

DRAFT RESOLUTION TO THE BIDEN ADMINISTRATION  
Center for Human Rights and Constitutional Law  
Class Counsel in *Flores v. Barr* for all detained immigrant minors  
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## RESOLUTION REGARDING THE DETENTION OF IMMIGRANT CHILDREN

WHEREAS, on January 28, 1997, the United States District Court for the Central District of California approved a nationwide Settlement Agreement in the class action case of *Flores v. Barr*, CV-85-4544 DMG (AGRx), setting humane and compassionate national standards for the housing, detention, and release of children detained by the U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), and the Office of Refugee Resettlement (ORR); and

WHEREAS, to this day the court in the *Flores* case continues to issue Orders at Plaintiffs' request requiring that the federal Government fully comply with the basic rights detained children have under the *Flores* Settlement Agreement; and

WHEREAS, in 2014, without seeking amendment of the *Flores* Settlement Agreement before the District Court, ICE unilaterally commenced breaching the Settlement Agreement by adopting a "no release" policy aimed solely at children apprehended with their mothers in order to "deter" future unknown family units from seeking to enter the U.S.; and

WHEREAS, during the Trump administration, despite numerous court Orders issued to require the federal Government's compliance with the *Flores* Settlement Agreement, tens of thousands of accompanied and unaccompanied immigrant children have been detained for long periods of time even though they are neither a flight risk nor a danger to themselves or others; and

WHEREAS, in April 2018, the Trump administration initiated a policy of forcibly separating children from their parents in order to criminally prosecute the parents, a practice ended soon after it was initiated but to this day leaving over 540 children still separated from their parents; and

WHEREAS, the Trump administration has from time to time detained children in overcrowded cages in unsafe, unhealthy, and unsanitary conditions largely because the Office of Refugee Resettlement (ORR) consistently failed to timely release children leaving it with little capacity to receive unaccompanied minors detained in CBP custody; and

WHEREAS, the Trump administration now has an appeal pending in the United States Court of Appeals for the Ninth Circuit to terminate the *Flores* Settlement Agreement and its protections for detained children; and

WHEREAS, the vast majority of detained immigrant children could be promptly and safely released to family members, or responsible faith-based sponsors, or licensed group homes; and

WHEREAS, the Trump Administration is deporting apprehended minors and minors who present themselves at ports of entry without assessing their eligibility for political asylum or Special Immigrant Juvenile Status available to minors who have been abused, abandoned, or neglected.

THEREFORE, BE IT RESOLVED BY THE UNDERSIGNED that:

1. The President of the United States has broad authority to adopt policies regarding the treatment and release of apprehended immigrant children consistent with existing federal statutes and without the need for new federal legislation or executive orders.

2. The nationwide Settlement Agreement approved by the United States District Court for the Central District of California on January 28, 1997 in the case of *Flores v. Barr*, Cv. Case No. CV CV-85-4544 DMG (AGRx) (*Flores* Settlement Agreement) provides basic human rights protections for detained immigrant children by setting the national standards for the housing, detention, and release of accompanied and unaccompanied children detained by the U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), and the Office of Refugee Resettlement (ORR).

3. The Trump administration currently has several appeals pending from Orders issued in 2020 by the U.S. District Court for the Central District of California to enforce the terms of the *Flores* Settlement Agreement and protect immigrant children during the COVID-19 pandemic. In order to protect the dignity, safety, and well-being of detained immigrant children, the Biden administration should promptly dismiss President Trump's pending appeals.

4. In 2019, in order to terminate the protections offered detained children by the *Flores* Settlement Agreement, the Trump administration issued national regulations for the detention of tens of thousands of immigrant children. These regulations were blocked by the *Flores* Court in December 2019, but the Trump administration has appealed that decision. The appeal should be promptly dismissed by the Biden administration so the *Flores* protections children possess are not terminated.

5. The Biden administration should adopt a policy to promptly and in more than twenty (20) days release detained *accompanied children with their accompanying parents* unless the children or their parents are a significant flight risk or a danger to themselves or others.

6. The Biden administration should adopt a policy to promptly and in more than twenty (20) days release detained *unaccompanied children* to available sponsors unless the children are a significant flight risk or a danger to themselves or others, or the sponsors are unable to safely care for the child.

7. The Biden administration should cooperate with *Flores* class counsel to identify detained minors who can be released to licensed group homes and the homes of members of faith-based congregations as expressly permitted by the *Flores* Settlement Agreement.

8. The Biden administration should adopt a policy to promptly identify immigrant children who were forcibly separated from their parents in 2018 by the Trump administration and locate and reunite them with their parents. Parents who were deported should be "paroled" into the United States so they may assist in locating and reuniting with their children.

9. The Biden administration should adopt a policy to assess whether apprehended minors and minors who present themselves at ports of entry are eligible for Special Immigrant Juvenile status (SIJ status) because they have been abused, abandoned, or neglected, or for asylum, not remove them if they appear to be *prima facie* eligible for SIJ status or asylum, and provide them with assistance to apply for any relief from deportation for which they are eligible under existing federal laws.

10. The Biden administration should provide unaccompanied minors in removal (deportation) proceedings with court-appointed legal representation at no cost to the minors.

RESOLUTION ENDORSERS LISTED HERE.