



STRENGTHENING CHILD WELFARE PRACTICE FOR IMMIGRANT CHILDREN & FAMILIES

A Toolkit for Child Welfare
Professionals in California

AUGUST 2019

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I. OVERVIEW OF TOOLKIT

Immigrant children and families in the child welfare system face unique barriers to permanency and well-being. In some cases, their involvement in the child welfare system also presents distinct opportunities for seeking lawful immigration status. With half of all children in California coming from an immigrant family, child welfare agencies in California must be equipped to effectively support immigrant children and families on the pathway to permanency. The objective of this Toolkit is to provide guidance to child welfare agencies in California working with immigrant children and families.

This Toolkit provides helpful background information on immigrant children and families in California (Section II) and immigration terminology (Section III). It also discusses the trauma that immigrant children and families may experience at different points throughout the migration journey (Section IV), describes the unique experiences of unaccompanied minors (Section V), and provides insight on engaging with immigrant families across cultural divides (Section VI).

The Toolkit then offers advice on working with children and families to identify the need for immigration legal services, as

well as information on how to connect them to non-profit legal services in the community (Section VII). It provides an overview of the legal framework for working with parents detained in immigration custody or who have been deported, as well as best practices for navigating such complex situations (Section VIII). Additionally, the Toolkit contains information on confidentiality considerations and limitations (Section IX), PRUCOL (Section X), and opportunities for collaboration with foreign consulates and embassies on individual cases (Section XI). The Toolkit concludes with additional resources for child welfare workers and agencies (Section XII).

We hope that the information and best practices summarized in this Toolkit and accompanying Appendices will support child welfare agencies in serving immigrant children and families.

II. IMMIGRANT CHILDREN & FAMILIES IN CALIFORNIA

Children and youth living in immigrant families are the fastest growing group of American children.¹ This includes children who may have been born in a country other than the United States, or who live with at least one parent who was born in a country other than the United States. One in four children in the United States lives in an immigrant family,² and 4.5 million U.S. citizen children under 18 live with at least one undocumented parent.³

**MORE THAN A QUARTER OF
CALIFORNIA RESIDENTS –
APPROXIMATELY 10.7 MILLION
PEOPLE – ARE IMMIGRANTS.**

California is home to more immigrants than any other state. More than a quarter of California residents – approximately 10.7 million people – are immigrants.⁴

Most immigrants in California have legal permission to reside in the United States: 52% are naturalized U.S. citizens, 34% have another form of legal status such as a green card or visa, and 14% are undocumented.⁵ Many families are “mixed status,” meaning that different members of the family have different immigration status. For example, within the same family one parent may have legal permanent residency (a “green card”), one parent may be undocumented, and their child may be a U.S. citizen.

Half of all children in California have at least one immigrant parent.⁶ These children are demographically diverse, and their educational and health status varies depending on factors such as country of origin and length of time in the United States. Immigrants come to California from all over the world. The majority of California’s immigrants were born in Latin America (50%) or Asia (40%).⁷ In 2017, the leading

1 Donald J. Hernandez, Nancy A. Denton & Suzanne E. Macartney, *Children in Immigrant Families: Looking to America’s Future*, SOCIAL POLICY REPORT, 22(3) S.E. (2008).

2 Donald J. Hernandez & Wendy Cervantes, *Children in Immigrant Families: Ensuring Opportunity for Every Child in America*, First Focus, available at <https://firstfocus.org/wp-content/uploads/2014/06/Children-in-Immigrant-Families.pdf>.

3 Randy Capps et. al, *Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families*, Urban Institute (Sept. 2015), available at <https://www.urban.org/sites/default/files/alfresco/publication-exhibits/2000405/2000405-Implications-of-Immigration-Enforcement-Activities-for-the-Well-Being-of-Children-in-Immigrant-Families.pdf>.

4 *Fact Sheet: Immigrants in California*, American Immigration Council (Oct. 4, 2017) available at <https://www.americanimmigrationcouncil.org/research/immigrants-in-california>

5 *Just the Facts: Immigrants in California*, Public Policy Institute of California, May 2019, available at <https://www.ppic.org/publication/immigrants-in-california/>.

6 *Id.*

7 *State Immigrant Data Profiles: California*, Migration Policy Institute, 2017, available at <https://www.migrationpolicy.org/data/state-profiles/state/demographics/CA>.

countries of origin among immigrants in California included Mexico (4.1 million), China (968,777), the Philippines (857,414), Vietnam (523,561), and India (506,971).⁸ Immigrants represent at least one-third of the population in five California counties: Los Angeles, Santa Clara, San Francisco, San Mateo, and Alameda.⁹

Most immigrants in California are bilingual. Among immigrants who have been in the United States for five years or less, more than two-thirds report speaking English proficiently.¹⁰ However, children in immigrant families are more likely to live in limited English-speaking households.¹¹

While immigrants have higher levels of employment than their U.S.-born counterparts, immigrant families are more likely to live in poverty.¹² Immigrants make up more than a third of the labor force in California, with the largest shares of immigrant workers concentrated in farming, grounds and maintenance, production, construction, and computer and mathematical services occupations.¹³

Immigrants in California have a range of educational backgrounds. In 2015, more

than a quarter of adult immigrants had a college degree or higher, while more than a third had not received a high school diploma.¹⁴ In California, as well as in the United States more generally, the children of immigrants tend to be much better educated than their parents. While 70% of first-generation Californians age 60-69 have graduated from high school, 94% of second-generation Californians age 30-39 have graduated from high school. Currently, immigrants make up about 30% of California workers with at least a bachelor's degree.¹⁵

Understanding the diverse background of immigrants in California is a crucial precursor to more effectively serving immigrant children and families.

⁸ Public Policy Institute of California, *supra* note 5.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Jie Zong & Jeanne Batlova, Migration Policy Institute, *The Limited English Proficient Population in the United States* (July 8, 2015), available at <https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states>.

¹² *Children Living with Foreign-Born Parents, by Income Level and Legislative District*, Kidsdata.org, available at <https://bit.ly/2JJdAGp>.

