

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FLORENCE IMMIGRANT AND REFUGEE
RIGHTS PROJECT, CENTER FOR
CONSTITUTIONAL
RIGHTS, and AMICA CENTER FOR
IMMIGRANT RIGHTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendant.

Civil Action No.: 25-cv-5292

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1. Plaintiffs the Florence Immigrant and Refugee Rights Project (“Florence Project”), Amica Center for Immigrant Rights (“Amica Center”), and Center for Constitutional Rights (“CCR”) (hereinafter collectively, “the Plaintiffs”) bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et seq.*, to compel the release of agency records improperly withheld by Defendant U.S. Department of Health and Human Services (“HHS”) as well as offices and components within HHS, including but not limited to: the Office of Refugee Resettlement (“ORR”); the Administration for Children and Families (“ACF”); the HHS Office of General Counsel; the HHS Office of the Secretary; and any other appropriate components, field offices, or other parts of HHS which hold responsive records to Plaintiffs’ FOIA request.

2. On March 11, 2025, Plaintiffs submitted a FOIA request to HHS seeking records concerning the February 18, 2025 “stop work” order that HHS, through the Department of the Interior, issued to contractors and subcontractors providing legal services to unaccompanied children who were or had been in ORR custody. *See* Exh. A, Plaintiffs’ FOIA Request (hereinafter

“FOIA Request”) at 2 & Exh. 1. This “stop work” order was inexplicably rescinded a few days later on February 21, 2025. *See* FOIA Request at Exh. 2, Rescission of Stop Work Order.

3. Upon information and belief, HHS was planning to stop funding legal services for unaccompanied non-citizen children and replace those services with “Know Your Rights” videos once the current contract expired on March 29, 2025.¹ On March 21, 2025, HHS, again through the Department of the Interior, terminated the majority of the services provided under the contract between HHS and Acacia Center for Justice.² These services, provided by a consortium of nonprofit legal organizations including Plaintiffs, were critical to ensuring compliance with statutory mandates under the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), 8 U.S.C. § 1232(c)(5), which requires the government to ensure “to the greatest extent practicable” that unaccompanied children are provided access to legal counsel.

4. In response to the termination, a coalition of legal service providers filed suit, alleging that the administration’s actions violated both federal procurement law and statutory protections under the TVPRA. *See Community Legal Services of East Palo Alto, et al., v. Department of Health and Human Services*, No. 3:25-cv-02847 (N.D. Cal. Mar. 26, 2025). The district court judge in that matter issued a temporary restraining order and then a preliminary injunction enjoining the termination and ordering the government to restore funding and reinstate services pending further proceedings. *Id.* The court found that plaintiffs had demonstrated a

¹ *See* FOIA Request, Exh. 3 (“Field Guidance #8). HHS has previously indicated that it believes KYR videos are an acceptable substitute for legal professionals. (“In an effort to ensure the prompt delivery of legal information to UC, ORR care providers located along the southwest border that are unable to facilitate Know Your Rights (KYR) presentations for UC by an ORR funded Legal Service Provider (LSP) within 10 business days of placement shall provide KYR videos in this timeframe instead”).

² The Acacia Center for Justice is a non-profit, non-governmental organization that supports and partners with a national network of human rights defenders who provide legal defense to immigrants at risk of detention or deportation.

likelihood of success on the merits and that the abrupt cessation of legal services posed irreparable harm to vulnerable child litigants. *Id.* Following these rulings, defendants restored the contract and resumed funding these services, but the defendants have appealed the rulings and the future of these programs remains highly uncertain.

5. The current administration’s policies regarding legal services for unaccompanied children have been the subject of widespread media coverage and public outcry.³ Such policies and plans (and the way they may or may not depart from prior HHS positions) affect not only the hundreds of unaccompanied children with whom Plaintiffs Florence Project and Amica Center work but also affect tens of thousands of unaccompanied children and their families across the country, along with the other legal services providers who work with them. And yet, to date, HHS has not publicly revealed the reasons why it terminated the contract – other than by stating that it was for the government’s “convenience” – nor has HHS revealed its plans to satisfy the statutory and regulatory requirements to provide legal services to unaccompanied children (if such plans exist).

