

City Council Committee on Immigration Hearing
Testimony by Mark Lewis, Director of Immigrant Services
New York City Administration for Children's Services

March 2, 2010

Good Morning Chair Dromm and members of the Immigration Committee. My name is Mark Lewis and I am the Director of Immigrant Services at the Administration for Children's Services. I appear before you today with Margaret Morgan, the Chief of Staff to the Deputy Commissioner for the Division of Family Court Legal Services. On behalf of Mayor Bloomberg, we would like to take this opportunity to update you on Children's Services' work with children in foster care who may be eligible for Special Immigrant Juvenile Status (SIJS).

Special Immigrant Juvenile Status

Children's Services provides child welfare services, which includes child protective, preventive and foster care services, to all families and children residing in New York City regardless of immigration status. In the course of providing child welfare services, some children placed into foster care by Children's Services are undocumented immigrants. Some of these youth may be eligible for Special Immigrant Juvenile Status, a statutory provision included in the Federal Immigration Act of 1990, which enables undocumented young people in foster care to become permanent residents and to obtain green cards. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 made changes in SIJS since ACS last appeared before the City Council in 2007.

In order for a child to be eligible for SIJS, a young person now must be:

- Unmarried and under 21-years-old at the time of application;
- Placed in foster care prior to his or her 18th birthday due to abuse, neglect or abandonment, as determined by a family court judge;

- Receive a finding that the youth's reunification with one or both of the parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State Law;
- Receive a declaration from a family court judge that it is not in the applicant's best interests to return to his or her country of origin.

Helping eligible foster children obtain SIJS is crucial to their ability to work, attend school, and remain in the United States once they leave the foster care system. As such, Children's Services recognizes that we have a special responsibility to aid foster children in obtaining SIJS. When Children's Services or foster care agencies confirm that a young person in foster care is undocumented, we promptly refer the youth to independent counsel to assess the child's eligibility for SIJS, and if appropriate, to begin their SIJS applications.

To do this, we rely on and work closely with a network of public service and *pro bono* counsel dedicated to representing foster children and who have expertise in SIJS and can provide the legal representation needed to obtain SIJS status. To support the SIJS application process, Children's Services reimburses foster care agencies for all fees associated with a SIJS application, which can exceed \$1,000 per child, as well as for the cost of legal services provided by public service legal agencies. In 2005, Children's Services increased the legal services reimbursement rate to advocates and lawyers who handle SIJS cases from \$400 to \$700—a seventy-five percent increase—to ensure that legal service providers can afford to do this critical work. The Department of Youth and Community Development provides grants to certain legal service providers to provide legal assistance for youth eligible for SIJS and Children's Services, and foster care agencies will refer foster care youth to these providers.

Numbers of Immigrant Youth Receiving SIJS: In 2008, according to the Department of Homeland Security Yearbook, 989 youth received SIJS nationwide. In New York City,

we estimate that approximately 50-60 foster care youth receive SIJS on an annual basis, out of a total foster care population of approximately 16,000.

Children's Services Actions to Improve SIJS Services: Children's Services has undertaken a number of actions to ensure the identification of immigrant youth in care and to refer them for legal assistance.

- In 2008, Children's Services hired an Immigrant Advocate to work with the Director of Immigrant Services on SIJS and other immigration and language assistance issues.
- In 2009, Children's Services received a grant from New Yorkers For Children to hire graduate students to review foster care caseloads to identify immigrant youth in foster care. Through this grant, we have reviewed the caseloads of nearly 25 foster care agencies and reviewed over 2,500 cases. Approximately 110 youth were identified as probable SIJS eligible based on information in the case record that the youth did not have United States Citizenship and appeared to lack permanent legal status. We are working with the foster care agencies to review these cases and to refer these youth to legal services providers. By the end of June, all cases of foster care youth ages 12 and above should have been reviewed to ensure that all older immigrant youth in care are identified and referred for legal services.
- Children's Services also has improved the process for reviewing immigration status as part of the IV-E eligibility process. IV-E is the Federal funding stream for foster care, and youth must be either citizens or be "qualified" aliens to be eligible for IV-E (there are other eligibility criteria such as income of parents). For all youth entering foster care since 2008, Children's Services has reviewed and verified the immigration status of these youth. For 2008 and 2009, approximately 15,000 youth entered foster care, and through the IV-E eligibility process, we have determined that 189 youth, or a little more than 1%, were either

non-citizens or non-qualified immigrants. These youth will be referred to our network of legal service providers.

