

United States District Court
Southern District of New York

E.J.C.C., a minor, by and through his next
friend and attorney, Beth Baltimore,

Petitioner-Plaintiff,

- against -

No. 25-cv-08805 (CS)

WILLIAM JOYCE, in his official capacity as
Acting Field Office Director of New York,
Immigration and Customs Enforcement,
et al.,

NOTICE OF MOTION

Respondents-Defendants.

PLEASE TAKE NOTICE THAT the City of New York respectfully moves for leave to file the accompanying brief as amicus curiae in support of petitioner-plaintiff E.J.C.C.'s petition for habeas corpus and related relief. E.J.C.C. consents to the filing of this motion, and respondents do not oppose the motion. For the reasons set forth in the accompanying memorandum of law, the motion should be granted.

Dated: New York, New York
November 10, 2025

Respectfully submitted,

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Enforcement, et al.,

Respondents-Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF THE
CITY OF NEW YORK FOR LEAVE TO FILE AN AMICUS CURIAE
BRIEF IN SUPPORT OF PETITIONER-PLAINTIFF**

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November 10, 2025

The City of New York respectfully moves this Court for leave to file the accompanying brief as amicus curiae in support of E.J.C.C.’s petition for habeas corpus and related relief.

This Court has broad discretion to permit the filing of an amicus brief. *Johnson v. United States*, 2024 U.S. Dist. LEXIS 81259, at *1–2 (S.D.N.Y. May 2, 2024). Granting leave may be appropriate when, for example, the amicus has an interest in the action beyond that of the parties or has “unique information or perspective that can help the court beyond” what counsel for the parties may provide. *Auto. Club of N.Y., Inc. v. Port Auth.*, 2011 U.S. Dist. LEXIS 135391, at *6 (S.D.N.Y. Nov. 22, 2011); see *New York v. NSF*, 2025 U.S. Dist. LEXIS 124434, at *19–20 (S.D.N.Y. June 30, 2025). Amicus participation is especially appropriate for “a public body clothed with powers and duties affecting the public interest, and involved in the subject matter presented before the court.” *Andersen v. Leavitt*, 2007 U.S. Dist. LEXIS 59108, at *7 (E.D.N.Y. Aug. 13, 2007) (citation omitted); see *Neversink Gen Store v. Mowi USA, LLC*, 2021 U.S. Dist. LEXIS 258476, at *3 (S.D.N.Y. Feb. 9, 2021) (Engelmayer, J.) (noting that amicus briefs help the court reach the right decision in cases involving the interest of the general public).

The City has a special interest in this case and is able to offer useful information addressing the broader public interests at stake. E.J.C.C. is a student at Gotham Collaborative High School, a City public school. Education is “perhaps the most important function of state and local governments,” and the City is constitutionally required to ensure that E.J.C.C. and similarly-situated students receive an adequate education. *Plyler v. Doe*, 457 U.S. 202, 222 (1982) (quoting *Brown v. Board of Education*, 347 U.S. 483, 492 (1954)). The unnecessary detention of students such as E.J.C.C. jeopardizes this mission, not only for the detained students but also for classmates and peers. Learning requires stability, and classrooms cannot function if students are cycling in and out of custody without warning. The City is well situated to address the broader importance of constitutional and statutory

protections against detention not only for this particular student, but for City schools and students as a whole.

For the foregoing reasons, the motion for leave to file the proposed amicus brief should be granted.

Dated: New York, New York
November 10, 2025

Respectfully submitted,

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**BRIEF FOR AMICUS CURIAE CITY OF NEW YORK
IN SUPPORT OF PLAINTIFF'S PETITION
FOR WRIT OF HABEAS CORPUS**

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**PRELIMINARY STATEMENT
AND INTEREST OF AMICUS CURIAE**

Public education is “perhaps the most important function of state and local governments.” *Plyler v. Doe*, 457 U.S. 202, 222 (1982) (quoting *Brown v. Board of Education*, 347 U.S. 483, 492 (1954)). The City of New York submits this amicus brief in support of E.J.C.C.’s petition to explain how this significant local interest in public education dovetails with the federal government’s own requirement that unaccompanied children like E.J.C.C. be expeditiously placed in the “least restrictive setting” while their immigration issues are being resolved.