6. To address the Plaintiffs’ and the public’s urgent need for such critical information, Plaintiffs sought records including communications, legal memoranda, white papers, policies, and other records relating to the use of “Know Your Rights” videos in substitution of experienced and qualified legal professionals. *See* FOIA Request. The public – most specifically unaccompanied non-citizen children and their families and advocates – has a compelling and immediate interest in understanding how HHS intends to justify and operate this or any similar program. Without in-

³ See, e.g., Miriam Jordan, *Trump Administration Ends Legal Aid for Migrant Children*, N.Y. Times (Feb. 18, 2025), <https://www.nytimes.com/2025/02/18/us/legal-aid-migrant-children-trump.html>; Andrea Castillo, *Judge Orders Legal Services for Immigrant Minors Restored*, L.A. Times (Apr. 1, 2025), <https://www.latimes.com/2025/04/01/legal-aid-unaccompanied-children-ruling>.

person direct legal services provided by qualified professionals who have been trained to work both with children and in a trauma-informed manner, unaccompanied children may be more likely to fail to appear for immigration court hearings, to remain detained for longer periods of time, and to be particularly vulnerable to abuse.

7. Defendant HHS and its sub-component offices have unjustifiably failed to produce information or make a determination on the records requested by Plaintiffs. To vindicate the public's statutory right to information about policies and decision-making regarding legal services for unaccompanied children, Plaintiffs seek declaratory, injunctive, and other appropriate relief to compel the agency to immediately process Plaintiffs' Requests and release records that they have unlawfully withheld.

JURISDICTION AND VENUE

8. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). This Court also has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1346(a)(2).

9. Venue lies in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(e) and 1402(a), as Plaintiff CCR resides in this district.

PARTIES

10. Plaintiff the Florence Project, founded in 1989, is a 501(c)(3) non-profit organization that provides free legal and social services to adults and unaccompanied children facing immigration removal proceedings in Arizona. In 2023, about 7,000 adults and unaccompanied children were detained and faced removal in Arizona on any given day. That year, the Florence Project provided "Know Your Rights" presentations to 17,514 unaccompanied children and direct representation to 1,091 children. The Florence Project provided direct representation services to 216 adults in ICE custody and 2,071 adults received educational services

through group “Know Your Rights” presentations and/or individual legal orientation. Its team at the U.S.-Mexico border provided 6,903 people with legal orientations, consultations, and other services. As the only 501(c)(3) non-profit organization in Arizona dedicated to providing free legal services to people in immigration detention, the Florence Project’s vision is to ensure that every person facing removal proceedings has access to counsel, understands their rights under the law, and is treated fairly and humanely. The Florence Project also has a robust pro bono representation program that includes referrals to local volunteer attorneys and continuous mentoring. The Florence Project has represented a number of children whose ages were questioned and redetermined by ORR and successfully challenged those decisions before the federal district court. The Florence Project publishes an annual report for donors, supporters, and the media about the highlights of each year’s work. Likewise, the Florence Project publishes information about relevant cases on their website, www.firrp.org, and their social media accounts. The Florence Project uses those to educate and engage with the public about pressing advocacy matters and trends.

11. Plaintiff Amica Center, formerly known as CAIR Coalition, is a 501(c)(3) nonprofit organization that provides legal services to noncitizens in ICE custody, including services administered through the Department of the Interior and Department of Health and Human Services’ contract for legal services for unaccompanied children. Originally started as a project of the Washington Lawyer’s Committee for Civil Rights and Urban Affairs, Amica Center became an independent non-profit organization in 1999. Amica Center consists of the Detained Adults Program, the Detained Children’s Program, and the Immigration Impact Lab.

12. Plaintiff CCR is a non-profit, public interest legal and advocacy organization headquartered in New York City, New York. CCR engages in the fields of civil and international human rights. CCR’s diverse issue areas include litigation and advocacy around immigration, as

well as racial and ethnic profiling. One of CCR's primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current immigration law issues, and other similar materials for public dissemination. These and other materials are available through CCR's Development, Communications, and Advocacy Departments. CCR operates a website, ccrjustice.org, which addresses the issues on which CCR works. CCR staff members often serve as sources for journalists and media outlets, including on issues related to racial justice, racial discrimination, and immigrant rights. In addition, CCR regularly issues press releases, has an active social media presence with tens of thousands of followers, and also issues regular email updates sent to over 50,000 supporters about developments and news pertaining to CCR's work.

13. Defendant HHS is a department of the Executive Branch of the United States. ACF is a component of HHS, and ORR is an office within ACF. ORR provides care and placement for unaccompanied children who enter the United States from other countries without an adult guardian. HHS and its offices have possession, custody, and control of the records that Plaintiffs seek.

14. HHS is an "agency" within the meaning of 5 U.S.C. § 552(f)(1).

STATEMENT OF FACTS

I. Legal Background and Statutory Framework Requiring Legal Representation for Unaccompanied Children

15. The statutory and regulatory framework governing the treatment of unaccompanied noncitizen children in the United States mandates that such children be afforded meaningful access to legal representation during removal proceedings. Chief among these is the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), Pub. L. No. 110-457, 122 Stat. 5044 (codified in relevant part at 8 U.S.C. § 1232).