- Children's Services worked with the New York State Office of Children and Family Services on an Administrative Directive targeted to local social services districts and foster care agencies on SIJS.
- Children's Services issued the attached Policy on SIJS in August 2009 for Children's Services and foster care agency staff. The Children's Services policy on SIJS is intended to ensure that all immigrant youth in care are identified and referred to legal services providers. This guidance also reinforces the importance of the SIJS process for eligible youth and identifying these youth as soon as possible.
- Children's Services is working with foster care agencies to ensure that we are identifying immigrant youth. The requirements and expectations around youth in foster care having necessary records/documents for transition have been communicated to the agencies along with the necessary follow up for legal services as needed. Our Family Team Conference (FTC) facilitators/permanency specialists have been trained on the SIJS policy/requirements and it is expected that they will direct agencies appropriately as SIJS issues arise in the FTC.
- Children's Services regularly meets with immigrant advocacy organizations and legal service providers to ensure that we have a mechanism to share information, respond to concerns and identify issues to be addressed. Children's Services also responds to any case specific concerns raised by advocates.

SIJS Training

Children's Services also offers extensive training on SIJS. We train all of our child protective staff on cultural competency, including a component on the SIJS process. This training is a part of the common core curriculum that all child protective staff receives. Children's Services also trains all new attorneys in our Family Court Legal Services on the SIJS process and requirements. A special training focused solely on

immigrant/immigration issues is available to all Children's Services and foster care agency staff through our James Satterwhite Training Academy. Finally, SIJS training has also been provided at quarterly meetings with all foster care directors.

Conclusion

I hope that it is clear from our testimony today that Children's Services is genuinely committed to working with our staff, provider agencies and immigration advocates to ensure that undocumented youth in our care receive all the services for which they are eligible. We believe that the steps we have taken over the past several years, as I described in my testimony today, are significant. We now have resources within ACS dedicated to this work. The new process for reviewing and verifying immigration status of all youth entering foster care as part of the IV-E eligibility process provides a mechanism for ensuring prospectively that we are identifying potentially eligible SIJS youth. We also have strong relationships with our advocates and systems in place to make sure that we are regularly receiving feedback.

We also recognize that no systems are perfect and improvement is possible in how the child welfare system, including Children's Services, foster care agencies, law guardians and immigration legal service providers, address the needs of immigrant youth in foster care. Consequently, we support the intent of Intro 3, which is to develop a comprehensive plan for identifying and referring immigrant youth for SIJS legal services. We believe that working together with our stakeholders on this important issue will have positive results and we look forward to working with the Council to come to an agreement on the best way to legislate this bill. We greatly appreciate the interest and dedication of the City Council on this important issue and thank you for giving us the opportunity to discuss this topic.

Testimony by Myra Elgabry
Director, Immigration Rights Project
Lawyers For Children, Inc.

Presented to Hon. Daniel Dromm, Chair, The New York City Council-Committee on Immigration.

March 2, 2010

Good morning, my name is Myra Elgabry. I am the Director of the Immigration Rights Project at Lawyers for Children, Inc. ("LFC"). Thank you Chairperson Dromm, esteemed members of the Immigration Committee, and Co-Sponsors of the proposed legislation, for the opportunity to testify and for your continued interest in the welfare of our City's most vulnerable children. As you may know, Lawyers For Children is a not-for-profit organization dedicated to protecting the rights of individual children in foster care and to compelling system-wide foster care reform in the City of New York. Every child we represent receives free legal and social work services in cases involving foster care, abuse, neglect, termination of parental rights, adoption, guardianship, custody and visitation. Our caseload exceeds 4000 such cases a year.

Today we want to express our strong support for the proposed legislation requiring the Administration for Children's Services to review strategies and create a plan of action to protect children who qualify for Special Immigrant Juvenile Status ("SIJS"). As we have testified over the last several years, there is a continued need for the NYC Administration For Children's Services ("ACS") to improve identification of children eligible for SIJS, and immigration services for children eligible for SIJS. It is an especially crucial time for ACS to revise their strategies, because recent changes in the federal law will potentially result in an even larger number of children in foster care being eligible for SIJS. The proposed legislation is an

important step towards making those changes a reality and a recognition by the City Council of this crucial issue for our city's children.

