

Top Organizations Encourage Appeals Court to Rule Against Trump Administration, End Detention of Migrant Children

January 28, 2020 – On behalf of a coalition of the nation’s leading organizations dedicated to the care, health, education, well-being, and welfare of children and families, Arent Fox LLP filed an amicus brief in the U.S. Court of Appeals for the Ninth Circuit in support of the Plaintiff in *Jenny Lisette Flores, et al., v. William Barr, Attorney General of the United States, et al.* Nearly thirty organizations steadfastly oppose the Trump Administration’s new regulations that overturn protections guaranteed to immigrant children under the Flores Settlement Agreement (“FSA”).

“We were pleased with the district court’s decision that the new regulations concerning the placement of minors are not consistent with the *Flores* Agreement and strongly encourage the Ninth Circuit to uphold that decision,” said Arent Fox Partner [David L. Dubrow](#), lead attorney on the amicus brief. “The Trump Administration’s Final Rule pointedly undermines the FSA. Children and their families should not be endangered by this unjust treatment under the Final Rule and we hope the court will agree.”

Arent Fox Partner, [James H. Hulme](#), added, “I have said from the beginning, we must not allow the Final Rule to move forward under any circumstances. The Final Rule abandons the *Flores* settlement and puts children at risk. Children and their parents need to be united in our communities while waiting for their court hearing to be finished.”

The FSA, a settlement reached in 1997 in *Flores v. Reno*, established basic protections to keep immigrant children from harm. Among its requirements, FSA obliges the federal government to treat “all children in its custody with dignity, respect and special concern for their particular vulnerability as children.” The FSA further emphasizes that detained children should be placed “in the least restrictive setting appropriate to the child’s age and special needs . . .” and provides that immigrant children should be released, without unreasonable delay. Critically, the FSA explicitly states that the Administration shall make “prompt and continuous efforts” to promote family reunification, noting that such efforts are to continue as long as the child is in custody.

The amicus brief argues, however, that the Trump Administration’s Final Rule counters various court decisions implementing the FSA and ignores the recommendations of its own Department of Homeland Security advisory committee that “detention or the separation of families for purposes of immigration enforcement or management are never in the best interest of children.” The amicus brief argues that long-term detention of children has a proven devastating impact on their health, education and general welfare. This is particularly true for infants and toddlers. In addition, the amicus brief advocates for family unification in the community, not in detention centers.

The following organizations, which are committed to the care, health, well-being, and welfare of children in the United States, or that focus on advancing policy solutions for children and families, have signed the amicus brief as amici curiae: The Academic Pediatric Association, American Pediatric Society, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Academy of Pediatrics California Chapter, American

Academy of Pediatrics Pennsylvania Chapter, The American Academy of Pediatrics Texas Chapter, American Association for Psychoanalysis in Clinical Social Work, American Medical Association, American Professional Society on the Abuse of Children, American Psychiatric Association, American Psychoanalytic Association, Association of Medical School Pediatric Department Chairs, California Medical Association, California Psychiatric Association, Center for Law and Social Policy, Center for Youth Wellness, Children's Defense Fund, Doctors for America, Lutheran Immigration and Refugee Service, March of Dimes, National Association of Pediatric Nurse Practitioners, National Association of Social Workers, National Education Association, Society for Pediatric Research, Women's Refugee Commission, First Focus on Children, Save The Children Action Network. Inc., Save The Children US, United States Fund For UNICEF, Zero to Three.

The Arent Fox legal team on the appellate amicus brief includes Partners David L. Dubrow and James H. Hulme, Associates Justin A. Goldberg and Melissa A. Trenk, and Senior Legal Assistant Jack Hitt.

Read the entire [brief here](#).