16. Under 8 U.S.C. § 1232(c)(5), Congress expressly directs that:

The Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act [8 U.S.C. § 1362], that all unaccompanied alien children who are or have been in the custody of [HHS] . . . have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking.

17. This provision establishes a statutory obligation for the federal government to facilitate legal representation for unaccompanied children, particularly those in the custody of the ORR, a division of HHS. Although 8 U.S.C. § 1362 preserves the principle that representation must be “at no expense to the Government,” the TVPRA creates an affirmative duty on the part of HHS to ensure access to pro bono or government-funded legal assistance whenever feasible.

18. Furthermore, the Flores Settlement Agreement—a binding court-approved agreement first entered in *Flores v. Reno*, No. CV 85-4544-RJK (C.D. Cal. 1997)—requires that detained children be provided access to legal assistance and information. The Flores Agreement remains enforceable and has been repeatedly affirmed by courts, including in *Flores v. Sessions*, 862 F.3d 863 (9th Cir. 2017), recognizing the government’s ongoing obligations under the settlement.

19. Empirical evidence underscores the profound impact of legal representation on the outcomes of unaccompanied children in immigration removal proceedings. Legal counsel significantly enhances engagement with the legal process, reduces the incidence of in absentia removal orders, and supports the mental health of vulnerable children.⁴

20. Collectively, this statutory and regulatory scheme reflects a clear congressional and judicial mandate to protect the procedural and substantive due process rights of unaccompanied

⁴ UCLA Ctr. for Immigr. L. & Pol’y, No Fair Day: The Biden Administration’s Treatment of Children in Immigration Court (Dec. 2023), https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/No_Fair_Day_Children_in_Immigration_Court_White_Paper.pdf.

children, who otherwise face a complex and adversarial immigration system without the benefit of legal advocacy.

II. Compelling Necessity for Records Sought

21. The abrupt termination of the legal services contract for unaccompanied children has left legal service providers in a state of uncertainty, hindering their ability to safeguard the due process rights of their clients. Despite the far-reaching consequences of this action—affecting over 26,000 children nationwide—the administration has failed to provide a clear explanation for the contract’s cancellation and what, if anything, will replace the specialized attorneys who previously provided representation and legal orientations. This lack of transparency directly impairs advocates’ capacity to prepare and represent their clients effectively, particularly those facing imminent removal proceedings in immigration court hearings or deadlines for applications for relief.

22. In the absence of publicly available information from HHS about how it plans to satisfy the statutory and regulatory requirements regarding legal services for unaccompanied children, Plaintiffs Florence Project and Amica Center face a great deal of uncertainty as to how and whether they will be able to continue providing services to unaccompanied children, including Know Yours Rights presentations to unaccompanied children in ORR custody. Plaintiffs understandably have grave doubts about the legal sufficiency and practical effectiveness of HHS’s reported plans to replace in-person, interactive, and child-focused Know Your Rights presentations with a video.

III. Plaintiffs' Requests for Information

23. On March 11, 2025, Plaintiffs submitted their FOIA request via online web platform to HHS and ACF.

24. On March 12, 2025, HHS assigned the tracking number #2025-01605-FOIA-OS to Plaintiff's FOIA request, and ACF assigned tracking number #25-F-0340.

25. On March 18, 2025, Plaintiffs received an email from "Natasha Taylor" at HHS stating that the agency was closing out the HHS request, and only ACF would be continuing to process the FOIA request.

26. On April 23, 2025, Plaintiffs appealed HHS's decision to close out the HHS FOIA request. In their appeal, Plaintiffs argued that HHS's closing out of their FOIA request was improper because HHS's Office of the Secretary and Office of General Counsel likely had responsive records that were not in the custody of ACF. HHS assigned the appeal tracking number 2025-00095-A-OS.

27. On May 27, 2025, HHS emailed an acknowledgment of Plaintiffs' administrative appeal.

28. To date, HHS has not resolved Plaintiffs' appeal nor produced records responsive to Plaintiffs' request.

29. To date, Plaintiffs have received no response from ACF to their request.

30. All of Plaintiffs' Requests sought expedited processing under 5 U.S.C. § 552(a)(6)(E)(i)(I), citing a "compelling need" for the information because of the urgent need to inform the public of the policies and decision-making regarding legal representation funding and policies related to unaccompanied children. Neither HHS nor ACF has responded to Plaintiffs' requests for expedited processing.

