

March 19, 2020

The Honorable William P. Barr  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

James McHenry  
Director, Executive Office for Immigration Review  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Attorney General Barr and Director McHenry:

We, the undersigned 26 legal services organizations serving unaccompanied children, write to urgently request that as part of efforts to protect public health and well-being during the national emergency related to COVID-19 the Executive Office for Immigration Review (EOIR) postpone all court appearances and hearings for detained unaccompanied children until public health authorities and medical experts determine conditions are safe to resume regular social interactions and operations.

Recently, EOIR postponed all non-detained hearings scheduled through April 10, 2020, due to the COVID-19 outbreak. While we commend this step, we believe far more is needed to protect against the spread of the novel coronavirus to those appearing before and working within the nation's immigration courts.

The scheduling of court hearings during the COVID-19 pandemic heightens anxiety and also risks further spread of the virus to vulnerable children, court staff, attorneys, interpreters, and prosecutors at a time when public health officials have urged the nation to restrict close contact with other individuals and the public at large. Court appearances require that children in the custody of the Office of Refugee Resettlement (ORR) be transported from ORR shelters and facilities to the courts, increasing the risk of exposure for children as well as ORR, Immigration and Customs Enforcement, and court staff. In light of the Federal Government's guidance that all individuals avoid gatherings of 10 persons or more, requiring these appearances presents a risk of grave harm.

If EOIR requires detained proceedings for unaccompanied children to go ahead, children, attorneys, shelter staff, sponsors, and supporting witnesses such as physicians and psychologists will be placed in the untenable position of being forced to gather and travel to prepare filings and evidence, or else miss critical deadlines that could result in irreparable harm to a child's case. For example, a motion to reopen may have a deadline, and depend on evidence produced through a psychologist's examination of the applicant. Unless there is relief from the deadline, a child's attorney and psychologist may face the impossible choice of disregarding critical public health guidance and self-isolation protocols in order to prepare the motion or foregoing the opportunity to file for relief.

In light of these concerns, we urge that, until public health and medical authorities determine that it is safe to resume regular social interactions and operations:

- All hearings and appearances for unaccompanied children be delayed, with clarity and notice to be provided by EOIR once courts reopen and reschedule hearings;
- All filing and case deadlines be tolled;
- EOIR confirm that, at least during this period of national emergency, electronic signatures captured in conformity with the E-SIGN Act will be accepted for all filings, and wet-ink signatures will not be required; and
- EOIR announce adequate protections, including relief *nunc pro tunc*, to preserve children's eligibility for benefits and forms of relief notwithstanding birthdays or other developments that happen during this time of national emergency.

We also ask that EOIR routinely update respondents and the public if and as additional information about the COVID-19 pandemic becomes available. We recognize that there may be exceptional cases in which it is necessary to hold a hearing by video teleconference or telephone during this crisis. Given significant due process and other concerns associated with remote hearings for children, we urge that decisions about any such emergency measures be governed by the best interests of the child and occur only at the request or otherwise with the consent of the child's attorney.

We understand the rapidly evolving nature of the COVID-19 outbreak and appreciate your prompt attention to this matter. We stand ready to assist in your efforts to prevent the spread of the virus and to protect those serving in and appearing before the immigration courts.

Sincerely,

Americans for Immigrant Justice (AIJ)  
 Ayuda  
 CAIR Coalition  
 Catholic Charities Archdiocese of New Orleans  
 Catholic Charities, NY  
 Catholic Charities of Baltimore, Esperanza Center (Immigration Legal Services)  
 Catholic Legal Immigration Network (CLINIC)  
 Catholic Legal Services, Archdiocese of Miami  
 Connecticut Institute for Refugees and Immigrants  
 CWS-Lancaster  
 Diocesan Migrant and Refugees Services, Inc. (DMRS)  
 HIAS Pennsylvania  
 Immigration Counseling Service (ICS)  
 Jewish Family and Community Services (JFCS)  
 Kids in Need of Defense (KIND)  
 Latino Memphis  
 McCrummen Immigration Law Group, LLC  
 Michigan Immigrant Rights Center  
 Mid-South Immigration Advocates  
 National Immigrant Justice Center (NIJC)  
 Public Counsel  
 RAICES  
 Rocky Mountain Immigrant Advocacy Network (RMIAN)  
 The Door  
 The Florence Project

YMCA International Services