The following statements may be attributed to the respective organizations of the amici curiae:

Olivia Golden, Executive Director, The Center for Law and Social Policy (CLASP)

"The Trump Administration's efforts to undermine the critical protections established under the Flores settlement once again reflect its complete disregard for the safety and well-being of children. This rule flies in the face of child development research and puts thousands of children at risk of additional suffering. As this administration continues to inflict harm on migrant children and families with its divisive and damaging policies and regulations, we will continue to take a stand against these egregious attacks."

Mark Shriver, CEO, Save the Children Action Network

"Children arriving at the U.S. southern border are escaping extreme violence, poverty and unrest, and our government has a responsibility to treat them humanely and with dignity. The Administration's proposed rule takes away basic protections to keep them healthy and safe, and seeks to detain children indefinitely, which is cruel, detrimental and un-American. Save the Children Action Network is speaking out on behalf of these children, and in solidarity with other child-advocacy and health organizations, to call on the courts to reject this proposal and Congress to take action and protect vulnerable children and families."

Max Lesko, National Executive Director, Children's Defense Fund (CDF)

"The goal of the Flores agreement is one we should all share: to protect children from harm. This administration's relentless efforts to gut these protections are an attack on immigrant children's safety and well-being. Children belong in safe and loving environments where they can thrive, not in detention centers. The administration's latest attempt to abandon the agreement is cruel and inhumane, and it must be rejected."

Myra Jones-Taylor, Chief Policy Officer, Zero to Three

“Babies do not belong in detention. There is no simpler way to put it. For these young children, the rollback of the Flores Settlement Agreement paves the way for spending a significant time in family detention during a critical developmental period. Even under the best circumstances, and even with their families, placing infants and toddlers in detention centers is not an acceptable option. For the federal government to inflict detention on infants, toddlers, and their families, especially for an indefinite amount of time, is cruel and inexcusable.”

Krish O'Mara Vignarajah, President/CEO, Lutheran Immigration and Refugee Service

"The Flores Settlement Agreement (FSA) is one of today's most critical legal agreements because it requires that unaccompanied children's basic needs are met and that they are not detained for long periods of time in government custody. Without the guardrails set by the FSA, Lutheran IRS fears that children will once again face being indefinitely detained with adults, strip searched, and denied education. It is misguided to be of the opinion that detaining children is beneficial to our immigration system when there is overwhelming evidence from medical experts to show that children who are detained for short and long periods of time experience mental and physical harm. LIRS stands by the view that all children are viewed as children in the eyes of God and it is our duty to protect the most vulnerable. Providing humanitarian and legal protections for children should be something that we, as a nation, can all agree on."

Lee Jaffe, Ph.D., President, American Psychoanalytic Association (APSA)

“Based on a large body of research and literature, this policy shift would not only be cruel and inhumane (and contrary to our values), but it will also be harmful for the health and mental well-being of children as well as for their parents. Detaining children for long periods of time can cause long-lasting trauma and lead to serious mental health issues such as depression, anxiety, and PTSD as well as interfere with their learning and development.”

Angelo McClain, Ph.D., LICSW, Executive Director, National Association of Social Workers (NASW)

"NASW is joining this amicus brief because our Code of Ethics calls on our organization and the nation's more than 700,000 social workers to challenge social injustice and advocate for people who are vulnerable," said NASW CEO Angelo McClain, PhD, LICSW. "Overturning this policy will cause deep and lasting traumatic harm to children, who are among the most vulnerable people in our society. For the Trump Administration to change the Flores rule is unconscionable and erodes the American principle of family unity. As a nation, we must always safeguard the emotional well-being of all children."

Saul Levin, M.D., M.P.A., CEO and Medical Director, The American Psychiatric Association (APA)

“The children and their families seeking asylum at our borders need appropriate care,” said APA CEO and Medical Director Saul Levin, M.D., M.P.A. “They have already endured stress and trauma that raises their risk of mental illness, such as depression, anxiety and post-traumatic stress disorder. The American Psychiatric Association remains deeply concerned over efforts to lessen requirements for their care at the border. The standards ensured under the Flores Agreement need to be maintained or strengthened, not weakened.”

