



10 Things You Should Know about the Proposed Flores Regulations

Photo: CNS/Sedat Suna

What is The Flores Settlement Agreement? What does it do?

The Flores Settlement Agreement “Flores” is an agreement that the federal government reached in 1997 with immigration advocates over the care of immigrant children in their custody. Flores sets forth foundational principles and critical protections regarding the care, custody, and release of immigrant children – both accompanied and unaccompanied – who are in federal custody. The agreement, which the federal government voluntarily entered into, requires in part that: facilities provide children in their custody with access to sanitary and temperature-controlled conditions, water, food, medical assistance, ventilation, adequate supervision, and contact with family members. Further, Flores states that facilities must ensure that children are not held with unrelated adults, that the government release children from detention without unnecessary delay to parents or other approved sponsors, and that if a child cannot be released from care, the child be placed in the “least restrictive” setting appropriate, based on his or her age and needs. As it relates to the custody of children, Flores also mandates that the government typically transfer immigrant children to facilities that are licensed by the state for childcare.

What is the latest news on Flores?

On September 7th, the Administration issued a proposed regulation [titled](#)¹, “Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children,” which would alter the way the federal government implements Flores.

How does the proposed regulation change Flores?

The Administration’s proposed regulation would in part:

- Create a separate licensing process for family detention facilities that would bypass existing state requirements;
- Allow for prolonged detention of immigrant children and families; and
- Expands existing “emergency” exceptions to Flores protection.

Isn’t Flores settled law? How can the Government do this?

When implemented in 1997, Flores did envision for the federal government to make proposed regulations. Within 45 days of the regulations being implanted, Flores would no longer be valid. While the government has the right to propose rules, what was proposed on September 7th, does not adequately represent the key protections that Flores provided to children.

Can this new regulation really be implemented?

It is possible that once the comments on the Flores regulation are received and the government reviews the comments and responds to them, that the proposed regulation will then be implemented. We anticipate that there could be litigation brought on this issue soon after the rule is finalized, and this litigation could prevent the regulation from going into effect.

Will USCCB/Migration and Refugee Services (USCCB/MRS) submit a comment?

Yes. In addition to having serious consequences relating to family detention, this proposed regulation directly affects the work that USCCB/MRS and our partner Catholic Charities agencies assisting children and families. As such, USCCB/MRS is submitting a comment for this important issue. We urge you to check back in early October and we will share our comments with you and help you utilize our comments to make your own.

Why does it matter if I comment on this?

Your comment and participation matters immensely. While the process of submitting a comment may seem different than prior advocacy and civic actions like mailing letters and calling representatives, for the federal rule making process, commenting on the public comment period is the most effective way to advocate.

How can I learn more on how to comment?

- Attend our JFI webinar - Commenting on Federal Rule Changes on October 17th! If you miss the webinar, please see the [on-line recording](#)².
- Read CLINIC's [Defend Immigrants by Taking Part in the Federal Rulemaking Process](#)³.

When is the comment on the Flores regulations due?

The comment is due November 6th.

Where can I submit my comments?

You can submit your comment electronically or via mail.

Mail your comment to:

Debbie Seguin, Assistant Director
Office of Policy, U.S. Immigration and Customs Enforcement
Department of Homeland Security
500 12th Street SW
Washington, DC 20536

Email your comment to ICE or submit online:

- (1) Email to ICE: ICE.Regulations@ice.dhs.gov (Include DHS Docket No. ICEB-2018-0002 in Subject Line and please put jfi@usccb.org on cc so we can keep track!
- (2) Submit online at Federal eRulemaking Portal (<https://www.regulations.gov>).

Endnotes

¹ 83 Fed. Reg. 45,486 (Sept. 7, 2018), available at, <https://www.gpo.gov/fdsys/pkg/FR-2018-09-07/pdf/2018-19052.pdf>.

² *Webinars*, JUSTICE FOR IMMIGRANTS (last visited Sept 20, 2018), available at, <https://justiceforimmigrants.org/news/webinars/>.

³ *Defend Immigrants by Taking Part in the Federal Rulemaking Process*, CLINIC, available at, <https://cliniclegal.org/sites/default/files/advocacy/CLINIC-Defend-Immigrants-by-Taking-Part-in-the-Federal-Rulemaking-Process.pdf>.