The City prides itself on offering a free and robust education to all children regardless of immigration status, ensuring that all of the City’s schoolchildren grow up prepared for civic life. But for the City to perform this function, students must remain in their communities while their immigration proceedings play out. No school can operate with students cycling between the classroom and detention, leaving peers and teachers to wonder who will be next. And individual students certainly cannot obtain the education that they deserve when they are abruptly ripped from their communities and unnecessarily detained for weeks on end.

Fortunately, the federal government itself has adopted a legal framework that guards against this result. As the government concedes, it must “promptly place” an unaccompanied minor like E.J.C.C. “in the least restrictive setting that is in the best interest of the child” (Respondents’ Memorandum of Law 25) (cleaned up). Often, that means release to the community with a family resource. This benefits the City by maintaining order in City schools and ensuring that any children who are eventually allowed to stay here are prepared for civic life, rather than struggling with an education interrupted by detention. And it benefits immigrant

children and their peers, who are simply trying to learn and grow in the face of forces far beyond their control. The unnecessary detention of immigrant students jeopardizes the City’s mission of educating and supporting these students.

Detention should always be a last resort. In cases like this, where the child has been living with a family member and undisputedly poses no flight or safety risk, children should remain in their communities, allowing them to access City schools and services while their immigration issues are being resolved. But by the time this Court hears the petition, E.J.C.C. will have been detained for more than three weeks. That is a lifetime for a child, and any additional delay in releasing E.J.C.C. to a family member will only further derail his education. Given the passage of so much time, E.J.C.C.’s release will not be “prompt,” as the law requires. Only his immediate release can prevent further harm.

ARGUMENT

UNNECESSARY DETENTION OF MINORS HARMS STUDENTS AND SCHOOLS

“[I]n this country liberty is the norm and detention ‘is the carefully limited exception.’” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)). This principle holds all the more true in the case of immigrant children, who are specifically protected from unnecessary detention by statute. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) and relevant regulations require unaccompanied

minors¹ to be placed in the “least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2); *see* 45 C.F.R. § 410.1103 (same); *Saravia v. Sessions*, 905 F.3d 1137, 1140 (9th Cir. 2018). If a suitable sponsor is available, the child should not remain in custody but should be released to that person “without unnecessary delay.” 45 C.F.R. § 410.1201(a); *see L.V.M. v. Lloyd*, 318 F. Supp. 3d 601, 614 (S.D.N.Y. 2018) (holding that unnecessarily increasing detention period was “a clear violation of the ... mandate to promptly place the [unaccompanied child] in the least restrictive setting”).

In the absence of flight or safety concerns, the clear preference is for children to be placed in the community with sponsors. *See* 8 U.S.C. § 1232(c)(2); Office of Refugee Resettlement Unaccompanied Alien Children Bureau Policy Guide § 2.1 (September 17, 2025), <https://perma.cc/KTH9-BR9S>. This is a humane and sensible policy. It is not in the federal government’s interest to keep children in sub-standard care with the Office of Refugee Resettlement (ORR), at the government’s expense, when there are adults and schools in the community ready and willing to care for them.

The City also has a strong interest in ensuring that the immigrant minors are not unnecessarily detained. The City has a huge population of immigrant students, many of whom are pursuing pathways to lawful residency, and it invests

¹ Because petitioner here is under the age of 18 and has no parent or legal guardian in the United States, he meets the statutory definition of “unaccompanied alien child,” entitling him to the protection of applicable statutes and regulations. *See* 6 U.S.C. § 279(g)(2).

significant resources in helping them become ready for their careers and civic life.² Losing students to ORR custody for even a short time jeopardizes this work. *See L.V.M.*, 318 F. Supp. 3d at 608 (“Prompt placement of the child [in the least restrictive setting] is critical to minimize the deleterious impact (anxiety, depression, and/or cognitive change) of detention.”). Although ORR is required to educate children in its custody, it is limited by physical space, provider training, and wildly varying student needs.³ Reports suggest that any education that occurs is little more than box-checking, with children often grouped across a wide variety of ages, completing worksheets or computer programs that repeat every few weeks.⁴

