September 15, 2014

Board of Supervisors
City and County of San Francisco
c/o Office of the Clerk of the Board
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Dear Members of the Board:

On behalf of the American Bar Association (ABA), I write to express strong support for the proposed ordinance appropriating funds to provide for legal services for unaccompanied children and families in removal proceedings in the San Francisco Immigration Court.

As you know, over the past year there has been a significant increase in the number of unaccompanied immigrant children seeking refuge in the United States. This tremendous influx of children reflects a regional humanitarian crisis. Children from El Salvador, Guatemala, Honduras, and Mexico are fleeing from abuse, violence, death threats, and neglect. Many of these children are fleeing persecution and are eligible to apply for existing forms of immigration relief. In addition, a minority of children who may not qualify for existing forms of relief nevertheless face grave dangers in their home countries and cannot be safely returned at this time.

Despite the risks of return, these immigrant and refugee children are routinely placed in removal proceedings. Courts and independent studies have suggested that children are not competent to proceed without representation, yet there is no right to appointed counsel for unaccompanied children in removal proceedings. As a result, these vulnerable children frequently have no choice but to represent themselves against experienced government trial lawyers. Due to their age, lack of education, language and cultural barriers, and the complexity of U.S. immigration

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3 See United Nations High Commissioner for Refugees, *Children on the Run* at 6 (Mar. 2014) (reporting that, of those interviewed, 58% of children entering from El Salvador, Guatemala, Honduras, and Mexico qualify for some form of international protection).
4 See *Davila-Bardales v. INS*, 27 F.3d 1 (1st Cir. 1994) (Form I-213, Record of Deportable/Inadmissible Alien cannot be used where a minor made admissions without representation and was unaccompanied); *see also Matter of Amaya*, 21 I&N Dec. 583 (BIA 1996) (Judge may not accept a minor’s admission to a charge).
law, these children face often insurmountable obstacles to proving their claims for protection before an Immigration Judge on their own.

The ABA is committed to ensuring fair treatment and due process rights for all immigrants and refugees within the United States, especially unaccompanied children. Fundamental principles of fairness and due process demand that these children receive legal representation to represent their interests throughout the immigration process.\(^5\) Access to counsel weighs tremendously on whether a child’s eligibility for relief is identified, and in securing immigration relief and permanent protection in the United States.\(^6\) In addition, legal representation often improves the efficiency of the court process and may help ensure that a child and his or her sponsor understand the responsibility to appear in court.

While many law firms and non-governmental organizations, including the ABA, are working to increase pro bono representation, there are simply not enough resources currently available to ensure representation for all unaccompanied children placed in removal proceedings. Thus we welcome and support the City of San Francisco’s leadership in addressing this issue and urge you to vote in favor of the proposed ordinance.

Sincerely,

William C. Hubbard
President

\(^5\) See, ABA Commission on Immigration, Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States, at VII. A.1., August 2004.

\(^6\) Transactional Records Access Clearinghouse (TRAC), Syracuse University (June 2014), available at http://trac.syr.edu/immigration/reports/359/ (finding that a child’s deportation “all too often [is] determined by whether an attorney was present to assist the child in presenting his or her case”).