As we have testified in the past, the ACS Director of Immigrant Services, Mark Lewis, and ACS Assistant Director, Family Court Legal Services Legal Compliance, Harry Gelb, have provided valuable assistance with individual SIJS cases, and have made efforts to improve staff training and identification for SIJS-eligible children. Despite these efforts, the current methods are not able to protect the rights of all SIJS-eligible children in ACS's care. There is still no systematic data collection to identify SIJS-eligible children and we continue to experience significant delays in obtaining the documents and fees necessary for filing SIJS applications. More improvements are needed to create an accurate and efficient system of identification, and to coordinate immigration services by ACS and its contract agencies.

For these reasons, it is important that the proposed legislation require ACS to create a plan with new strategies to present to the City Council. Previous hearings on this topic have made clear that ACS's current services for immigrant youth need improvement in several areas. ACS has been unable to provide reliable data to determine the number of SIJS-eligible youth in care or ACS's performance in serving those youth. Therefore, in order to achieve the intended results of the proposed legislation, ACS should be asked to identify new strategies that differ from the current methods and services in place.

While we wholeheartedly support the need for the proposed legislation, we are convinced that in order to create a new and effective plan for SIJS, several areas of the proposed legislation must be strengthened.

- 1) We support the legislation's requirement that ACS report on a new systematic method of identification of children who may qualify for SIJS or other immigration benefits as early as

possible. File #: Int 0003-2010, § 21-904(a)(i). A uniform method of collecting SIJS data is essential in order to accurately assess children as early as possible once they enter foster care so that they can be promptly referred to immigration services. Over the last several years, however, we have repeatedly asked for ACS to include "country of birth" as a required field in every child's case file, but that has not been implemented. We urge you to include a legislative mandate that ACS either implement a "country of birth" field, or develop another equally systematic method to screen and identify all youth for SIJS eligibility so that no child is overlooked for this important benefit.

2) We support the legislation's mandate that ACS report on SIJS training requirements for all ACS and contract agency caseworkers, and Family Court Legal Services attorneys. *Id.* at § 21-904(b)(iii). In addition, we ask that ACS be directed to submit a plan for mandatory training of contract agency caseworkers on identifying SIJS-eligible children, referring children to immigration service providers, and assisting immigration services in obtaining the necessary documents and fees for the applications. Contract agency caseworkers have the most direct access to the documents that are necessary for identification and services. Due to the rapid turnover of many agency caseworkers, it is essential that ACS outline the frequency of these trainings and the training requirements for newly hired staff.

3) We support the legislation's requirement that ACS develop a plan to assist SIJS-eligible children in obtaining the services they need once they are identified. *Id.* at § 21-904(a)(ii). In order to facilitate delivery of those services, we urge the Council to add a requirement that ACS report on ACS's and its contract agencies' procedures to respond to advocates with individual case concerns, such as delays or problems with services. As we have testified, Mark Lewis and Harry Gelb of ACS have been responsive to these concerns. But there

have been no identified staff at the contract agencies to address these issues. ACS should be directed to report on the possibility of implementing a SIJS-liason at each agency with the responsibility to promptly address SIJS case issues in collaboration with ACS and advocates.

4) We ask that a requirement be added to the proposed legislation that ACS report on mechanisms for evaluating outcomes for immigrant youth under the new plan, and its own and contract agencies' performance on delivery of SIJS services. One of the biggest frustrations with the current system is that its impossible to know how many immigrant children in foster care are eligible for SIJS and how many of those children are receiving the services that they need. Without proper data collection and tracking, children may be falling through the cracks at various stages of the process. In order to ensure that SIJS services continue to remain effective in the future, there must also be regular review of ACS's and its contract agencies' performance.

5) We support the requirement that ACS report on the structure and operation of ACS's offices, id. at § 21-904(b)(iv), and also ask that ACS identify the ACS staff positions that will oversee the plan and SIJS services. In order to clearly make SIJS a priority within the structure of ACS, it is crucial that certain staff be devoted to SIJS as part of their specific job requirements. This is essential to achieving accountability for maintaining the plan and effective coordination between advocates, ACS, and contract agencies.

6) Finally, we urge the Council to include a mandate in the proposed legislation that the new plan be developed in consultation with immigration advocates who represent children in Family Court and SIJS cases. We look forward to the opportunity to collaborate with ACS to improve identification of SIJS-eligible youth and to develop a model program for providing the most effective immigration assistance to children in foster care.