¹³ *Fact Sheet: Immigrants in California*, American Immigration Council (Oct. 4, 2017) available at <https://www.americanimmigrationcouncil.org/research/immigrants-in-california>.

¹⁴ *Id.*

¹⁵ Public Policy Institute of California, *supra* note 5.

III. Definitions of Immigration Terms

TERM	DEFINITION	ADDITIONAL INFORMATION
A#	The “alien registration number” or “A-number,” this is the official tracking number that immigration authorities assign to noncitizens in the U.S.	The A# is an 8- or 9-digit number. The A# will generally be reflected on each immigration-related document for that person.
Alien	The technical term used in federal law to refer to a foreign national who is not a U.S. citizen.	This term can be seen as derogatory and is generally used only in official documents.
Adjustment of Status	The process by which a person becomes a lawful permanent resident without leaving the United States.	This is the most common procedure used to become a lawful permanent resident.
Arrival-Departure Card (also known as Form I-94, Arrival-Departure Record)	The Customs and Border Protection official at the port of entry gives foreign visitors (all non-U.S. citizens) an Arrival-Departure Card when they enter the U.S. Recorded on this card or electronically is the visitor’s immigrant classification and authorized period of stay in the U.S. This is either recorded as a specific date or “D/S” (meaning “duration of stay”).	It is important to keep this card safe (if a physical card is given) with the passport because it shows the length of time foreign visitors are permitted and authorized by the Department of Homeland Security to stay in the United States and also that they made a legal entry.
Asylum seeker	<p>A person fleeing their country of origin because of persecution based on their race, religion, nationality, membership in a particular social group, or political opinion who fears returning to their country of origin. INA § 101(a)(42)(A).</p> <p>An asylum seeker refers to someone who is still in the process of applying for asylum.</p>	<p>A person can lawfully request asylum in the United States if they are either in the United States or at the border. Once an asylum seeker has filed an application for asylum, they are temporarily protected from removal/deportation and may be eligible to receive an employment authorization document (work permit) during the time that their asylum application is pending. However, while their asylum application is pending, they lack lawful immigration status.</p> <p>Many recently arrived children and families are seeking asylum in the U.S. The application process can be very onerous, lengthy, and potentially unsuccessful.</p>

TERM	DEFINITION	ADDITIONAL INFORMATION
Asylee	A person who is granted immigration status because they fled their country of origin due to persecution based on their race, religion, nationality, membership in a particular social group, or political opinion and who fears returning to their country of origin. INA § 101(a)(42)(A).	People who have been granted asylee status are in the U.S. legally (i.e., with lawful immigration status) and often can get services that are not available to other types of immigrants. They also have the right to work in the U.S. without a separate employment authorization card. While asylees are granted their designation after their arrival in the U.S., refugees receive their designated status prior to resettlement in the U.S., and thus enter the U.S. with lawful immigration status.
Certificate of Naturalization	A document issued by the Department of Homeland Security as proof that a person has become a U.S. citizen, or has “naturalized.”	This document is only for people who apply for citizenship. People who are born U.S. citizens have birth certificates as proof of citizenship instead.
Department of Homeland Security (DHS)	The department of the federal government charged with, among other things, enforcing and administering the nation’s immigration laws, securing and managing the borders, and preventing terrorism.	DHS is the umbrella organization for U.S. Customs and Border Protection (CBP, www.cbp.gov), U.S. Citizenship and Immigration Services (USCIS, www.uscis.gov), and U.S. Immigration & Customs Enforcement (ICE, www.ice.gov).
Deferred Action for Childhood Arrivals (DACA)	A program that provides a work permit and protection from removal for two years to certain eligible undocumented people who came to the U.S. when they were under the age of 16 and meet the other eligibility requirements. Note that DACA is not an immigration status, nor does it lead to U.S. citizenship. See USCIS, Consideration of Deferred Action for Childhood Arrivals, https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca .	In September 2017, the federal government terminated the DACA program; however, due to ongoing litigation, renewal DACA applications continue to be processed for youth who have already been granted DACA in the past. No new DACA applications are currently being accepted. Check https://www.ilrc.org/daca for updates.

TERM	DEFINITION	ADDITIONAL INFORMATION
Deportation (Removal) Proceedings	The process whereby an immigration judge makes a final legal decision regarding an individual's immigration case.	This process includes hearing applications for relief from removal, such as asylum. If an individual does not seek relief from removal, or they are unsuccessful in their application(s), the immigration judge may order the individual removed from the U.S.
Dual Citizenship	The status of having citizenship in two countries simultaneously.	When a child enters the child welfare system with dual citizenship, the agency must contact the consulate of the child's home country for guidance, such as on relative searches, placement, and documentation searches.
Employment Authorization Document (EAD)	A work permit issued by USCIS that allows the individual to work in the U.S. legally until the expiration date.	An immigrant youth may be eligible for this card after applying for certain types of immigration relief such as asylum or adjustment of status based on Special Immigrant Juvenile Status. Working without such authorization from USCIS could put future immigration relief at risk.
Immigration and Customs Enforcement (ICE)	The federal agency within the Department of Homeland Security that is responsible for enforcement of immigration laws in the interior of the U.S. (as opposed to enforcement at the borders).	Increasingly, ICE enforces immigration laws through collaboration with local law enforcement (including the juvenile justice system).
Immigration & Nationality Act (INA)	The federal immigration statute, beginning at 8 USC § 1101.	Only Congress can amend federal immigration law.
ICE Hold or Detainer	A request by the federal government to a local agency with custody of an individual to hold the person an extra 48 hours (except weekends and federal holidays) after they would otherwise be released under state law so that the federal government can assume custody and initiate deportation/removal proceedings. 8 USC § 1357(d); 8 CFR § 287.7.	ICE holds have been found to be unconstitutional by various courts. See, e.g., <i>Roy v. City of L.A.</i> , No. CV 12-09012-AB (C.D. Cal. Feb. 7, 2018) consolidated with <i>Gonzalez v. ICE</i> , No. 2:13-cv-04416 (C.D. Cal. filed Aug. 18, 2014).

