



April 14, 2020

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue
Rockville, MD 20850

Re: Renewal of Legal Representation

Dear Montgomery County Council,

Kids in Need of Defense (KIND) submits the following to the Montgomery County Council regarding the importance of renewing the proposed budget for our Community Grant of \$50,000 in Montgomery Council's FY 2021 Budget to provide immigration legal services for unaccompanied children (UC). We appreciate and thank Montgomery County Council for funding to represent UC since Fiscal Year 2018. Providing legal assistance to our clients that are the most vulnerable—children—has been a priority for Montgomery County, and should remain so.

The COVID-19 pandemic has exacerbated existing vulnerabilities for UC and the disparities in eligibility and accessibility for local, state, and federal services and benefits. Now, more than ever, we must be able to continue representing our clients and providing quality pro bono mentoring services to ensure that they are able to qualify for basic emergency services to keep them safe and healthy.

1. About Kids in Need of Defense (KIND)

Established in 2008, Kids in Need of Defense (KIND) is a nonprofit organization dedicated solely to the protection of unaccompanied immigrant and refugee children, who arrive as children to the U.S. alone without a parent or legal guardian. Most of these children have fled abject poverty and violence, and have suffered from extreme forms of trauma in their home country, in transit, at the border, or sometimes after release from federal custody to the community. KIND protects UC by providing legal representation in immigration court, social services coordination, and strategic public outreach and education designed to build support for access to justice. KIND also works to preserve existing safeguards under U.S. law and promotes assistance to address the root causes of child migration. KIND's Baltimore office has been serving UC since 2008, as one of the original KIND offices. KIND currently has ten national field offices, and also works to advocate for laws and policies to protect unaccompanied children at the local, state, national and international levels. KIND's Baltimore office works with UC released to Maryland; many KIND clients served by the Baltimore field office reside in Montgomery County.

2. Maryland and Montgomery County have one of the highest UC populations in the US

- In federal FY19 (October 2018-September 2019), Maryland placed fifth among states receiving the most released UC, and to date in federal FY20 (October 2019-February 2020), Maryland placed sixth among states receiving the most released UC. In the last few years, Montgomery County has consistently remained one of the top three counties receiving released UC in Maryland.

- From Oct. 2014-Feb. 2020, Montgomery County has accounted for approximately 28% of all of Maryland’s UC releases.

Total UCs released to Maryland and Montgomery County (Per Federal Fiscal Year, starting October 1)*

	Total	2020 (10/1/19- 02/28/20)	2019	2018	2017	2016	2015
Maryland	15,614	598	4,671	1,723	2,957	3,871	1,794
Montgomery County	4,395	151	1,165	356	782	1,079	534

*Source: U.S. Department of Health and Human Services, Office of Refugee Resettlement

3. Montgomery County funding is important because there is insufficient Federal and Maryland State funding for legal representation of UC released to their sponsors

- Released UC are not guaranteed counsel: Unaccompanied children, like all immigrants in removal proceedings, are not entitled to legal counsel at government expense. KIND serves UC who are released to sponsors in Maryland. Currently detained UC are provided counsel when they are in federal custody. While there are some efforts to coordinate representation, released UC are not guaranteed counsel, and many continue to go unrepresented.
- Prohibition of federal ORR funds to provide direct legal representation of released UC: **Since 2018, KIND and other legal service providers (LSPs) have been prohibited from using federal funds from the Office of Refugee Resettlement (ORR) for the direct legal representation of released UC.** This federal funding can only be used to place released UC cases with pro bono attorneys. Hence, Montgomery County funding was crucial to allow agencies to provide UC direct legal representation in Montgomery County.
- Direct representation necessary to take on complex cases and provide quality pro bono mentoring: The provision of direct legal representation for UC allows LSPs to take on difficult, complex UC cases, cases where the child’s legal remedies may take multiple filings, and cases where the child may age out of their legal options soon. These cases are difficult to place with pro bono attorneys, who require extensive mentoring and training.
- Maryland does not provide legal services funding for adult and child removal defense: Currently, the state of Maryland does not provide funding explicitly for the purpose of immigration removal defense. Our agencies rely primarily on Montgomery County funding to support the direct legal representation of released UC and to build capacity to support and provide tailored mentoring for pro bono attorneys.