The proposed legislation could lead to changes that greatly benefit immigrant youth in foster care. We urge that it be implemented as soon as possible because the stakes for any child who is SIJS-eligible are enormous. Losing SIJS eligibility means a child will not qualify for financial aid for college, not be allowed to work legally, not receive federal housing assistance, and will be at risk of deportation back to a country where he/she likely has no resources and, in some cases, may not even speak the language. We all share an obligation to ensure that no child in our city's care is overlooked or ages-out of these crucial benefits.

The City Council has provided important leadership on issues for children in foster care and immigrant services, and we applaud you for continuing to do so. We believe that the collaborative efforts between ACS and SIJS advocates can help ensure that all SIJS-eligible children in foster care have the opportunities that they deserve.

We are available to assist in any way possible to improve the services and quality of care for children who are in need. Thank you.

TESTIMONY

**Local Law Requiring the NYC Administration for Children's Services
to Review Strategies and Create a Plan of Action to
Protect Immigrant Youth**

New York City Council
Committee on Immigration
Daniel Dromm, Chair

THE LEGAL AID SOCIETY
199 Water Street, 3rd Fl.
New York, NY 10038
March 2, 2010

Contacts:

Katherine A. Fleet, Civil Practice, Immigration Law Unit; 212-577-3328; kafleet@legal-aid.org
Theresa B. Moser, Juvenile Rights Practice; (212) 577-3284; tbmoser@legal-aid.org

My name is Katherine Fleet and I am a Staff Attorney with The Legal Aid Society's Immigration Law Unit. I work on the Immigrant Youth Representation Project, assisting NYC youth in obtaining legal status here in the United States.

My name is Theresa Moser and I am a Staff Attorney in the Special Litigation and Law Reform Unit of the Juvenile Rights Practice at Legal Aid.

We submit this testimony on behalf of The Legal Aid Society and want to thank Council Members Dromm, Cabrera, Arroyo and Jackson, for their initiative on the proposed Local Law regarding the NYC Administration for Children's Services' (ACS's) efforts to protect immigrant youth. We would also like to thank the Committee for the opportunity to participate in this hearing.

New York City has long been committed to addressing the needs of immigrant youth, and we applaud the City Council for pursuing new efforts to benefit this vulnerable population. The Legal Aid Society strongly supports the proposed law requiring ACS to review its strategies and propose a new plan aimed at protecting the urgent needs of immigrant youth. We offer some suggestions that we think will strengthen the bill and help to ensure that its important goals are met.

The Legal Aid Society is the nation's oldest and largest non-profit public interest law firm for low-income families and individuals. Founded in 1876 to provide legal assistance to poor immigrants, the Society is organized into three practice areas: criminal, civil, and juvenile rights. Annually, Legal Aid staff provide direct legal assistance in approximately 300,000 cases involving poor families and individuals. The Civil Practice Immigration Law Unit provides low-income New Yorkers with immigration services ranging from deportation defense to adjustment of status to Legal Permanent Residence and citizenship applications. Legal Aid's Juvenile

Rights Practice provides comprehensive legal representation to children who appear before the New York City Family Courts in all five boroughs, in abuse, neglect, juvenile delinquency, and other proceedings affecting children's rights and welfare. Last year, our staff represented some 34,000 children. In addition to representing many thousands of children each year in trial and appellate courts, Legal Aid also pursues impact litigation and other law reform initiatives on behalf of our clients.

In 2002, the Civil Practice Immigration Law Unit launched the Immigrant Youth Representation Project (Youth Project) to respond to the special needs of undocumented youth in New York City. Since its inception, the Youth Project has provided training, outreach, direct representation, and policy advocacy, assisting many New York City undocumented youth in obtaining Special Immigrant Juvenile Status (SIJS) or other immigration benefits. The Society acknowledges the Department of Youth and Community Development, the Gimble Foundation, Kids In Need of Defense (KIND) and the New York Community Trust for their invaluable financial support, which has made a tremendous difference in the lives of hundreds of immigrant youth.