TERM	DEFINITION	ADDITIONAL INFORMATION
Legal Permanent Resident (LPR or Green Card Holder)	A person who can live and work in the U.S. permanently unless they abandon their status or are found to have committed an act that makes them deportable.	<p>Legal permanent residents possess many of the same rights as U.S. citizens. However, they cannot vote, and until gaining their U.S. citizen status, remain at risk of deportation if they violate federal immigration laws. For example, an LPR may become deportable if they are convicted of certain crimes.</p> <p>In some cases, permanent residency may be granted on a conditional basis. Typically, noncitizens who have immigrated through a spouse before having been married at least two years will receive conditional permanent residency for two years before they can apply to remove their conditional status.</p>
Naturalized U.S. Citizen	Naturalization is the process through which an immigrant becomes a U.S. citizen. Generally, an immigrant must first be a legal permanent resident (LPR) for five years before applying for naturalization, but some people are eligible after three years. The process includes an interview, which assesses “good moral character,” a civics exam, which tests knowledge of U.S. history and government, and an English language exam.	Naturalized citizens possess the same rights and responsibilities as native-born citizens and cannot generally be deported. In some cases, legal permanent resident children can become citizens automatically if their parents naturalize before the children turn 18. Otherwise, children cannot apply for citizenship on their own until they attain 18 years of age. LPRs who are 18 years and older must generally demonstrate five years of “good moral character” when seeking to naturalize.
Office of Refugee Resettlement (ORR)	A department within the U.S. Department of Health and Human Services – Administration for Children & Families. Among other things, ORR provides assistance and support to refugees and asylees. ORR also provides for the care and placement of Unaccompanied Alien Children (UACs) (referred to as Unaccompanied Undocumented Minors (UUM) by the California Department of Social Services) apprehended by Department of Homeland Security immigration officials and transferred to the care and custody of ORR.	While youth are in federal custody, ORR is charged with making and implementing placement decisions in the best interests of the child to ensure placement in the least restrictive setting possible. ORR’s goal is to release children to appropriate family members or other adults willing to serve as the child’s “sponsor.” Sponsors care for the child’s physical and mental well-being and assure the child’s presence at their removal/ deportation proceedings in immigration court. ORR also provides a limited amount of post-release services to certain unaccompanied children following their release from custody. In addition, ORR is responsible for the Unaccompanied Refugee Minor (URM) program.

TERM	DEFINITION	ADDITIONAL INFORMATION
Permanently Residing Under Color of Law (PRUCOL)	A term that describes categories of noncitizens who are potentially eligible for certain public benefits, such as state-only foster care in California. ACL 07-20; CFL 01/02-42.	PRUCOL is not an immigration status.
Public Charge	A term used in immigration law to describes noncitizens who are likely to become primarily dependent on government benefits for their income. INA § 212(a)(4).	<p>Depending on a person's immigration status, DHS or State Department consular officers abroad can refuse to let someone enter the U.S., re-enter the U.S., or become a legal permanent resident if they think that person will not be able to support themselves without these benefits in the future. Public charge is not an issue for immigrants who are applying to become citizens, refugees or asylees, Special Immigrant Juveniles, and certain others granted forms of humanitarian immigration relief because they are specifically exempted under the law.</p> <p>Pursuant to current regulations, non-cash assistance such as food stamps will not cause someone to be classified as a public charge. Also, use of cash welfare by children or other family members will not affect the public charge ground for the parent unless those benefits are the family's only income. The receipt of services through the child welfare system also would not be relevant in a public charge determination.</p> <p>The federal government is proposing to drastically expand the circumstances when someone can be classified as a public charge, but this change in the regulations has not gone into effect at the time of this writing. Even if it does go into effect in the future, public charge still would not apply to immigrants applying for citizenship, asylum, SIJS, U-Visa, and other certain forms of humanitarian relief.</p>

TERM	DEFINITION	ADDITIONAL INFORMATION
Special Immigrant Juvenile Status (SIJS)	A special immigration relief option for abused, abandoned, or neglected children who are dependent on a juvenile court or placed in the custody of a state agency or department, or an individual or entity. INA § 101(a)(27)(J).	<p>A juvenile court is any state court that has jurisdiction to make decisions about the care and custody of a minor. The juvenile court must make findings that reunification with one or both of the child's parents is not viable due to abandonment, abuse, neglect, or a similar basis under state law, and that it is not in the child's best interest to return to their home country.</p> <p>Youth who are granted SIJS may be eligible to apply for a green card.</p>
T-Visa	A visa for victims of a severe form of human trafficking, including labor or sex trafficking. A T-Visa is temporary, but can lead to legal permanent residency (a green card). INA § 101(a)(15)(T).	People who were trafficked inside the U.S. may be eligible for a T-Visa. The applicant will generally need to contact law enforcement about the trafficking in order to be eligible, unless the applicant is under 18 years old or fits within an exception for those unable to cooperate due to severe trauma.
Temporary Protected Status (TPS)	A form of temporary immigration relief available to people from specific countries that the Department of Homeland Security (DHS) has designated are unsafe to return to, for example, due to ongoing civil war or recent natural disaster. INA § 244.	<p>Countries that have been designated for TPS in the past include El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria and Yemen. TPS designation is a discretionary determination that the government can end upon notice. The federal government has announced terminations of TPS for many of the countries listed above in recent years, but lawsuits have been filed that may restrict the government's ability to terminate those designations. For example, a federal judge ruled in October 2018 that DHS could not terminate TPS for Sudan, Haiti, El Salvador, and Nicaragua, pending further resolution of the case. See <i>Ramos, et al. v. Nielsen, et al.</i>, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018).</p> <p>For updated information about TPS, go to https://www.uscis.gov/humanitarian/temporary-protected-status.</p>

