

Representing Children and Families in Immigration Matters
Session Two: Practice Before USCIS and Removal Proceedings 101
Quick Links

Panelists

- Roxana Avila-Cimpeanu, Program Manager. Children's Program, the Florence Immigrant and Refugee Rights Project
 - Roxana was born in Honduras and immigrated to the United States as a young child. She grew up in Indiana and attended Indiana University, where she earned a B.S. in Business, a B.A. in Psychology, and a minor in Spanish. She earned her J.D. from Boston College Law School, where she immersed herself in the fields of immigration law and juvenile rights. Roxana joined the Florence Project as a Staff Attorney with the Children's Program in September 2016 and held positions as Pro Bono Mentor and Pro Bono Managing Attorney before transitioning to Children's Program Manager in January 2022.
- Casey Dempsey, Pro Bono Mentor. Children's Program, FIRRP
 - Casey is a Pro Bono Mentor Attorney with the Florence Immigrant and Refugee Rights Project. She mentors pro bono attorneys in assisting Unaccompanied Children with their asylum and special immigrant juvenile status claims as well as other forms of legal relief. Casey began her career as a civil litigation attorney in 2016 and transitioned to immigration law in 2019. She has worked on the Florence Immigrant and Refugee Rights Project's children's team for nearly three years. She has a passion for representing children and giving them a voice as they navigate paths to relief in the immigration system.

The Florence Immigrant and Refugee Rights Project website: <https://firrp.org/>

Important Cases and Laws Regarding Unaccompanied Children

Flores Settlement (unaccompanied children and immigration detention):

https://www.humanrightsfirst.org/sites/default/files/FLORES_SETTLEMENT_AGREEMENT.pdf#:~:text=The%20Flores%20Settlement%20Agreement%20is%20a%20court%20settlement%2C,more%20families%20for%20even%20longer%20periods%20of%20time

Project Lifeline Flores Graphic Explainer: <https://projectlifeline.us/flores-graphic-explainer/>

Trafficking Victims Protection Reauthorization Act (TVPPRA) of 2008 (broader than just trafficking cases – provides many protections for unaccompanied children including in regards to asylum, Special Immigrant Juvenile Status, and expedited removal): <https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf>

Unaccompanied Child Asylum Important Cases

- *Matter of M-A-C-O-* (UC asylum case filed after 18th birthday): <https://www.justice.gov/eoir/page/file/1101226/download>
- *J.O.P. v. DHS* (once a UC always a UC): <https://cliniclegal.org/resources/litigation/jop-v-dhs-class-action-lawsuit-seeks-protection-asylum-seekers-who-arrived>

Child-Specific Service Rules for Form I-862, The Notice to Appear

- 8 C.F.R. § 103.8(c)(2)(ii)
- *Matter of Mejia-Andino* (BIA 2002): <https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/25/3484.pdf>
- *Matter of Amaya-Castro* (BIA 1996): <https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/25/3293.pdf>
- *Flores-Chavez v. Ashcroft* (9th Cir. 2004): <https://cdn.ca9.uscourts.gov/datastore/opinions/2022/01/13/19-73193.pdf>

Sources of Law

Binding

- Immigration and Nationality Act: <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act>
- 8 Code of Federal Regulations: <https://www.ecfr.gov/current/title-8>
- Board of Immigration Appeals precedent cases: <https://www.justice.gov/eoir/ag-bia-decisions>

- Administrative Appeals Office Precedent Decisions: <https://www.uscis.gov/legal-resources/precedent-decisions>

Non-Binding

- BIA non-precedent cases: <http://www.irac.net/unpublished/index-2/>
- AAO Non-Precedent Decisions: <https://www.uscis.gov/administrative-appeals/ao-decisions/ao-non-precedent-decisions>
- UNHCR - Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees: <https://www.unhcr.org/publications/legal/5ddfcd47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>

Pertinent Government Offices and Agencies

Executive Office of Immigration Review

- EOIR website: <https://www.justice.gov/eoir>
- eRegistry: <https://www.justice.gov/eoir/page/file/1132791/download>
- Immigration Court Practice Manual: <https://www.justice.gov/eoir/eoir-policy-manual/part-ii-ocij-practice-manual>
- Immigration Court forms: <https://www.justice.gov/eoir/list-downloadable-eoir-forms>
- Immigration Judge Benchbook (archived): <https://www.justice.gov/eoir/archived-resources>

[Immigration Court Practice Manual](#)

United States Citizenship and Immigration Service

- USCIS website: <https://www.uscis.gov/>
- USCIS Policy Manual: <https://www.uscis.gov/policy-manual>
- USCIS Forms and Instructions: <https://www.uscis.gov/forms/all-forms>
- USCIS Asylum Division Affirmative Asylum Procedures Manual: <https://www.uscis.gov/sites/default/files/document/guides/AAPM-2016.pdf>
- USCIS Asylum Lesson Plans: <https://www.aila.org/infonet/asylum-lesson-plans>

Office of Refugee Resettlement (an Office of the Administration for Children and Families in the Department of Health and Human Services)

- ORR Policy Manual <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied>
- ORR's Children Entering the United States Unaccompanied: <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied>
- URM Policy Manual <https://www.acf.hhs.gov/orr/policy-guidance/orr-guide-eligibility-placement-and-services-unaccompanied-refugee-minors-urm-0>