In representing undocumented youth in foster care, Legal Aid has seen first-hand the successes and failures of the current identification, training, and application support practices that are the focus of this proposal. Legal Aid has been involved in cases where ACS and its contract foster care agencies have identified cases, referred them to the Youth Project for legal services, supported Legal Aid staff in getting critical documents such as birth certificates, and assisted in various ways throughout the SIJS process. Legal Aid has also observed the extraordinary difference obtaining SIJS can make in young people's lives, allowing them to remain legally in the United States and putting them on the path toward educational and

professional opportunities. There have also been breakdowns in the system, resulting in devastation and disappointment for children who miss out on the benefit of legal status. Youth who leave foster care with no legal immigration status face the constant threat of deportation, are unable to work legally, and lack access to important services such as Medicaid, federal financial aid, and housing assistance.

One of the most important responsibilities ACS has to every child in its care is to help him or her achieve “permanency” – this can mean returning to family, being adopted or leaving care to live independently, but in any situation, a young person must leave care equipped with the tools to become a successful, participating member of society. A failure to provide immigration assistance to a child who is entitled to an immigration benefit renders any other efforts toward permanency for that child virtually meaningless.

Protecting immigrant youth requires ACS and contract agency action at several critical points. First, consistent with regulations of the NYS Office of Children and Family Services, ACS should ensure that the uniform case record for each family it comes into contact with contains a copy of each child’s birth certificate. Second, ACS and its provider agencies must timely identify youth who are in need of immigration assistance. Third, they must refer them to immigration legal service providers in a timely fashion. If a young person is identified too late, there will be insufficient time to complete an application to U.S. Citizenship and Immigration Services, and an invaluable opportunity will be lost. Fourth, once an immigration legal service provider evaluates a young person’s situation and determines that a young person is eligible for SIJS or another immigration benefit, ACS and its provider agency must promptly and consistently support the application process by obtaining documents such as birth certificate and passport, ensuring that the young person undergoes an immigration medical examination, and

providing documentation to support fee waivers for immigration applications when necessary.

In recent years, the City has made some progress toward meeting the needs of immigrant youth. Legal Aid and other legal service providers have met regularly with ACS staff, shared information and perspectives, and received many case referrals. The relationships developed with ACS have enabled Legal Aid to ensure that undocumented youth referred to the Youth Project get the immigration legal assistance they need. We are grateful – as are many of our clients – for the efforts of Mark Lewis and his staff in the Office of Immigrant Programs, and Harry Gelb from Family Court Legal Services.

Still, there are many challenges and gaps in services that undermine the ability of qualifying youth to apply for SIJS, and there is much left to be done. Although ACS has been open to working with advocates in recent years, it has failed to develop a systematic mechanism for identifying SIJS-eligible youth. Many foster care agency staff still have limited knowledge about SIJS. Many youth are identified only after they miss out on important educational and work-related opportunities or when they are close to aging out of foster care. Obtaining birth certificates and passports for SIJS applications remains challenging in many cases, and there is often little foster care agency cooperation throughout the application process.

Early identification of SIJS-eligible youth is essential, as is providing access to critical documents, such as birth certificates and passports, and collaboration from foster care agencies in obtaining other required documents (including medical examinations and fee waiver letters). These challenges are even more acute now, as recent federal legislation has expanded SIJS eligibility, thereby increasing the population that can benefit from our efforts.¹

¹ Under the 2008 Trafficking Victims Protection Reauthorization Act, SIJS is now a possibility for youth who are not reunifying with “one or both” parents (previously, the law required both) and youth can obtain SIJS if they file applications by age 21 (previously, the law required *adjudication* of applications by age 21, and the process was often lengthy). The recent legislation also provides reimbursement to states for expenses related to youth who

Requiring ACS to report on its strategies and plans relating to SIJS-eligible youth is essential. The Legal Aid Society has a number of specific suggestions to offer today and welcomes the opportunity for further discussion of these important issues.

- ACS data collection systems should systematically track each child's country of origin from the time ACS first has contact with the child, while protecting the confidentiality of this information.
- As already required under applicable regulations (18 NYCRR § 428.3(b)(2)), ACS should also ensure that each child in foster care has a birth certificate. This data should be tracked systematically and updated consistently so that immigration issues are resolved well in advance of youth aging out of foster care.
- ACS, in conjunction with other City agencies, should provide assistance for youth who do not have birth certificates. Many young people are unable to obtain birth certificates from their home countries and need to seek assistance from local consulates, whose policies vary widely, may be costly and time-consuming, and may require consent of parents or custodians, who are frequently unwilling or unable to consent or whose involvement may pose a danger to the youth. City involvement in this process is essential.
- All non-citizen youth without proper documentation – not just those whom agency staff deem SIJS-eligible – should be referred to immigration

obtain SIJS. Although that provision is subject to federal appropriations, it should become a source of additional funding for social service agencies working with immigrant youth.