TERM	DEFINITION	ADDITIONAL INFORMATION
Unaccompanied Refugee Minor Program (URM)	An ORR program for which refugee children are eligible if they do not have a parent or relative available and committed to providing long-term care. Children placed into the URM program receive refugee foster care services and benefits.	ORR also identifies certain minors who may become eligible for the URM program after they arrive in the United States and do not have a parent or a relative available to provide care. The majority of these minors identified by ORR within the U.S. originate as unaccompanied alien children (UACs) and are referred to the URM program once they meet all of the eligibility requirements.
Unaccompanied Alien Child (UAC)	A child who (1) has no lawful immigration status in the United States; (2) has not attained 18 years of age; and (3) has no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g) (2).	<p>In immigration law, the UAC designation confers certain benefits and triggers several child-friendly processes. Currently, even children who have parents in the U.S. may be classified as UACs if their parents are undocumented and fear coming forward to pick up their children from immigration officials or are unable to pick up their children for some other reason (e.g. when a child is detained at the border and the parent lives in another state). In the past, once a child had been deemed a UAC, they typically continued to be treated as a UAC, retaining access to certain benefits and processes. However, the federal government is currently changing their policies to allow for continuous re-evaluation of whether or not a child meets the definition of a UAC.</p> <p>The term “UAC” is to be distinguished from the child welfare designation of a child as “unaccompanied,” as “UAC” has the distinct meaning set forth in immigration law.</p>
Undocumented Immigrant (i.e., “Illegal Alien”)	A person who lives in a host country without legal documentation or permission.	Undocumented immigrants may have entered the U.S. unlawfully or entered lawfully but overstayed a temporary visa, such as a tourist visa. They do not have permission to work and are not eligible for most health and social services programs. Many may be eligible to apply for lawful immigration status through special relief options or become legal permanent residents through the sponsorship of a family member or employer.

TERM	DEFINITION	ADDITIONAL INFORMATION
U.S. Citizenship and Immigration Services (USCIS, formerly known as Immigration and Naturalization Services or INS)	<p>The federal agency charged with processing and deciding immigrant visa petitions and applications including SIJS, VAWA, naturalization, and asylum.</p>	<p>As compared to Immigration Court, USCIS cannot order someone removed or deported. USCIS only decides whether to grant or deny someone's application for legal immigration status.</p> <p>However, increasingly, USCIS is also involved in immigration enforcement, as they have the power to refer cases to ICE or issue a Notice to Appear (NTA), the charging document that places someone in removal proceedings.</p> <p>There are many USCIS field offices located throughout the country where interviews are held for potential immigration options.</p>
U-Visa	<p>A visa for undocumented victims of a serious crime in the U.S. who cooperate with law enforcement. A U-Visa is temporary but can lead to legal permanent residency (a green card). INA § 101(a)(15)(U).</p>	<p>U-Visas are intended to help overcome the victim's fear of immigration detection and encourage reporting and other cooperation with the investigation or prosecution of crimes. They are also designed to protect vulnerable victims and assist domestic violence victims and other crime survivors who may otherwise not seek protection from law enforcement due to fear of deportation. The applicant must assist in the investigation and/or prosecution of the crime (or, if the applicant is under age 16, an adult may be able to assist in the investigation and/or prosecution on their behalf) and later get a signed law enforcement certification as proof of their assistance.</p> <p>Child welfare agencies can sign law enforcement certifications for U-Visa applicants because they have authority to detect and investigate criminal activity. 8 CFR §§ 214.14(a)(2) & (a)(5).</p>

TERM	DEFINITION	ADDITIONAL INFORMATION
Visa	A visa is an official document that allows a foreign national to enter and reside in the United States. There are over 150 different types of visas, each with different requirements and restrictions.	Visas generally fall into two categories: nonimmigrant and immigrant visas. Nonimmigrant visas are granted for temporary stays in the U.S., such as a tourist or student visa. Immigrant visas are granted to those who wish to enter and live permanently in the U.S., such as spousal visas. While immigrant visa petitions always provide a pathway to permanent residency, only certain nonimmigrant visas—such as U- and T-Visas—provide a pathway to permanent residency.
Violence Against Women Act (VAWA)	A collection of federal laws that permit abused family members of U.S. citizens or permanent residents to self-petition for a green card without the cooperation of the abuser. INA § 204(a)(1)(A)(iii) (spouse of USC); INA § 204(a)(1)(B)(ii) (spouse of LPR); INA § 204(a)(1)(A)(iv) (child of USC) and INA § 204 (a)(1)(B)(iii) (child of LPR); INA § 204(a)(1)(A) (vii) (parent of USC).	VAWA is designed to protect abused immigrant spouses, children, and parents who may be afraid to seek police protection or leave an abusive partner for fear of losing their pathway to legal immigration status.

IV. TRAUMA & IMMIGRANT FAMILIES¹⁶

Immigrant families are vulnerable to many different types of trauma across their migration experience. Some traumas are unique to specific points of the migration process; others can occur at any point before, during, or after migration. The following lists trauma types that are characteristic of specific migration points; however, this list is by no means exhaustive.

PRE-MIGRATION: Before leaving their country of origin, immigrant families often experience mass violence or other threats to survival such as:

- War and conflict (direct and indirect exposure to physical and sexual violence);
- Lack of food, water, shelter, and medical care;
- Forced displacement;
- Gang violence and threats of violence or murder; and
- Traumatic grief related to the death of a caregiver or other important person.

DURING MIGRATION: During the transition to a new residence, families may experience additional traumas involving abuse, exploitation, and violence (both as a victim and as a witness), such as:

- Direct or indirect exposure to physical and sexual violence;
- Lack of food, water, shelter, and medical care;
- Human trafficking and financial exploitation;
- Sudden and prolonged separation

from family and other protective caregivers (in some instances, forced separation);

- Hazardous travel (often long distance by foot or unsafe transportation);
- Unsafe and harmful living conditions within refugee camps; and
- Government harassment, persecution, or surveillance, including by local law enforcement.

