



### ***Flores* Settlement Agreement: Why is the Administration Proposing New Regulations?**

- In 1985, 15-year-old Jenny Lisette Flores fled civil war in her home country of El Salvador and journeyed to the United States. When she arrived in California, she was arrested and sent to a detention center, where she was housed with adult strangers and subject to frequent strip searches. Jenny endured two months of these conditions, despite her aunt's willingness to care for her, because the government refused to release Jenny from custody.
- That year, immigrant and child advocates sued to enact stronger safeguards for kids like Jenny. In 1997, the advocates and the federal government agreed to a set of rules now known as the "*Flores* settlement agreement." This [agreement](#) requires our government to release detained children as soon as possible, and to care for them in safe, clean, and appropriately licensed shelters and facilities while they are in government custody. It [applies to all children](#), regardless of whether they enter the country alone or with their families.
- As part of the original settlement agreement, the government pledged to put regulations in place that would create official rules about how federal agencies should treat detained children. A 2001 stipulation allows the government to publish final regulations that would implement and terminate the *Flores* settlement agreement. The final regulations, however, would need to be consistent with the substantive terms and spirit of the settlement. For more than twenty years, the government has not finalized these regulations, leaving the *Flores* settlement agreement still in effect.
- Unlike laws, which are passed by Congress, regulations are written by unelected officials who work in federal agencies. To make regulations, an agency must first publish a draft of the new regulations and give the public time - typically between thirty and sixty days - to send in comments about whether the regulations should take effect. The agency must evaluate and respond to the comments before finalizing any regulation. If finalized, the regulations can be challenged in court, where judges will review whether the agency did in fact take public comments into account.

### **Why is the Trump Administration Proposing New Regulations on *Flores* Now?**

- The Trump Administration has sought to change specific provisions of the settlement to allow the government to detain children longer, particularly in response to the pushback the administration faced when it began separating families at the border. In June, it asked a judge for permission to stop obeying parts of the agreement, but the judge [denied the government's request](#). On September 7th, the administration tried to get out of the *Flores* settlement agreement again by [issuing proposed regulations](#) to try to replace the agreement. These regulations would give the administration power to detain children indefinitely and to potentially deny them food and care when they need it most.

- Though the administration is following the normal process for proposing regulations, the proposed regulations would be harmful to children and contrary to *Flores*. It is important for the public to explain to the agency that the proposed regulations remove many of the safeguards from the *Flores* settlement agreement. According to the agreement, official regulations will only replace the agreement if they are consistent with its terms. The proposed regulations do not follow the rules for safe treatment of children laid out in the *Flores* settlement agreement. If the agency receives comments explaining that the new regulations are inconsistent and does not fix them, a federal judge may throw out the regulations.