When students eventually leave ORR custody, they are likely to have suffered significant educational setbacks, possibly putting their promotion or graduation in jeopardy. New York only allows a principal to accept transfer work “of comparable scope and quality” to the school’s normal work, 8 N.Y.C.R.R. § 100.5(i)(b),

² *See* Multilingual NYC Advisory Council, NYC Public Schools Division of Inclusive and Accessible Learning, *Boldly Reimagining Multilingual Education in NYC Public Schools*, at 2 (2025) (noting that 44% of New York City public school students speak another language at home), <https://perma.cc/5WAE-6ER3>.

³ Kylie Diebold, Kerri Evans, & Emily Hornung, *Educating Unaccompanied Children*, Forced Migration Review, <https://perma.cc/A9GK-9V25> (captured November 7, 2025).

⁴ *See id.*; Dana Goldstein & Manny Fernandez, *In a Migrant Shelter Classroom, It’s Always Like the First Day of School*, N.Y. Times (July 6, 2018), <https://perma.cc/FX3G-W3KU>; Kate Rheame, Note, *Unaccompanied, Unnoticed, And Undereducated: An Analysis Of The Administrative Challenges Of Educating Unaccompanied Children In Federal Custody*, 34 Geo. Immigr. L.J. 159, 162–65, 170–74 (2019); Melissa Adamson, Mishan Wroe, & Neha Desai, *Educational Advocacy for Unaccompanied Immigrant Youth in California*, National Center for Youth Law, at 63 (May 2024), <https://perma.cc/BWZ3-SYXJ>.

which may not be true of ORR schooling.⁵ The longer the child stays in custody, the more likely the child's life trajectory will be thrown off course by both direct educational deprivation and the trauma of being separated from family and community.

By contrast, City schools are prepared to nurture immigrant students, providing them with targeted and holistic supports that will put them on the path to success. City public schools systematically test new students' English skills and provide all students who need it with English as a New Language instruction, which teaches English with support in the child's home language.⁶ In accordance with best practices, instruction emphasizes learning English not via simplistic memorization or workbooks, but by engaging with challenging, grade-appropriate content using support from peers and home language materials.⁷ City schools also provide two free meals a day, counseling and special education services as necessary, college and career advising, and connections to community organizations dedicated

⁵ Adamson, Wroe, & Desai, *supra* note 4, at 61 (noting that in California, "it is uncommon for local school districts to accept the classes children take while in ORR custody as transferable credit").

⁶ NYC Public Schools, *English Language Learners*, <https://perma.cc/THB7-6U9F> (captured November 7, 2025). Students may also be placed in a bilingual program, if the school offers that option, or may choose to transfer to a school that offers such a program. *Id.*

⁷ NYC Public Schools, *Keys to Advance Language and Literacy Development for Multilingual Learners*, at 6–8, <https://perma.cc/EXU9-EC33> (captured November 7, 2025); Office of English Language Acquisition, United States Department of Education, *Implementing Evidence-based Instructional Practices for English Learners*, at 7–10 (January 2025), <https://perma.cc/V3CW-J6TW>.

to serving linguistically and culturally diverse families.⁸ These supports are crucial for students trying to build the skills they need to become productive members of society while at the same time learning a new language and culture.⁹ They are supports that are sorely lacking in ORR custody.

Accordingly, the detention of students by ICE threatens to undo in one stroke the hard work done by City schools and teachers over a period of months or years. Unfortunately, E.J.C.C.'s case escalates a recent trend of such detentions.¹⁰ These detentions have not only impacted the detained students but have rippled throughout the City's education system, leaving teachers reeling and frightening parents and peers.

The City does not dictate federal immigration policy, but it is important to the functioning of the City that immigration enforcement be carried out in an orderly fashion in accordance with federal law. In the case of minors such as E.J.C.C.,

⁸ See NYC Public Schools, *Food*, <https://perma.cc/57T3-QTER> (captured November 7, 2025); NYC Public Schools, *College-Career Readiness for English Language Learners*, <https://perma.cc/9VKD-XVPU> (captured November 7, 2025); NYC Public Schools, *Community Organizations That Help Multilingual Learners and Immigrant Students*, <https://perma.cc/4MLW-DCE6> (captured November 7, 2025).