POST-MIGRATION: Vulnerability to traumatic exposure is *not* reduced after migration. Rather, the post-migration period brings with it a number of continuing dangers and hardships that can keep youth and their families in a perpetual state of stress/survival. As families attempt to adjust to the norms, customs, and traditions of a new country, they often face stressors such as:

- Extreme poverty;
- Discrimination/bullying/hate crimes based on a component of one's identity (e.g. race, ethnicity, sexuality, religion, or native language);
- Separation from family members;
- Family violence;
- Location in unsafe neighborhoods (e.g., drug exposure, community violence, etc.); and
- Enhanced immigration enforcement and targeting of immigrant communities.

¹⁶ This section used with permission of the authors. Neha Desai, Melissa Adamson, Maureen Allwood, Carly Baetz, Emma Cardeli, Osob Issa, Julian Ford, *Primer for Juvenile Court Judges: A Trauma-Informed Approach to Judicial Decision-Making for Newcomer Immigrant Youth in Juvenile Justice Proceedings* (Feb. 2019).

The Enduring Effects of Trauma

Childhood traumatic experiences alter the brain's responses to stress. When faced with danger, the brain's alarm system reacts with a classic stress response (i.e., the fight, flight, or freeze response). This is an automatic survival reaction by the body in order to keep the youth safe. In the immediate aftermath of a traumatic experience, the majority of youth will experience immediate and severe psychological distress, or "acute traumatic stress" reactions. For some, these reactions lay down the foundation for chronically living in survival mode. Acute traumatic stress reactions may include:

- Hypervigilance (e.g., constantly looking out for danger, extreme distrust of others, difficulty concentrating, and isolation or withdrawal);
- Intrusive thoughts (e.g., "My life is over," "I should have protected my family");
- Recurrent memories or images of the traumatic experience(s);
- Difficulty regulating emotions (e.g., intense anger, guilt, grief, shame, terror, confusion);
- Becoming emotionally shut-down, numb, or dissociated;
- Avoidance of reminders of the trauma;
- Negative views of themselves as worthless or "damaged"; and
- Reenactment of traumatic experiences (e.g., engagement in violence, sexual behavior).

When youth experience multiple or sequential traumas—as often is the case for newcomer immigrant youth—they are especially likely to have these acute reactions become a chronic way of living (i.e., survival coping). Survival coping involves using coping tactics that are defenses against severe danger, such as reacting impulsively or with aggression, running away, or shutting down psychologically. It is an automatic biological and psychological reaction that occurs in response to feeling unsafe, insecure, or threatened—even though the current circumstances may no longer involve trauma that actually poses a threat to survival.

CHILDHOOD TRAUMATIC EXPERIENCES ALTER THE BRAIN'S RESPONSES TO STRESS.

These coping strategies might have been protective and/or adaptive in the context of past traumatic exposure, but can be harmful or maladaptive when carried out in response to everyday life stressors. Indeed, survival coping can lead to aggression, impulsivity, running away, or truancy. When newcomer immigrant youth have had to use survival coping to overcome traumatic experiences, they need to trust that they are safe and that the adults in their lives will protect them from harm in order to move out of survival mode.

V. UNIQUE EXPERIENCES OF UNACCOMPANIED MINORS



Although newcomer immigrant youth¹⁷ have many similar experiences, unaccompanied children face unique challenges by virtue of being separated from their families, traveling without their primary caregivers, being subjected to detention by the federal government, and having to acculturate while transitioning from being on their own to being with a caregiver.

Research shows that separation from parents is a grave risk factor for the psychological

well-being of children and adolescents, particularly those who are faced with multiple and cumulative stressors or living in adverse situations.¹⁸ For unaccompanied children, the absence of their parents or adult caregiver means that they are more likely to experience toxic stress and its consequent short- and long-term effects. A toxic stress response can occur when a child experiences strong, frequent, and/or prolonged adversity without adequate adult support.¹⁹ By increasing the level of stress hormones and negatively

¹⁷ By “newcomer immigrant youth,” we refer to the subset of immigrant children who have recently arrived to the U.S. seeking refuge, whether they are accompanied with family members or not. See Desai, et al., *supra* note 16.

¹⁸ Ilse Derluyn, et al., *Post-traumatic Stress in Former Ugandan Child Soldiers*, 13 LANCET 861 (2004).

¹⁹ Center on the Developing Child, *Toxic Stress*, Harvard University, available at <https://developingchild.harvard.edu/science/key-concepts/toxic-stress/>.

impacting the development of the brain, toxic stress is associated with increased rates of mental health issues, risky health behaviors, and physical conditions such as diabetes, cancer, PTSD, and heart disease.²⁰

Migration

Children attempting to flee to the United States face long and perilous trips without their parents or adult caregivers. While these children come to the United States for many different reasons, the majority are fleeing their home countries in order to escape violence, extreme poverty, and/or to be reunited with a parent, guardian, or family member.²¹ Often crossing several borders, children travel hundreds of miles by foot, by bus, or atop dangerous freight trains. They endure weeks or months without sufficient food, medical care, or safe sleeping spaces. Studies show that the presence of parents and other family members during migration may reduce the extent to which children perceive these experiences as terrifying or traumatic.²² Without the safety and protection that family provide, children are left to cope on their own.

Detention

The dangers and risks facing unaccompanied children do not end when they reach the United States. Once detained by Customs and Border Protection (CBP),

children are supposed to be screened and interviewed within 48 hours. Without parents or a trusted adult to help them throughout the screening process, unaccompanied children often do not understand their legal options or rights. This may negatively impact their ability to obtain immigration relief, as they may choose to voluntarily depart the country instead of seeking asylum, may not know the pertinent information to provide in a credible fear interview, and may not have any documents to help support their claim. During these interviews, children may recount stories of the trauma and violence that they experienced in their home countries. However, children's interviews are conducted by CBP officers who are not trained to detect or provide support for signs of abuse or trauma.²³ Without subsequent familial or mental health support, the screening interviews may serve to re-traumatize these children. There have also been reports of widespread verbal, physical, and sexual abuse of minors by CBP agents during the detention and screening process.²⁴

Once transferred from the custody of CBP to the custody of the Office of Refugee Resettlement (ORR), children may be detained for months or even years while they wait to be released to an adult sponsor. Warehoused in facilities ranging from shelters to juvenile halls, these children are confronted

20 Samantha Artiga & Petry Ubri, Henry J. Kaiser Family Foundation, *Living in an Immigrant Family in America: How Fear and Toxic Stress Are Affecting Daily Life, Well-Being, & Health* (Dec. 13, 2017), available at <http://files.kff.org/attachment/Issue-Brief-Living-in-an-Immigrant-Family-in-America>.