4. KIND’s Work with Montgomery County Funding

In addition to providing quality legal representation for complex cases for unaccompanied children, KIND also recruits, trains, and provides tailored mentoring for pro bono attorneys. KIND also provides UC-specific legal and social services case consultation and technical assistance to other legal services providers and pro bono attorneys. We provide a wide scope of trainings, ranging from an education in the underlying state and federal laws, instruction on how to advocate for undocumented minors facing removal, to how to provide trauma-informed legal services for UC. We are also members of the

Maryland SIJS Working Group and collaborate with other legal services providers to share trends and resources, and provide referrals to one another.

5. Crucial Need of Renewal of Funding Due to COVID-19 Pandemic

The COVID-19 pandemic has exacerbated existing vulnerabilities for our clients, and obtaining legal status is more important than ever to be eligible to access local, state, and federal emergency services and benefits. The federal government has weaponized COVID-19 to continue its systematic attack on immigrants, and the clients we serve are more vulnerable than ever. Our clients who have yet to obtain legal status are barred from accessing many forms of emergency legal relief provided on the local, state, and federal level. The recent federal public charge regulation has further had a great chilling effect on many immigrants to access services altogether, even when they are eligible for them out of fear and misinformation. For these reasons, it is more crucial than ever for Montgomery County to support our ongoing ability to represent our clients to help them obtain legal status so that they will qualify for basic forms of emergency relief and services.

COVID-19 pandemic has disrupted the flow of our regular work procedures and processes, and our agencies are working hard to address these challenges and delays that may have lasting effects for months and into the next year. All KIND offices have switched to 100% telework, with physical offices temporarily closed. All staff are working remotely for staff and client safety and to comply with the Governor's stay-at-home directive. Our attorneys are adapting as quickly as possible to severe limitations on our ability to meet in-person with our clients to prepare, review, and sign applications and petitions for immigration relief and related benefits. Communication between attorneys and clients are now taking place by phone, GoogleVoice, WhatsApp, Zoom, email, USPS, and Skype to continue services while reducing in-person contact that could pose a risk to the clients' health or that of the public. We are also able to communicate and support pro bono attorneys through these means. While we are diligently exploring digital and telephonic options, the reality is that some clients, particularly as they are children, are unable to afford enough cellular data, lack access to the internet, or are unable to afford their phone bill which hinders their ability to maintain contact with their attorneys. Clients are also having trouble finding confidential spaces to speak to their attorneys, which is particularly important for our clients who discuss many sensitive, traumatizing details. We will continue to address these gaps, but ask for understanding that our clients' immigration cases may still be further delayed due to these issues. Our goal is to resume client intakes and casework as effectively and efficiently as possible, as soon as is safely and legally possible.

The COVID-19 pandemic has not decreased the need for immigration legal services for low-income Montgomery County residents in removal proceedings, and our existing clients continue to face looming immigration application deadlines. We have also been restricted in our access to mail, and because certain mail cannot be forwarded, we have had to continue balance our professional obligations with our personal safety just to check mail. Our agencies have advocated that USCIS promptly postpone, toll, or otherwise extend all Requests for Evidence (RFEs) and Notice of Intent to Deny (NOIDs) deadlines.¹

¹ See for example, KIND, "Letter to USCIS Regarding Postponing Deadlines, Including for RFEs and NOIDs, in Unaccompanied Children's Cases to Support COVID-19 Precautions," April 6, 2020, available at <https://supportkind.org/wp-content/uploads/2020/04/Letter-from-Kids-in-Need-of-Defense-regarding-deadlines-for-unaccompanied-children-during-the-COVID-19-pandemic-4.6.pdf>.