31. Plaintiffs' Requests also sought a waiver of applicable fees under 5 U.S.C. § 552(a)(4)(A)(iii); 45 C.F.R. § 5.54(b)(2), since "disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." The Florence Project, Amica Center, and CCR are non-profit entities with no commercial interest in the records requested, which are crucial to public understanding of HHS's operations. Neither HHS nor ACF has responded to Plaintiffs' requests for fee waivers.

32. According to recent reports, including representations made by the Government in separate FOIA litigation pending in the U.S. District Court for the Southern District of New York involving Plaintiffs Florence Project and CCR, HHS has placed much of its FOIA staff on administrative leave.⁵

33. Such news raises serious concerns about FOIA requests and litigation being further delayed or going entirely unfulfilled. This is all the more concerning given that segments of the federal government may be gutting entire FOIA offices and potentially even unlawfully destroying records.⁶ *See Ctr. to Adv. Sec. in America v. U.S.A.I.D.*, No. 24-cv-3505, 2025 WL 763735, at *2 (D.D.C. Mar. 11, 2025) ("[T]he Court is skeptical that an agency can avoid its obligations under FOIA—including the obligation to process a request in an efficient and prompt manner—by simply implementing a reduction-in-force . . ."); April 24, 2025 Minute Order on Motion for Extension of Time, *Cediel v. U.S. Dept. of Health and Human Services*, No. 1:24-cv-02289-RDM, (D.D.C. Apr. 24, 2025) ("Defendants stands forewarned that the Court expects

⁵ See Jt. Status Rpt., *Florence Immigrant and Refugee Rights Project v. U.S. Dep't of Health & Human Servs.*, No. 1:24-cv-6740-SDA (S.D.N.Y. May 16, 2025), ECF No. 41 at 2.

⁶ See Complaint, *Am. Oversight v USAID*, No. 1:25-cv-00719 (D.D.C. Mar. 11, 2025), ECF No. 1 ¶¶ 2, 6, 42, 54, 68, 79; Will Royce & Andrea Beaty, *Public Records Wreckers*, The American Prospect (May 1, 2025), <https://prospect.org/justice/2025-05-01-public-records-wreckers/>.

them to comply with their obligations under FOIA and the Court's orders, and that they may not evade those obligations by dismissing the FOIA staff needed to do so.”).

34. HHS has an obligation to “preserve records created in administering the Department's Freedom of Information program.” 45 CFR § 5.71; *see also* 44 U.S.C. §§ 3101 *et seq.* (mandating that federal agencies preserve records documenting their functions and activities and forbidding agencies from unilaterally destroying records without approval from the National Archives and Records Administration).

CLAIMS FOR RELIEF

COUNT ONE

Violation of FOIA for Failure to Disclose and Release Responsive Records

35. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 34 as if repeated and incorporated herein.

36. By failing to make a determination on Plaintiffs' FOIA requests within the mandated statutory timeframe, by failing to disclose and release the requested records, and by failing to conduct an adequate search reasonably calculated to uncover responsive records, HHS has violated the public's right, advanced by the Plaintiffs, to agency records under 5 U.S.C. §§ 552 *et seq.*

COUNT TWO

Violation of FOIA for Improper Denial of Plaintiffs' Request for Expedited Processing

37. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 34 as if repeated and incorporated herein.

38. By denying or failing to respond timely to Plaintiffs' requests for expedited processing, HHS has violated Plaintiffs' rights under 5 U.S.C. § 552(a)(6)(E) and HHS's own regulations, 45 C.F.R. § 5.27.

COUNT THREE

Violation of FOIA for Improper Denial of Plaintiffs' Request for Fee Waiver

39. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 34 as if repeated and incorporated herein.

40. By failing to respond or failing to non-conditionally grant Plaintiffs' requests for fee waivers, HHS has denied Plaintiffs' rights under 5 U.S.C. § 552(a)(4)(A)(iii) and HHS's own regulations, 45 C.F.R. § 5.54.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) Order HHS immediately to make a full, adequate, and expedited search for the requested records;
- (b) Order HHS to engage in expedited processing in this action;
- (c) Enjoin HHS from assessing fees or costs for the processing of the FOIA Request;
- (d) Order HHS to disclose the requested records in their entirety and make copies available to Plaintiffs no later than ten days after the Court's order;
- (e) Award Plaintiffs their costs and reasonable attorney's fees incurred in this action as provided by 5 U.S.C. § 552(a)(4)(E); and
- (f) Grant each other and further relief as this Court may deem just and proper.

Dated: June 25, 2025
New York, NY

/s/ Maria LaHood

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