David L. Corwin, M.D., President, American Professional Society on the Abuse of Children

“APSAC along with many other health and prevention oriented organizations in the USA and beyond are very concerned about the safety, health, and well-being of the immigrant children in federal custody and being returned to other countries including Mexico when they seek asylum in the USA. These children are the responsibility of all caring people of good will in this country and the rest of the world. We have offered and continue to offer our guidance and assistance to decision makers and our government representatives. The list of organizations joining APSAC in this concern and offer are listed at www.NHCVA.org.”

Mary Kelly Persyn, J.D., Chair, Board of Directors, Center for Youth Wellness

“Detention is no place for children, ever. The toxic stress it generates can permanently damage a child's developing body and brain. The Center for Youth Wellness strives to improve the health of youth affected by adverse childhood experiences, recognizing the critical and permanent importance of a person's early years. In that light, and in the light of our common humanity and values, CYW opposes the detention of children and strongly advocates for the highest standards of pediatric care for all children.”

Doctors for America

"Given that families seeking asylum have often already experienced profound traumas in their home countries, re-traumatizing children at the border through detention is even more likely to cause significant disability or chronic disease later in life.”

Stacey D. Stewart, President and CEO, March of Dimes

“March of Dimes is joining this amicus brief because if the Flores Settlement Agreement is rescinded there will be irreparable harm to the health and well-being of families, including women and children, who are in federal custody,” said Stacey D. Stewart, March of Dimes President and CEO. “We know indefinite detention of children has a direct negative impact on access to health coverage and other public benefit programs that families depend on to maintain for their health and well-being. As the leader in ensuring the health of all moms and babies, March of Dimes stands firm on keeping moms and babies healthy and safe — regardless of their citizenship status.”

Rajashree Koppolu, RN, MSN, CPNP-PC/AC, MSL, President, National Association of Pediatric Nurse Practitioners

“As front-line health care providers for immigrant children and families, pediatric-focused advanced practice registered nurses are witness to both the immediate and potential long-term physical and mental health impact of periods of detention. NAPNAP consistently advocates for a healthy and safe environment for all children to support optimal health, well-being and resilience. We therefore join this amicus brief to strongly oppose any attempts to replace or nullify the Flores Settlement Agreement.”

Katharina Obser, Senior Policy Advisor, Women’s Refugee Commission

“The decision of the District Court must be upheld. The administration’s final regulations are wholly inconsistent with the provisions and spirit of the Flores Settlement Agreement – namely, to protect the safety and well-being of vulnerable children while they are in federal, civil, immigration custody. The government knows it has humane, cost-efficient alternative options to care for children and families while maintaining an orderly immigration system. To allow these regulations to stand, or worse, to succumb to pressure to void the entire Agreement trivializes the U.S. government’s most basic obligations on child welfare and human rights.”

Janti Soeripto, CEO and President, Save the Children US

“Save the Children remains deeply concerned about the treatment and well-being of children and families seeking a safer, brighter future in America, and strongly opposes the Administration’s proposed rule. Every minute a child is held in detention can cause irreparable harm. Children’s rights continue to be violated at the U.S. southern border, and that’s why we remain committed to making sure kids are protected and their needs are prioritized. As a nation, we cannot continue to allow the federal government to use children as pawns in the battle for immigration reform – no matter your politics, every child deserves a future.”

Sara “Sally” Goza, MD, FAAP, President, American Academy of Pediatrics

“There is no amount of time in detention that is safe for a child. When families are detained together, detention disrupts the parent-child relationship, stripping parents of their authority and their ability to buffer stress for their children. Children who are detained are experiencing trauma, the consequences of which may be long-term. What the Trump Administration is trying to do is inconsistent with the Flores Settlement Agreement and would allow immigrant children to be held in unsafe federal detention facilities for months, years, or even indefinitely. The American Academy of Pediatrics adds our voice to this legal action urging the rule never take effect and will continue to advocate for the health and safety of immigrant children and families.”