

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

**Re: Docket Number ICEB-2018-0002**

Dear Ms. Seguin,

I write on behalf of the Unitarian Universalist Service Committee (UUSC) to express our grave concern in opposition to the proposed rule, “Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children,” published in the *Federal Register* on September 7, 2018. We especially oppose the provision of the rule that would permit the detention of family units – including minor children – for “the pendency of immigration proceedings.” [1] This provision would result in periods of detention in excess of the 20-day time-limit required by prior court rulings, needlessly harm the mental health of children and parents in family units who are detained pursuant to the rule, and violate international human rights standards.

Immigration proceedings for asylum-seekers – including both credible fear interviews and removal proceedings in immigration court – are complex processes of indeterminate length. By allowing the government to hold family units for the entirety of these proceedings, the proposed rule would in effect sanction the indefinite detention of children. As such, we hold that the proposed rule violates the letter and spirit of the *Flores* Settlement Agreement (FSA), as interpreted in subsequent court rulings.

In August 2015, Federal District Court Judge Dolly M. Gee ordered – in interpreting the FSA – that the government “may” be able to justify detaining children in family units for up to 20 days, but only in the event of a sudden influx of migrants or asylum-seekers. Judge Gee thereby indicated that longer periods of detention for minors are not permissible, and mandated a standard policy of releasing children within five days of apprehension. [2] In July 2018, Judge Gee ruled that there was no reason to amend the 20-day limit, rejecting the administration’s attempts to have this aspect of the FSA overturned. [3] The present proposed regulation evidently seeks to repeat the government’s erroneous challenge to the time-limit by only slightly different means.

As a human rights organization with more than 40,000 members and supporters nationwide, UUSC has monitored the implementation of the FSA in family detention centers since the Obama administration revived the practice of detaining family units in 2014. Through a combination of research, advocacy, and direct support to organizations working with asylum-seekers at the U.S.-Mexico border, we have identified and spoken out against grave human rights concerns raised by the family detention system under both the Obama and Trump administrations.

In 2015, UUSC's research confirmed that family detention often results in harmful mental health impacts – frequently magnifying the preexisting traumas that, in many cases, impelled asylum-seekers to leave their native countries in the first place. A 2015 mental health assessment of women and children in U.S. detention, commissioned by UUSC, found clinically significant symptoms of post-traumatic stress among approximately half of respondents. [4] Furthermore, the assessment found that indeterminacy of the period of detention and the possibility of removal harmed women's and children's mental health and family unity, concluding that "The effects of trauma, detainment, and the uncertainty of the possibility of deportation pose risks to the parent-child relationship." [5]

By undoing current limitations on the period that children can be held in confinement, the proposed rule threatens to subject more children and family units to these harmful conditions. These realities -- combined with the President's repeated racist and xenophobic comments against Central American children and people from the developing world -- make a mockery of the rule's contention that it is "proposed under the FSA's guiding principle that the Government treats, and shall continue to treat, all juveniles in its custody with dignity, respect, and special concern for their particular vulnerability as minors." [6]

While the FSA was never intended to be permanent, it is meant to be terminated only when the government "issue[s] regulations implementing the relevant and substantive terms of the FSA." [7] This the proposed rule fails to do. In reality, the rule violates the provisions of the FSA, as well as international human rights standards respecting the detention of children, which UN experts have declared is not permissible in a immigration context. [8]

Nor is indefinite family detention an answer to the crisis generated by the administration's family separation policy -- though the proposed rule puts it forward as one of only two available alternatives to family separation. The provisions of the FSA allows neither long-term detention of family units with children nor the previous family separation policy, which researchers have argued violated the provisions of the FSA as implemented. [9] In order to bring its practice in line with the FSA and international standards, the government should abandon family detention, release asylum-seeking families with a Notice to Appear, and invest in proven community-based alternatives to detention. [10]

For these reasons, we urge you to withdraw this rule and put in its place standards that permanently and unconditionally forbid both the detention of family units in excess of 20 days and the separation of children from their parents or other family members with whom they are traveling. The current proposed rule is in harmony neither with our government's legal obligations to asylum-seekers and children, nor our moral values as a nation.

UUSC has worked since 1939 to mobilize people of faith and conscience in solidarity with people fleeing violence and persecution around the world. We are inspired by the Unitarian Universalist principle that all people have inherent worth and dignity. As such, we oppose all distorting rhetoric and policies that portray migrants as threats. We believe newcomers to this nation should be welcome, and we all benefit from the gifts that they bring.

Sincerely,

Rachel Gore Freed  
Vice President and Chief Program Officer  
Unitarian Universalist Service Committee

[1] Federal Register, "Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children," 83 FR 45486 (September 7, 2018).  
<https://www.federalregister.gov/documents/2018/09/07/2018-19052/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children>

[2] New York Times, "Judge Increases Pressure on U.S. to Release Migrant Families," August 23, 2015.  
<https://www.nytimes.com/2015/08/23/us/judge-increases-pressure-on-us-to-release-migrant-families.html>

[3] New York Times, "Judge Rejects Long Detentions of Migrant Families, Dealing Trump Another Setback," July 9, 2018. <https://www.nytimes.com/2018/07/09/us/migrants-family-separation-reunification.html>

[4] UUSC, "No Safe Haven Here: Mental Health Assessment of Women and Children Held in U.S. Immigration Detention," 2015, Accessed October 17, 2018.  
[https://www.uusc.org/sites/default/files/mental\\_health\\_assessment\\_of\\_women\\_and\\_children\\_u.s.\\_immigration\\_detention.pdf](https://www.uusc.org/sites/default/files/mental_health_assessment_of_women_and_children_u.s._immigration_detention.pdf)

[5] Ibid.

[6] Federal Register, op. cit.

[7] Ibid.

[8] United Nations Office of the High Commissioner for Human Rights, "Children and families should never be in immigration detention – UN experts," December 18, 2016.  
<https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=21026&LangID=E>

[9] Katherine Hawkins, Just Security, "Where Family Separation Began: A Case in El Paso Shows Flores is the Solution, Not the Problem," June 22, 2018.  
<https://www.justsecurity.org/58363/family-separation-began-case-el-paso-shows-flores-solution-problem/>

[10] Freedom for Immigrants, "Alternatives to Detention," Accessed October 17, 2018.  
<https://www.freedomforimmigrants.org/alternatives-to-detention/>