⁹ See NYC Public Schools, *College-Career Readiness for English Language Learners*, *supra* note 8.

¹⁰ See Amy Zimmer, *Queens Student to be Released from ICE Detention after Month in Texas Facility*, Chalkbeat, <https://perma.cc/VV4T-JMDN> (July 15, 2025, at 7:04 p.m.); Cara Fitzpatrick, *Second NYC Student Detained by ICE, Education Department Confirms*, Chalkbeat (June 6, 2025, at 8:28 pm EDT), <https://perma.cc/KTX3-4999>; Natalie Duddridge, *NYC Teachers Rally for Student's Immediate Release from ICE Custody*, CBS New York (last updated August 14, 2025, at 7:50 p.m. EDT), <https://perma.cc/R4V3-68BW>; Gwynne Hogan, *'It's a Miracle': Queens High Schooler Detained for Weeks in Louisiana After ICE Courthouse Arrest Reunites with Family*, The City (July 16, 2025, at 10:27 a.m.), <https://perma.cc/4L87-SBDE>.

the law requires placement in the “least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2). Detention should thus be not a matter of course, but the rare exception for young people who present a significant flight risk or safety concern. *See id.*¹¹ Otherwise, the interests of the child, classmates, the City, and even the federal government favor allowing the child to continue learning and growing in the child’s school and community until and unless it comes time for the child to leave the country.

The case of E.J.C.C. exemplifies these issues. E.J.C.C. is 16 years old and lives with a relative chosen by his mother.¹² He is in 11th grade at Gotham Collaborative High School, a small high school in the Bronx that emphasizes college preparation, real-world internships, and celebrating student diversity.¹³ Ninety-three percent of Gotham Collaborative students graduate high school.¹⁴ E.J.C.C. has 100% attendance, Dkt. No. 7-12 at 6, and is described by his teachers as a committed and responsible student who wants to learn English so badly that he refuses materials in his native language, Dkt. No. 7-11. He is a leader in his College and

¹¹ Notably, a court in this District found that one previous student detention occurred pursuant to a policy of systematically “detain[ing] individuals immediately after their appearance in immigration court” without an individualized assessment of flight risk or dangerousness, a violation of basic principles of due process. *Chipantiza-Sisalema v. Francis*, 2025 U.S. Dist. LEXIS 132841, at *7–8 (S.D.N.Y. July 13, 2025); *see also Fontanelli v. Francis*, 2025 U.S. Dist. LEXIS 194942, at *21 (S.D.N.Y. Sep. 29, 2025) (“[P]etitioner was concededly detained based on a policy of indiscriminately redetaining noncitizens appearing for immigration court proceedings.”).

¹² Dkt. No. 7 ¶¶ 1, 33.

¹³ Gotham Collaborative High School, *Why Gotham*, <https://perma.cc/F4R3-8NYN> (captured November 7, 2025).

¹⁴ *Id.*

Career Readiness class, showing his dedication to building a successful future. Dkt. No. 7-11. As of a year ago, he had a goal of becoming a certified mechanic. Dkt. No. 7-8.

In short, the record suggests that E.J.C.C. is far from a safety or flight risk, and there was no apparent need to take him into custody. If the federal government wished to deport him and believed that his Special Immigrant Juvenile status and deferred action application were no obstacle, it could have informed him that it planned to do so, allowed his lawyer to make any relevant legal challenges, and left him in the care of his family and school in the meantime. Instead, it chose to detain him without warning at the appointment he faithfully attended. Hopefully, E.J.C.C.'s commitment to his education has not yet been blunted by his time in custody. But he has already missed weeks of his classes, and his growth will be further impaired by each day away from the supports that he needs to flourish. The City supports his petition for habeas corpus and related relief.

CONCLUSION

This Court should grant E.J.C.C.'s requests.

Dated: New York, New York
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Respectfully submitted,

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