21 Adam Avrushin & Maria Vidal de Haymes, *Well-Being and Permanency: The Relevance of Child Welfare Principles for Children Who are Unaccompanied Immigrants*, 96 CHILD WELFARE 6 (2019).

22 Ruthann Hicks et al., *Psychosocial Considerations in the Mental Health of Immigrant and Refugee Children*, 12 CAN. J. CMTY. MENTAL HEALTH 71 (1993).

23 Betsy Cavendish & Maru Cortazar, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors* (2011), available at <http://www.appleseednetwork.org/wp-content/uploads/2012/05/Children-At-The-Border1.pdf>.

24 Steven Hsieh, *Migrant Children Accuse Border Patrol Agents of Physical and Sexual Assault*, THE NATION, June 12, 2014, available at <https://www.thenation.com/article/migrant-children-accuse-border-patrol-agents-physical-and-sexual-assault/>.

with language barriers, unfamiliar rules, and new cultural expectations. Their detachment from parents and family is further intensified by restricted communications; children are often limited to two 10-minute phone calls per week. Studies of detained unaccompanied immigrant children in the United States have found high rates of post-traumatic stress disorder, anxiety, depression, suicidal ideation, and other behavioral problems.²⁵ Experts agree that even brief detention can cause psychological trauma and induce long-term mental health problems for children.²⁶ In addition to the psychological stress of being detained, children are often not kept informed about the sponsorship process and left constantly wondering if and when they will be released to their families.

Acculturation

Acculturation is a “process of cultural contact and exchange through which a person or group comes to adopt certain values and practices of a culture that is not originally their own, to a greater or lesser extent.”²⁷ Acculturative stress occurs as children are thrust into an unfamiliar culture and society, different social structures, and new role patterns. For unaccompanied children, this may present differently than for immigrant children that arrive in the U.S. with their primary caregivers. Indeed, for this

particular group, the migration experience “means the loss of the familiar: home, language, belongings, cultural milieu, social networks and social status—without the support of an intact family to buffer against those losses.”²⁸ Unaccompanied children also face a new set of challenges when they are released to adult caregivers who may or may not be the primary caregivers that raised them.

DUE TO EXTENDED TIME APART, CHILDREN MAY FEEL A LACK OF ATTACHMENT WITH THEIR CAREGIVERS.

Due to extended time apart, children may feel a lack of attachment with their caregivers. Having been accustomed to independently adapting and surviving in life-threatening circumstances, children may experience difficulty in transitioning back into a typical child-adult relationship. Research shows that the longer the separation they experienced, the less likely adolescents reported being able “to identify with their parents or being willing to conform to their rules at the time of reunification.”²⁹ Unaccompanied children who are subsequently reunited with their parents may feel competitive with siblings born in the United States for their parents’

²⁵ Charles Baily et al., *The Psychosocial Context of Mental Health Needs of Unaccompanied Children in United States Immigration Proceedings*, 13 GRADUATE STUDENT J. PSYCHOL. 4 (2011).

²⁶ Jessica Chicco et al., *Society for Community Research and Action: Division 27 of the American Psychological Association, Policy Statement on the Incarceration of Undocumented Migrant Families*, 57 AM. J. CMTY. PSYCHOL. 255 (2016).

²⁷ Nicki Lisa Cole, *Understanding Acculturation*, ThoughtCo., Sept. 26, 2018, <https://www.thoughtco.com/acculturation-definition-3026039>.

²⁸ Derluyn et al., *supra* note 18.

²⁹ Andrea Smith et al., *Serial Migration and its Implications for the Parent-Child Relationship: A Retrospective Analysis of the Experiences of the Children of Caribbean Immigrants*, 10 CULTURAL DIVERSITY & ETHNIC MINORITY PSYCHOL. 107 (2004).

affection and attention.³⁰ Children may also feel disappointed in how their reunions with their caregivers turn out, as compared to their fantasies and dreams about life in the United States.³¹ Throughout this transition period, children are also subject to constant uncertainty over their immigration cases and potential deportation back to their home countries.

AT THE SAME TIME THAT CHILDREN ARE BEING FORCED TO INTEGRATE INTO THE HOST SOCIETY, THEY ARE ALSO EXPERIENCING THE DISINTEGRATION AND LOSS OF THE SOCIETY, COMMUNITY, AND CULTURE THAT HAS BEEN LEFT BEHIND.

At the same time that children are being forced to integrate into the host society, they are also experiencing the disintegration and loss of the society, community, and culture that has been left behind.³² This acculturation process can evoke acculturative stress, which may trigger depression, anxiety, feelings of marginalization and alienation, increased psychosomatic symptoms, and identity confusion.³³

Yet, despite often experiencing stress related to past trauma, acculturation, challenging family dynamics, difficulties navigating new systems, obstacles to eligibility for services, and language barriers, research shows that immigrant youth are important members of their families and communities who possess exceptional strengths, demonstrate resilience and productivity, and experience positive health outcomes.³⁴ Child welfare workers should leverage these strengths to work successfully with immigrant youth to advocate for their safety and well-being.

30 Elaine Arnold, *Separation and Loss Through Immigration of African Caribbean Women to the UK*, 8 ATTACHMENT & HUMAN DEV. 159 (2006).

31 Ceres I. Artico, *Latino Families Broken by Immigration: The Adolescent's Perceptions*, New York: LFB Scholarly (2003).

32 Ravi Kohli, *Social Work with Unaccompanied Asylum-Seeking Young People*, 12 FORCED MIGRATION REV. 31 (2002).

33 Joseph D. Hovey & Cheryl A. King, *Acculturative Stress, Depression and Suicidal Ideation Among Immigrant and Second-Generation Latino Adolescents*, 35 J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY 1183 (1996).