In addition, the recently-announced merger of ACS and the NYC Department of Juvenile Justice expands the number of children for whom ACS should consider immigration needs in the context of achieving permanency.

practitioners.² Congress recently expanded eligibility for SIJS, but the precise contours of eligibility may be changed through regulations. Accordingly, immigration practitioners are best suited to assess eligibility. In addition, there is often overlap between SIJS and other forms of immigration relief, which may be more appropriate in certain situations. For example, many youth who are domestic violence victims would qualify for lawful status under the Violence Against Women’s Act as well as qualify for U visas as crime victims. Referring all of these cases to legal service providers ensures proper assessment of eligibility and also guarantees that youth will not age out without proper documentation. All youth should have the necessary documents (including unexpired green cards) before leaving foster care.

- All children should be identified and referred for immigration assistance as early as possible. Children of all ages are vulnerable to deportation and many young people without status miss out on critical opportunities for jobs, internships, special programs, etc. Gathering the necessary documents for immigration applications can also be a very lengthy process. Identifying cases early on puts youth in the best position to make successful applications.
- Training of both ACS and foster care agency personnel is critical, and existing training programs are helpful but not sufficient. Immigration trainings should be mandatory and frequent for all employees working directly with youth in care, especially given the high rates of staff turnover at foster care agencies.

² This is consistent with the August 19, 2008, NYS Office of Children and Family Services Administrative Directive (ADM) regarding SIJS, which mandates all local departments of social service and voluntary agencies to assess SIJS eligibility, suggesting that “[a]ll youth in foster care who are not U.S. citizens and do not have documentation of lawful residence . . . need to be identified by agency staff and referred to immigration legal service providers for screening for SIJS and other possible immigration relief.”

- In addition to helping provide initial referrals, ACS should also take on a bigger role in coordinating with contract foster care agencies, whose help is critical when immigration practitioners are working with youth in preparing SIJS applications.
- ACS's reporting under this law should reflect new strategies and ideas, not just a report on the status quo. ACS's new plans should be made in consultation with stake-holders and those with experience in all aspects of this process, including youth immigration advocates and foster care agency workers.
- Any new plan should contain provisions for ACS's monitoring of its own compliance and that of contract agencies. The new plan should also contain data collection measures and specific methods for evaluating outcomes for immigrant youth in foster care.

The Legal Aid Society is hopeful that the New York City Council will pass the proposed law with these suggested changes, which we hope will lead to significant improvements in ACS's efforts to assist this vulnerable population.

We are happy to answer any questions that the Chair and committee members have at this time. Thank you.

COVENANT HOUSE  **NEW YORK**
460 WEST 41ST STREET, NEW YORK, N.Y. 10036 • (212) 613-0300

Testimony of Nancy Downing, Director of Advocacy
before
The New York City Council
Committee on Immigration
(March 2, 2010)

My name is Nancy Downing. I am the Director of Advocacy for Covenant House New York. I would like to thank the New York City Council and the members of the Committee on Immigration for providing me with the opportunity to testify here today in support of Int. 0003-2010, a local law to amend the administrative code of the city of New York, in relation to requiring the Administration for Children's Services to review strategies and create a plan of action to protect children who qualify for Special Immigrant Juvenile Status.

For more than 35 years, Covenant House New York has been serving homeless, runaway and at-risk youth. We are the nation's largest, privately funded, non-profit adolescent care agency serving this population. In 2009, Covenant House New York served approximately 6,000 young people, primarily between the ages of 16 and 21, in our residential programs, our training programs and through our street outreach efforts.

Many of the youth who find themselves in homeless situations are undocumented immigrants. Likewise, many of the youth who become homeless have been in the foster care system due to abuse, neglect or abandonment. A March 2009 study performed by The Columbia Center for Homelessness Prevention Studies in collaboration with Covenant House Institute, found that approximately 17% of the youth who came to Covenant House were undocumented immigrants. The study also determined that 35% of the youth who came to Covenant House had been in foster care or other institutional settings (i.e. group homes, residential schools or treatment centers) for an average of 4 years. For youth who are undocumented and in foster care, their best opportunity and possibly their only opportunity, to adjust their immigration status to a

legal status is through the Special Immigrant Juvenile Status process. If their status is not adjusted while they are in the care of ACS, most will not have another opportunity to legalize their immigration status and will likely face a life of poverty (in constant search of off-the-book jobs), homelessness, and constant fear of deportation.

