

October 31, 2018

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

Submitted via: <https://www.regulations.gov/document?D=ICEB-2018-0002-0001>

RE: Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children
DHS Docket No. ICEB-2018-0002

Dear Ms. Seguin:

On behalf of our 800,000 members and their families, Equality California appreciates the opportunity to respond to the Department of Homeland Security's Proposed Rule regarding the 'Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children.'

Equality California is the nation's largest statewide lesbian, gay, bisexual, transgender and queer (LGBTQ) civil rights organization and is dedicated to creating a fair and just society. We work within California, at the Federal level, and directly with other states to win and protect full equality for LGBTQ people through education, electoral, advocacy and mobilization programs to achieve our mission – which includes the protection and advancement of civil rights for immigrants.

The 1997 Flores Settlement Agreement (*Flores v Reno*) limits the time that unaccompanied migrant minors can be kept in Federal custody in facilities unlicensed by state authorities for the care of children to 20 days. Under Flores protections, authorities are required to release these children as soon as possible to their parents, a legal guardian, another relative, or a vetted entity

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willing to take legal custody of the child

[<https://www.sfbar.org/forms/lawyerreferrals/immigration/unaccompanied-alien-children-an-overview.pdfchildren>].

These safeguards are far from a gold-standard of care of already deeply-traumatized children, but they do represent a floor. Equality California therefore strongly urges the Department of Homeland Security to withdraw the proposed changes to the Agreement entirely and instead implement policies and practices that would advance the health and wellbeing of migrant children in its care. Our objections to the proposed changes are based on the devastating impact that indefinite detention has on children's mental and physical health; large institutions cannot provide for their individual needs, and certainly not when language barriers, learning and/or physical disabilities, and accumulated trauma are present.

Noisy, over-bright, impersonal and huge detention facilities are utterly unsuitable for children and families, especially given that many have experienced horrific violence including domestic and child abuse, rape, sexual slavery, and human trafficking. Numerous media reports [<https://www.nytimes.com/2018/07/18/us/migrant-children-family-detention-doctors.html>] about these federal facilities detail appalling conditions for those in detention: child weight loss, undiagnosed and untreated serious medical conditions, insufficient and spoiled food and water, filthy bathroom facilities, strip searches of minors, harsh discipline being meted out to young children, and the like. As the past several months have shown, the Department of Homeland Security is unable to provide even minimal standards of care, oversight or even accountability for young children. The nation was horrified when the nightly news showed bereft children, sobbing in cages, hundreds of whom have yet to be reunited with their families.

Even short periods of detention can cause psychological trauma and long-term mental health risks for children and obviously have profound impacts on their ability to learn. According to the American Academy of Pediatrics, the "act of detention or incarceration itself is associated with poorer health outcomes, higher rates of psychological distress, and suicidality making the situation for already vulnerable women and children even worse." [Righting the Wrong: Why Detention of Asylum-Seeking Mothers in America Must End Now [<https://www.tahirih.org/wpcontent/uploads/2015/10/Righting-the-Wrong-Why-Detention-of-Asylum-Seeking-Mothers-and-Children-Must-End-Now-Web-Copy.pdf>]

A July 2018 report issued by the American College of Physicians largely agreed. “Forced family detention—indefinitely holding children and their parents, or children and their other primary adult family caregivers, in government detention centers until the adults’ immigration status is resolved—can be expected to result in considerable adverse harm to the detained children and other family members, including physical and mental health, that may follow them through their entire lives, and accordingly should not be implemented by the U.S. government.” [American College of Physicians, “The Health Impact of Family Detentions in Immigration Cases,” https://www.acponline.org/acp_policy/policies/family_detention_position_statement_2018.pdf.]

The negative impact of detention on young people often has lifetime effects that extend to broader society. Youth who have been incarcerated have lower future earning potential and are less likely to remain in the workforce as taxpayers. Moreover, placement in detention significantly lowers their likelihood of attending and graduating from school, with studies finding that the majority of youth who have been incarcerated do not go back or end up dropping out of school after their return to the community.

Equality California is extremely concerned about the wellbeing of LGBTQ immigrants in custody. Many studies have shown that LGBTQ people in immigration detention are at heightened risk of verbal and physical abuse, harassment, sexual violence, and inadequate access to necessary medical care. Immigration and Customs Enforcement (ICE) agents are themselves too-often responsible for some of trauma experienced by LGBTQ detainees – ICE sometimes uses solitary confinement as a method to protect LGBTQ people in detention from abuse, but it is well-known that prolonged solitary confinement causes irreparable psychological harm. Moreover, inadequate medical care or the withholding of necessary medical care is often a form of maltreatment of LGBTQ immigrants, particularly transgender people in detention.

LGBTQ people account for 12 percent of reported victims of sexual abuse and assault in ICE detention annually, even though they comprise less than one percent of people of that population.

https://kathleenrice.house.gov/uploadedfiles/2018.05.30_lgbt_immigrants_in_ice_detention_letter_to_sec_nielsen.pdf. DHS’s plans to extend the number of LGBTQ people detained and the length of time they are detained without addressing the particular vulnerabilities of LGBTQ people in confinement therefore renders the proposed rule arbitrary and capricious.

For the reasons enumerated above, Equality California respectfully urges DHS to abandon its proposed changes to the Flores Settlement Agreement. We would instead urge DHS to reunite children already separated from their parents, to stop its practice of dividing families at the border in the first place, and to adopt far more protections for vulnerable LGBTQ immigrant detainees.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie Ploumpis". The signature is written in a cursive, flowing style.

Valerie Ploumpis
National Policy Director
Equality California