34 Alexandra Citrin, *Megan Martin & Shadi Houshayar, Supporting Youth at the Intersection of Immigration and Child Welfare Systems*, 96 CHILD WELFARE J. OF POL'Y, PRAC. & PROGRAM 5 (2019).

VI. CULTURAL CONSIDERATIONS



Immigrant youth and families carry with them unique and varied cultural characteristics. For many families, cultural identity plays an important role in helping to build strong self-esteem and cultivate a positive sense of community. By maintaining a connection to their culture through traditions, language, behaviors, beliefs, and values, families may build both individual resilience and a community network that will provide critical support.

Within the context of child welfare involvement, child welfare agencies should consider cultural characteristics when attempting to better understand families' current behaviors and interactions, craft effective interventions, and avoid potential pitfalls. Trust-building is crucial early on, since immigrant families have experienced many obstacles in order to establish themselves in the United States, and interaction with child welfare "authorities" may create an increased level of anxiety.

35 Adapted with permission of the authors. See Desai et al., *supra* note 16.

Child Welfare Involvement

In other countries, court or government engagement is often considered a last resort for addressing abuse or neglect. Before even considering approaching the judicial system, many will attempt to utilize informal resources first. This includes extended family, tribal leaders, religious leaders, and/or other important figures within the community. Consequently, some families have a hard time understanding why and how certain actions have led to court involvement in the U.S.

In addition, fear and mistrust of government and law enforcement is commonplace in other countries where corruption and abuses of power at the state or national level are widespread. Contact with these systems is often exceedingly negative and exposes families to further risk of trauma. As a result, these systems are often perceived as harmful, unhelpful, and something to be avoided. This historical trauma may make it hard for certain families to productively engage with judicial systems when in the United States. Many families are also fearful of attending court hearings due to their immigration status and the threat of detention and deportation.³⁶

Different Cultural Norms Related to Parenting

Immigrant caregivers who have recently arrived in the United States face the challenging task of parenting their children in a new cultural context, which can increase the caregivers' feelings of disempowerment. Parenting skills that were valued and practiced in their home countries might not be socially or legally acceptable in the United States.

As such, caregivers must learn to navigate parenting in a new cultural context while trying to preserve their cultural identity and roots.

This uncertainty about parental role is particularly concerning for newcomer immigrant families because these caregivers have often been disenfranchised in other ways, such as the inability to work and support their family. In addition, due to language barriers, caregivers often rely on youth to translate and communicate on their behalf. This can result in role-reversal and parentification of youth, which might increase the risk of caregiver-youth conflict. Such conflict can exacerbate stress responses, reduce the support needed for resiliency, and ultimately increase the risk of system involvement.

Language Barriers

Providing interpreter services is critical to fully engaging with families involved in the child welfare system. Language barriers can impede communication and delay court-ordered case evaluations or participation in parenting and reunification programs. The child welfare agency should make every effort to assign referrals or cases involving persons whose primary language is not English to social workers who speak the language of the clients.

If this is not possible, the Department must offer and provide interpreter services in the language the client has specified for oral communication. Under CDSS regulations (Division 21 § 115-201), the Department is required to ask clients their preferred language for oral and written communication and to

³⁶ Adam Avrushin & Maria Vidal de Haymes, *Well-Being and Permanency: The Relevance of Child Welfare Principles for Children Who are Unaccompanied Immigrants*, 96 CHILD WELFARE 6 (2019).

document the preferred language(s) in the client's case file. Clients are not prohibited from providing their own interpreter, although the Department cannot require them to do so. It is prohibited to use minor children as interpreters, except temporarily under extenuating circumstances or at the specific request of the client. For more information on identifying a client's language needs, see **Appendix A**.

The Use of Cultural Brokers in Child Welfare

Given the many ways in which the child welfare system may be unfamiliar to immigrant families, child welfare agencies should consider developing approaches that help orient immigrant families to the system. One such approach may involve "cultural brokering." Cultural brokering is "the act of bridging, linking, or mediating between groups or persons of differing cultural backgrounds for the purpose of reducing conflict or producing change."³⁷ A cultural broker is an individual who serves as a "go-between, one who advocates or intervenes on behalf of another individual or group."³⁸ In the past few decades, the value of cultural brokers in facilitating the delivery of health care to diverse and marginalized populations has been well documented.³⁹

More recently, cultural brokers have been used in the child welfare system with promising results. In 2010, the Cultural Brokers Research Project

evaluated the outcomes of a cultural brokering approach used with African-American families involved in child welfare proceedings in Fresno County.⁴⁰ This study found that the vast majority of families that were provided a cultural broker found the broker to be very helpful in linking them to community resources. In addition, the families felt that the cultural broker helped to explain the child welfare system and the County's processes in clear and understandable terms.⁴¹

In acknowledging that many African-American families may "find involvement with the child welfare system daunting, intimidating, difficult to understand, and leading to a state of powerlessness," the study found that the presence of a cultural broker helped families to better negotiate the system, feel more empowered to change circumstances in their lives, and access the resources they needed.⁴²

These findings suggest that there may be a role for cultural brokers to play in helping to serve immigrant children and families involved with the child welfare system. Child welfare agencies may want to explore the use of cultural brokers when working with immigrant families to determine whether they are effective in promoting the long-term safety, permanence, and well-being of immigrant children.

37 Mary Ann Jezewski, *Culture Brokering in Migrant Farmworker Health Care*, 1990 W. J. NURSING RESEARCH 497 (1990).

38 Mary Ann Jezewski & Paula Sotnik, *Culture Brokering: Providing Culturally Competent Rehabilitation Services to Foreign-Born Persons*, 2001, <http://cirrie-sphhp.webapps.buffalo.edu/culture/monographs/cb.php#s2>.

39 See Georgetown University Center for Child & Human Development, *Bridging the Cultural Divide in Health Care Settings: The Essential Role of Cultural Broker Programs*, https://nccc.georgetown.edu/culturalbroker/2_role/index.html.

