

SPEAK OUT FOR CUSTODY AND CARE OF IMMIGRANT CHILDREN TODAY!
Regulatory Comment Period on Flores Settlement Deadline November 6, 2018

Take Action NOW:

Submit Public Comment by November 6 in opposition to circumventing the Flores Settlement Agreement to incarcerate children and families longer than the current limit of 20 days to an unspecified period of time (potentially months, years or indefinitely). This proposed policy is in direct violation of our UU 1st Principle to respect the inherent worth and dignity of all.

UUSJ's Immigration Task Group urges you to speak out against the Administration's attempt to circumvent the Flores Settlement Agreement (FSA). The Administration is proposing to revise a regulation that would allow Immigration and Customs Enforcement (ICE), an agency of the Department of Homeland Security (DHS), to hold children in detention for longer than the FSA's current limit of 20 days. This revision would permit ICE and the U.S. Department of Health and Human Services (HHS) to incarcerate families for months or years (i.e., indefinitely). The Senate's Homeland Security and Governmental Affairs Committee and the House Appropriations Committee are considering legislation that proposes similar revisions.

See further background and details below in the section "*What is the Flores Agreement*" and learn the importance of why we must oppose the regulatory revision.

ACTION NEEDED: You can make a public comment opposing the regulatory revision by any one of the following methods outlined below, referring to DHS Docket Number ICEB-2018-0002.

Comments MUST ARRIVE BY NOVEMBER 6, 2018, by 11:59pm ET in one of three ways:

- **ONLINE [Preferred]:** Go to <https://www.regulations.gov> and search for "Apprehension, Processing, Care and Custody" (now trending and found on the main page) to find the rule change and follow the instructions for submitting comments. The docket number is ICEB-2018-0002-0001. If you are viewing this document online, link [HERE](#) to go directly to the comment page.
- **Email:** ICE.Regulations@ice.dhs.gov with docket number as subject. ICEB-2018-0002-0001.
- **Hard copy mail:** Send your letter with docket number: ICEB-2018-0002-0001 to:
Debbie Seguin, Assistant Director, Office of Policy
US Immigration and Customs Enforcement
500 12th St, NW, Washington, DC 20536

YOUR COMMENTS SHOULD BE YOUR OWN OR THEY WILL NOT BE CONSIDERED. YOU CAN DRAW ON THESE POINTS, HOWEVER:

- I urge ICE and HHS to uphold and implement the entire Flores Settlement Agreement, and not to detain families lawfully seeking asylum.
- Lengthy detention has been proven to have harmful psychological effects on children and in some cases has resulted in serious physical harm to them.
- US policies should protect the rights and safety of immigrants, refugees and asylum-seekers. Families should not be separated nor incarcerated. Community alternatives to family detention are more humane, cost-efficient, and effective.
- It is legal to seek asylum; asylum seekers should not be treated like criminals.

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- Children should be free to experience love and security. Desperate families at our borders seeking safety and asylum should be afforded a fair and humane opportunity to obtain due process. Jailing children indefinitely can never be justified. Separating children from their parents should only occur if a court has found their parents guilty of a crime and jailed them or determined them to be unfit.
- Communities of faith have been at the forefront of providing care and welcome to immigrants, asylees, and refugees. We continue to support community-based alternatives to detention.
- The Flores Agreement is a legal safeguard to protect children and not a loophole to enable their indefinite incarceration. The Government must continue to prioritize the welfare of children in its custody by maintaining standards that prevent abuses like those recently documented by the DHS Inspector General. The proposed rule change undermines these protections by allowing DHS to license itself regarding its treatment of children in its custody.
- Detained children have a right to a custody hearing before an Immigration Judge. This right should not be abridged by substituting an administrative hearing before the HHS, which gives too much discretion to the HHS Office of Refugee Resettlement staff.

What is the Flores Settlement?

In the early 1980s, advocates concerned about the treatment of children in immigration custody sued the federal government to improve conditions of confinement and release policies. The lawsuit was settled in 1997, and required the government to:

- Minimize the detention of immigrant and refugee children as much as possible;
- Release children without unnecessary delay to (in order of preference) parents, other adult relatives, or licensed programs;
- Place children in the “least restrictive” setting appropriate to their age and special needs; and
- Implement standards relating to the care and treatment of detained children, treating them with dignity, respect, and due regard for their vulnerabilities as children.

What Would Change?

The government agreed to continue the agreement past its sunset date until the time it could publish regulations implementing the Settlement. Now, the Trump Administration has issued a Notice of Proposed Rulemaking that proposes numerous significant changes to DHS and HHS regulations and policy that will undercut protections for immigrant children, including provisions that:

- Allow DHS to operate family jails under their own self-licensing scheme, removing existing Flores protections from the family detention system despite mountains of evidence showing that family detention facilities are inappropriate and dangerous places for children, and that ICE’s mechanisms for self-inspections are woefully deficient
- Grant DHS and HHS wide discretion to suspend all protections for children in the case of an “emergency”
- Heighten the standard for release on parole for children in expedited removal proceedings
- Limit release options for children in government custody
- Set vague and potentially harmful standards for age determinations for children in DHS and HHS custody
- Require repeated redeterminations of a child’s status as an “unaccompanied alien child”, meaning that vulnerable children who arrived alone at a tender age will be stripped of minimal due process protections throughout their immigration proceedings
- Reject the right to a bond hearing guaranteed by Flores, instead proposing an asymmetrical administrative process making HHS jailer and judge.