Our agencies are advocating to halt non-urgent legal proceedings, particularly for unaccompanied children,² but we are experiencing uncertainty and miscommunication regarding closures of immigration courts, Maryland State Courts, and USCIS offices. Automatic closures and modified rules of relevant courts, immigration agencies, and offices have been announced on a rolling basis in haphazard and disjointed fashion, creating confusion and uncertainty about the rescheduling and cancellation of hearings. Dutiful representation of our clients now requires daily, even hourly, monitoring and assessment of changes to the immigration system due to COVID-19. USCIS offices are closed for face-to-face services, including asylum interviews and biometrics appointments, and Immigration Courts have postponed hearings for non-detained individuals through May 1.

Our clients are depending on us during this pandemic to continue forward with their legal case, and will need follow up from our office after shelter in place orders are lifted for months to come. One client, born with physical disabilities and a clubfoot, was constantly bullied throughout his childhood and had to end his education after 6th grade. Despite state court closures and shelter in place orders due to COVID-19, using the drop box, a KIND Staff Attorney filed the Custody and Special Immigrant Juvenile Status (SIJS) complaint with the Montgomery County Circuit Court and received a filing notice from the court. KIND will continue to represent the client when his case can be rescheduled with the court, and urgent follow up will be needed given that the client may age out soon. In another example, our office is working with a youth from Guatemala, who was severely abused by his father, who would punish the boy weekly by whipping him with a horse whip. He made the decision to flee to the United States. The child's March asylum interview was rescheduled due to the COVID19 pandemic, but our office made the filings on his behalf. Due to his mental health concerns, legal representation and preparation for this interview will be crucial. Continued funding and support will enable us to continue to move his case forward at a future interview date with the asylum office can resume scheduling interviews.

For the basic safety and needs of our child and vulnerable clients, we are expending significant staff time attending to non-immigration legal client concerns regarding COVID-19. Our clients, including UC, do not receive coordinated social services, face additional barriers to accessing services, and have much more limited support networks. These barriers are exacerbated by COVID-19, particularly with the closure of schools and many important services and support networks. Many of our clients are experiencing job loss or income loss, food insecurity, housing insecurity, and mental, emotional, and physical health challenges. International and national data and experiences have also shown the increase of child abuse and neglect due to increased stress in families, isolation, and inability to physically leave the house to seek additional support and services. Many of our clients are experiencing job loss or income loss, food insecurity, housing insecurity, and mental, emotional, and physical health challenges. Some of our child clients live with elderly caregivers; it is highly likely that some of them will suffer trauma, grief, and loss from the death of caregivers and mentors, as well as losing access to peer networks and important social interactions for children. We are working to compile and distribute information. For example, a client was recently laid off due to COVID-19, and unable to afford rent, food, and formula for their baby. KIND staff was able to connect the client to social services in Montgomery County and had baby formula delivered to their home. Having access to resources to support her well-being and that of her baby also allows her to continue to fully participate in her legal case.

² See for example, Letter from 26 legal services agencies, "Letter to Dept. of Justice and EOIR regarding postponing all immigration court appearances and hearings for detained unaccompanied children," March 27, 2020, available at <https://supportkind.org/wp-content/uploads/2020/03/2020-03-27-from-RB-Dems-to-EOIR-DOJ-re-postponing-UAC-hearings.pdf>.

Again, KIND respectfully asks Montgomery County Council to approve County Executive Marc Elrich's proposed \$50,000 community grant in his proposed FY 2021 budget. The continued ability to serve UC will help prevent further traumatization and vulnerabilities exposed through COVID-19. KIND is grateful for Montgomery County's leadership in supporting UC's well-being, health, safety, and happiness.

Sincerely,

/s/

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Cc: Marc Elrich, County Executive