Office of Trafficking In Persons (an Office of the Administration for Children and Families in the Department of Health and Human Services)

- OTIP generally: <https://www.acf.hhs.gov/otip>
- OTIP eligibility letters: <https://www.acf.hhs.gov/otip/victim-assistance/child-eligibility-letters>
- OTIP Monthly Webinars: <https://www.acf.hhs.gov/otip/training-technical-assistance/resource/monthlywebinars>
- Trafficking Victims Assistance Program: <https://www.acf.hhs.gov/otip/fact-sheet/resource/tvap>

Resources

Discovery Requests

- Office of Refugee Resettlement
 - ORR File Request: <https://www.acf.hhs.gov/orr/policy-guidance/requests-uac-case-file-information>
 - HIPAA Form: <https://www.hipaajournal.com/wp-content/uploads/2017/09/HIPAA-Journal-sample-HIPAA-release-form-v1.pdf>
- Executive Office of Immigration Review
 - EOIR FOIA: <https://www.justice.gov/eoir/freedom-information-act-foia>
 - EOIR Record of Proceeding: <https://www.justice.gov/eoir/list-downloadable-eoir-forms>
- Department of Homeland Security

- Immigration and Customs Enforcement (ICE) FOIA: <https://www.ice.gov/foia/request>
- Customs and Border Patrol (CPB) FOIA: <https://www.cbp.gov/site-policy-notices/foia>
- U.S. Citizenship and Immigration Service (USCIS) FOIA: <https://www.uscis.gov/records/request-records-through-the-freedom-of-information-act-or-privacy-act>
- USCIS FOIA Request Guide: https://www.uscis.gov/sites/default/files/document/guides/USCIS_FOIA_Request_Guide.pdf

Case-Type Resources/Assistance

- Asylum
 - University of California Hastings Center for Gender and Refugee Studies
 - CGRS generally: <https://cgrs.uchastings.edu/>
 - CGRS Case Assistance Request: <https://cgrs.uchastings.edu/request-assistance/accessing-assistance-cgrs>
 - Temple University Annotated Table of Contents: <https://law.temple.edu/csi/atoc/>
 - UNHCR - Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees: <https://www.unhcr.org/publications/legal/5ddfcdc47/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html>
- Special Immigrant Juvenile Status
 - Project Lifeline SIJS Resource Center: <https://projectlifeline.us/predicate-order-resource-center/>
 - Children's Immigration Law Academy Quick Reference Guide - SIJ Status and EB-4 Immigrant Visa Availability: <https://www.cilacademy.org/wp-content/uploads/2018/04/EB4-Visa-Availability-Reference-Guide.pdf>
 - CILA Pro Bono Guide: <https://www.cilacademy.org/wp-content/uploads/2020/08/CILA-Rept-Final-Web.pdf>

Working with Children

- CILA generally: <https://cilacademy.org/>
- CILA Pro Bono Guide: <https://www.cilacademy.org/wp-content/uploads/2020/08/CILA-Rept-Final-Web.pdf>

Trauma-Informed Lawyering

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- Project Lifeline's Trauma-Informed Lawyering: <https://projectlifeline.us/trauma-informed-lawyering/>
- CILA Cultural Competency and Humility When Representing UCs: <https://www.cilacademy.org/wp-content/uploads/2019/11/Cultural-Competency-Resource-Final.pdf>

Additional Information

Removal Proceedings

- 8 C.F.R. § 1240.8: burdens of proof in removal proceedings
- Formal Removal Proceedings: An Introduction: <https://crsreports.congress.gov/product/pdf/IF/IF11536>

Adjustment of Status

- Statutory Authority
 - INA § 209; 8 U.S.C. § 1159 (adjustment of status, generally): <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1159&num=0&edition=prelim>
 - 8 C.F.R. § 245(a)(1): https://www.ecfr.gov/cgi-bin/text-idx?&node=se8.1.245_12
 - 8 C.F.R. § 1245(a)(1): https://www.ecfr.gov/cgi-bin/text-idx?&node=se8.1.1245_12
 - 8 C.F.R. § 1.2 (arriving alien): https://www.ecfr.gov/cgi-bin/text-idx?node=se8.1.1_12
- Important Cases
 - *Matter of Yauri* (BIA 2009) (USCIS jurisdiction and final orders of removal): <http://www.justice.gov/eoir/vll/intdec/vol25/3659.pdf>
 - *In re Villarreal-Zuniga* (BIA 2006) (consequences of filing AOS in wrong venue): <https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/25/3527.pdf>
- Case-Type Information
 - SIJS waivers and bars: <https://www.uscis.gov/policy-manual/volume-7-part-f-chapter-7>
 - Asylum waivers and bars: <https://www.uscis.gov/policy-manual/volume-7-part-m>
- Guides and Resources
 - AIC "Arriving Aliens" and Adjustment of Status: https://www.americanimmigrationcouncil.org/sites/default/files/practice_advisory/ar_alien.pdf
 - Adjusting Without Jurisdiction: A Cautionary Tale - Childrens Immigration Law Academy ([cilacademy.org](https://www.cilacademy.org/)): <https://cilacademy.org/2019/02/08/adjusting-without-jurisdiction-a-cautionary-tale/>