Early identification of undocumented youth who are in care is critical, as is obtaining their birth certificates and other needed documents for the adjustment of status process, and referral for legal services. The proposed local law would address these essential needs by requiring the creation of a plan to systematically identify children within ACS that qualify for SIJS as early as possible and by requiring ACS to assist these children in obtaining immigration services.

Often we see youth who AWOL or sign themselves out of foster care unaware of their immigration status and/or unaware of the need to remain in foster care until their status has been adjusted through the Special Immigrant Juvenile Status process. The proposed local law would begin to address this need by requiring immigration/SIJS training programs for all ACS and contract foster care workers and attorneys. Case workers and attorneys with the appropriate training will still need to consistently and repeatedly fully inform and educate youth of the need to remain in foster care until their status has been adjusted through the Special Immigrant Juvenile Status process.

As indicated in prior testimony, we support the need for better identification and tracking of youth in foster care who qualify for SIJS; the need for more in-depth and on-going immigration/SIJS training for ACS and contract foster care caseworkers; and the need for more effective delivery of information and education to youth concerning their immigration status and the consequences of leaving foster care before the SIJS process has been completed. We believe that the proposed local law addresses the significant issues that will help ensure that all children in care who are SIJS eligible will be able to legalize their immigration status and have the opportunity to live a full and productive life.



LA UNIÓN HACE LA FUERZA
THE COMING TOGETHER OF
LATIN AMERICAN INTEGRATION CENTER
AND MAKE THE ROAD BY WALKING

March 2, 2010

Testimony in Support of a Local Law, Int. 0003-2010, Requiring the Administration for Children's Services to review strategies and create a plan of action to protect children who qualify for Special Immigrant Juvenile Status.

My name is Elizabeth Wagoner and I am a Staff Attorney with Make the Road New York, a non-profit organization based in the communities of Bushwick, Brooklyn; Jackson Heights, Queens; and Port Richmond, Staten Island. We work to promote economic justice, equity, and opportunity for all New Yorkers. Our organization consists of over 6,000 members, most of whom are immigrants, many of whom are youth, and some of whom are currently applying for Special Immigrant Juvenile Status. I submit this testimony on behalf of Make the Road New York and thank the Committee for the opportunity to participate in this hearing.

Make the Road New York strongly supports the proposed law, Int. 0003-2010, which directs the Administration for Children's Services (ACS) to create a plan for identifying and assisting youth who may be eligible for Special Immigrant Juvenile Status (SIJS). As a membership-based organization rooted in three largely immigrant communities, we can say first-hand that eligible youth are utterly unaware of this immigration benefit.

We work with many individuals who do not have legal status in this country simply because there is no way for them to obtain legal status. This problem is particularly acute when it comes to youth who came to this country at a young age. Without legal immigration status, these young people often are unable to obtain financial aid for college or to work to support themselves and their families. It is critical that agencies like ACS screen, identify, and link eligible youth with service-providers so that they access this unique immigration benefit.

Special Immigrant Juvenile Status offers a path to legal status for undocumented young people who are under 21 years old and either dependent on the juvenile court or under the court's jurisdiction. These youth might be in foster care, in the custody of a legal guardian, or in a delinquency proceeding. A court must find that the youth cannot be reunited with her parents due to abuse, abandonment, or neglect (or a similar basis under state law), and that it is not in the youth's best interest to return to her home country.

Make the Road New York's has direct experience screening youth for SIJS through our close collaboration with the Pan American International High School in Elmhurst, Queens, a high school attended by recently-arrived immigrant youth. We have worked closely with PAIHS to train front-line educators and staff to help identify youth who might be eligible for SIJS, understand the application process, and help youth gather necessary documents. This type of

301 GROVE STREET
BROOKLYN, NY 11237
TEL 718 418 7690
FAX 718 418 9635

92-10 ROOSEVELT AVENUE
ELMHURST, NY 11372
TEL 718 565 8500
FAX 718 565 0646

479 PORT RICHMOND AVENUE
STATEN ISLAND, NY 10302
TEL 718 727-1222
FAX 718 981 8077

intensive screening and training is crucial in light of the risks inherent in the SIJS process. When young people apply for SIJS, they put themselves on USCIS' radar without any guarantee of confidentiality. If USCIS denies a youth's application, the agency could still use the information in that application to remove the youth from the U.S. For this reason, it is essential that youth and their families understand the impacts of their decision to apply for SIJS, and that they are offered support as they weigh their fears and hopes about the SIJS process.

