usually with a "suitable family member. 8 U.S.C. § 1232(c)(2)(A).

77. The government has failed to promptly place I.E.T.P. in the least restrictive setting, namely with his brother, who applied to serve as his sponsor.

78. I.E.T.P.'s brother is capable, proper, and fit, and ORR has not provided any evidence that Mr. T.P. is not suitable as a sponsor. Similarly, I.E.T.P. does not present a flight risk or danger to the community. Therefore, the government has failed to place I.E.T.P. in the least restrictive setting, which the TVPRA requires them to do.

79. The government's policies and actions described above, which have resulted in I.E.T.P.'s unnecessary prolonged detention and separation from his suitable sponsor, violate Section 235 of the TVPRA, 8 U.S.C. § 1232.

## COUNT III

### Violation of the Administrative Procedure Act, 5 U.S.C. §§ 701 et seq. (Arbitrary and Capricious)

80. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

81. The government's refusal to release I.E.T.P. to his vetted sponsor constitutes final agency action. So too is their decision to allow to lapse and then close Mr. T.P.'s sponsorship application despite the fact that he quickly provided all the information ORR requested. These

actions have caused I.E.T.P. to suffer severe legal consequences in the form of continued detention and separation from his family members, in violation of his fundamental rights to be free from detention and family integrity. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1977) (agency action that is reviewable under the APA must be a final action from which "legal consequences" would flow). Accordingly, I.E.T.P. is entitled to judicial review of ORR's actions under 5 U.S.C. §§ 702 and 704.

82. The government's detention of I.E.T.P. and their failure to release him to his fit sponsor is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law"; therefore, this court must "hold unlawful and set aside agency action" denying I.E.T.P.'s release. 5 U.S.C. § 706(2)(A)-(C). To the extent that another sponsorship application is now pending, the administrative process has thus far been procedurally deficient and this Court's intervention is not premature.

83. I.E.T.P. has no recourse to judicial review other than by this action.

**COUNT IV**

**VIOLATION OF THE *ACCARDI* DOCTRINE; FOUNDATIONAL RULE, 45 C.F.R. 410.1000 *et seq*, AND THE ORR UC POLICY GUIDE**

84. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

85. Federal agencies and their officials are required to follow their own "existing valid regulations." *See United States ex. Rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). When an agency fails to comply with binding regulations, such actions are "not in accordance with law." *See Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959). *Accardi* is not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). This requirement

to abide by agency rules extends to agency guidance. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required."

86. Under 45 C.F.R. 410.1003(f), commonly referred to as the "Foundational Rule," Respondents have a non-discretionary duty to promptly place I.E.T.P. in the least restrictive setting that is in his best interests. To that end, ORR is also required to make and record prompt and continuous efforts towards a child's release. *Id.* 410.1203 (a). Under this rule, ORR shall "adjudicate an application by an immediate family member or other close relative within ten calendar days...absent an unexpected delay." *Id.* 410.1205(b). Other completed sponsor applications by close relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* 410.1205(c).

87. ORR has failed to make prompt and continuous efforts towards I.E.T.P.'s release and has instead abandoned the processing of Mr. T.P.'s sponsorship application. There is no evidence that ORR has taken steps to initiate a home study or to timely complete other steps in the sponsorship application process. Indeed, they have engaged in piecemeal review by requesting evidence at various intervals in the process and failing to review evidence promptly as it is supplied by the proposed sponsor.

88. These actions and delays are in violation of their own regulations and guidance, and therefore violate the *Accardi* doctrine.

**COUNT IV**

**VIOLATION OF THE *FLORES* SETTLEMENT AGREEMENT**

89. Petitioner incorporates by reference the allegations of fact set forth in preceding

paragraphs.

90. The *Flores* Settlement Agreement authorizes any minor who disagrees with ORR's placement or custodial determination to seek review in "any United States District Court with jurisdiction and venue over the matter to challenge that placement determination . . ." *Flores* Settlement Agreement ("FSA"), ¶ 24B. Paragraphs 28A (incorporating by reference Paragraph 14), 32, and 33 of the *Flores* Settlement Agreement continues to apply, and these paragraphs together with Paragraph 21.A continues to apply to ORR secure, heightened supervision, and out-of-network facilities. *Flores v. Garland*, 2024 WL 3467715 *5-6, 9 (C.D. Cal. June 28, 2024).

91. The *Flores* Settlement Agreement requires that if a child is not a flight risk or a danger to the community, they be released "without unnecessary delay" to a sponsor. FSA 14. I.E.T.P. is neither a flight risk nor a danger, and yet Respondents have effectively decided to keep him in their custody, despite the obvious alternative: allowing him to reside with his brother, who is willing and able to look after him.

**COUNT VI**

**RELEASE PENDING ADUJUDICATION**

92. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

93. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) presents extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective," 241 F.3d 221, 226 (2d Cir. 2001).

94. I.E.T.P. presents substantial claims, as noted above. Moreover, I.E.T.P. has also demonstrated multiple extraordinary circumstances which make him

eligible for release, including his young age, his status as a survivor of persecution, and the trauma of family separation that may be nearly impossible to remedy post-detention.

95. I.E.T.P. respectfully requests immediate release pending adjudication of the instant petition.

## PRAYER FOR RELIEF

WHEREFORE, Petitioner-Plaintiff requests that this Court:

a. Assume jurisdiction over this matter;

b. Issue a Writ of Habeas Corpus requiring that the government immediately release I.E.T.P. to the custody and care of his adult brother and proposed sponsor;

c. Order release on bail pending adjudication of this petition under this Court's inherent authority, as authorized by *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001);

d. Issue a declaratory judgment that Respondents have violated I.E.T.P.'s constitutional and statutory rights;

e. Issue an injunction preventing I.E.T.P.'s continued custody by ORR because a suitable sponsor is available, as required by federal statutes, the Foundational Rule, the *Flores* Settlement Agreement, and the U.S. Constitution;

f. Enjoin transfer of I.E.T.P. outside of this jurisdiction;

g. Issue an order under Section 706 of the Administrative Procedure Act that vacates Respondents' decision refusing to release I.E.T.P. to his sponsor;

h. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

i. Grant any other and further relief that this Court deems just and proper.

Dated this 29th day of July, 2026

Respectfully Submitted,

/s/ Lauren Fouda
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*Attorney for Petitioner-Plaintiff*

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner's legal team the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated this 29th day of July, 2026.

Lauren Fouda

Lauren Fouda, Esq.