Such intensive training and work bears immediate rewards. After just a single training at PAIHS, staff referred four students (out of a student body of 200) to us for screening and help initiating the SIJS process. ACS is clearly well-positioned to replicate such success on an incredibly broad scale, positively impacting the lives of countless youths each year.

Our experience with Special Immigrant Juvenile Status (SIJS) offers a number of simple lessons that underline the importance of the proposed law that we support today and highlight how that law can best support young people, their families, and citywide service providers:

- (1) Education is key. Foster care workers can only identify eligible youth if the workers are aware of SIJS and understand the eligibility requirements.
- (2) Systematic procedures will prevent students from falling through the cracks. As we see daily, immigrant youth are NOT aware of SIJS and will not come forward to access this benefit. There are so many young people in this city who are eligible for SIJS, and a systemized procedure for identifying eligible youth within the care of ACS is an essential step.
- (3) The SIJS process can be long and complicated. It is important that ACS has a plan to coordinate appropriate immigration services, guide youth through each step of the process, monitor youths' progress, and work with families and guardians.
- (4) Time is of the essence. Young people are only eligible for SIJS until they turn twenty-one, and the application process can take up to two years to complete. ACS must design and implement a plan as soon as possible to identify eligible youth while they still have time to seize this opportunity.
- (5) Procedures must protect children and families from the risks of working with U.S. Customs and Immigration Services. The experience of being an undocumented immigrant youth can be terrifying and traumatic. Many undocumented youths live in fear of state government institutions, believing – sometimes correctly – that these institutions work in coordination with Immigration and Customs Enforcement. And because our immigration laws do not include basic safeguards for child welfare and family unity, undocumented children in this country too often suffer separation from loved ones and family members. ACS's procedures for identifying youth and providing legal services must ensure the individual attention and care necessary to adequately weigh the risks and benefits of applying for SIJS. ACS's identification plan should also be sensitive to the understandable and rational fears that children and their families experience in interacting with government institutions. Finally, ACS's plan should ensure that family members involved in a child's life are not put at risk of deportation through their involvement in the process.

- (6) Trusting relationships facilitate good decision-making. Our work at PAIHS built on relationships of trust between the young people, school staff, and Make the Road New York. We encourage ACS to partner with institutions that young people trust, be they schools or community-based organizations. That trust facilitates honest communication about difficult issues, helps youth and families feel more comfortable talking with attorneys and government agencies, and helps all parties make life-changing decisions without feeling coerced or intimidated.

In conclusion, for all of these reasons, Make the Road New York urges the Committee to approve the proposed bill, and to support the bill for passage in the City Council. We are hopeful that the Council will share our commitment to supporting new efforts to identify and support young people who are eligible for Special Immigrant Juvenile Status in New York City.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 3 Res. No. _____

in favor in opposition

Date: 3/2/10

(PLEASE PRINT)

Name: MARK LEWIS

Address: 2 Washington Street, NYC

I represent: ACS/Mayor's office

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Nancy Downing

Address: _____

I represent: Covenant House

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 3/2/10

(PLEASE PRINT)

Name: Myra Elgaby

Address: 110 Lafayette St. 8th Fl NY NY 10013

I represent: Lawyers For Children

Address: 205 11th St. Brooklyn NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 3 Res. No. _____

in favor in opposition

Date: 3-2-10

(PLEASE PRINT)

Name: Margaret Morgan

Address: 150 William Street NYC NY 10038

I represent: ACS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 3 Res. No. _____

in favor in opposition

Date: 3/2/10

(PLEASE PRINT)

Name: THERESA B. MOSER + KATHERINE A. FLEET

Address: 199 WATER ST, 3rd FL, NYC 10038

I represent: THE LEGAL AID SOCIETY

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 003 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Elizabeth C. Gardner

Address: 92-10 Roosevelt Ave

I represent: Make the Royal New York

Address: _____

Please complete this card and return to the Sergeant-at-Arms