40 Salvador Montana et al., *Cultural Brokers Research Project: An Approach to Community Engagement with African American Families in Child Welfare*, California Social Work Education Center, Department of Social Work Education at California State University Fresno, 2010, http://cssr.berkeley.edu/cwscmsreports/LatinoPracticeAdvisory/PRACTICE_Cultural_Mediator_Programs/Cultural_Brokers/Montana.pdf.

41 *Id.* at 6.

42 *Id.* at 10.

VII. IMMIGRATION RELIEF OPTIONS FOR CHILDREN AND FAMILIES

It is critical that noncitizen children, parents, or other caregivers involved in the dependency system be referred for immigration legal services. Children and caregivers who lack legal status cannot legally work, access federal financial aid, or qualify for most public benefits. Additionally, they must live with the constant threat of deportation. These factors all undermine the goals at the heart of the child welfare system: safety, permanency, and well-being.

IDENTIFYING THE NEED FOR IMMIGRATION SERVICES

Child welfare workers should be sensitive to the fact that immigrants may be reluctant to interact with government employees for fear of being reported to Immigration & Customs Enforcement (ICE). Therefore, workers should not inquire about immigration status until after they have engaged the family and explained the purpose of the inquiry. Information obtained by the child welfare agency, including immigration status of family members, is confidential and should rarely—if ever—be shared with someone outside of the agency. Workers should consult with supervisors if there are any questions regarding sharing of information. Additionally, workers should clearly communicate these confidentiality policies to their clients and families to prevent any misconceptions that they could be reported to ICE.

The best way to determine whether a child might need immigration assistance is to look

at his or her birth certificate. If the child has a U.S. birth certificate, he or she is a United States citizen and does not need immigration assistance. If the child has a foreign birth certificate, he or she may need immigration assistance, and you should consult with an immigration expert. A parent may also disclose the need for immigration assistance for himself or herself, or for their child. Even adults can be unclear on their immigration status, so it is important to refer parents and other caregivers to an immigration expert if there is confusion or a need for assistance. Immigrant families in need of legal assistance should be referred to local agencies for free legal assistance or case consultation. To find trusted immigration nonprofits in your area, visit <https://www.immigrationlawhelp.org>.

Note that there are special immigration relief options to obtain lawful immigration status available to undocumented children who have been abused or neglected. A social worker or dependency attorney may be the first and only person an eligible immigrant child sees who is able to identify the issues and get help. If an immigration relief option is not identified early on, the child may lose the chance of obtaining legal immigration status. For example, a child must apply for Special Immigrant Juvenile Status (SIJS) with the federal government before turning 21, or they will no longer be eligible. It is, therefore, critical that social workers and/or dependency attorneys screen children and if possible, families, for potential immigration relief. See **Appendix B** for sample screening questions developed by the Immigrant Legal Resource

Center. Moreover, California law requires that for any child in DSS custody who is age 16 or older, the child's case plan must document whether an in-progress application for SIJS or other immigration status exists, and whether an active dependency case is required in support.⁴³ For further information about SIJS, see below.⁴⁴

Proceeding with the screening necessary to determine the specific eligibility for any of these forms of immigration status or the actual application process without assistance from a competent immigration advocate or attorney is discouraged. However, flagging these issues for children and families, and referring them to your local legal services provider, will encourage them to follow up and pursue potential legal options. For a list of non-profit legal service providers in the area, visit <https://www.immigrationlawhelp.org>.⁴⁵

Information to share with families when discussing immigration status:

- 1) Clearly state that you do not represent or work for the federal government or immigration enforcement.
- 2) Explain that information regarding immigration status is confidential and will not be shared with immigration enforcement.
- 3) State why you are asking about immigration status and explain that you can refer them to immigration legal services if necessary.

SPECIAL IMMIGRANT JUVENILE STATUS

Special Immigrant Juvenile Status (SIJS) provides legal protection for certain undocumented immigrant youth who have been abused, abandoned, or neglected by allowing them to legalize their immigration status and become lawful permanent residents in the United States. Children are eligible for permanent residency through SIJS if they: 1) are under the jurisdiction of a juvenile court (including a dependency, delinquency, guardianship, or family court); and 2) the juvenile court has made a finding that it cannot reunite the child with *one or both* parents due to abuse, neglect, or abandonment and that it is not in the best interests of the child to return to the home country or country of last residence. After a state court makes these findings, the child may then apply for SIJS with the federal government, and if successful, can also apply for permanent residency.

In a dependency matter, the juvenile court in which the child is seeking SIJS findings might have placed the child in a foster home, foster care group home, or other rehabilitative setting, or the child may reside with the non-offending parent. It is not necessary for the court to formally terminate either or both parents' rights in order to issue SIJS findings. The immigration status of the parents is irrelevant. The SIJS

⁴³ Cal. Welf. & Inst. Code § 16501.1(g)(16)(A)(ii).

⁴⁴ INA § 101(a)(27)(J).

⁴⁵ Please be aware that "notarios," or notary publics, often pose as experts of immigration law and unlawfully provide legal advice to vulnerable immigrant communities. This can have devastating effects on people's immigration cases. See the American Immigration Lawyers Association website for more information (<https://stopnotariofraud.org/>).

application must be adjudicated while the child remains under juvenile court jurisdiction unless termination of jurisdiction is due to age. Therefore, it is imperative that social workers, dependency attorneys, and immigration advocates screen children for possible eligibility for relief early in the process. One tactic, when needed, is to encourage dependency until age 21, an option available in California. The juvenile court judge will have to sign a special order known as a predicate order, making the required findings.

On March 23, 2009, significant changes to the SIJS requirements went into effect as a result of the passage of the Trafficking Victims Protection and Reauthorization Act (TVPRA) of 2008, H.R. 7311. This law made some changes to certain SIJS requirements and procedures to expand protections for noncitizen children and youth. Under the TVPRA, the state court order needed to file for SIJS must include a finding that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law and that it is not in the best interest of the child to return to his or her home country. The change in language to “one or both” parents is a significant expansion in protection. This language made children for whom reunification is not viable with only one parent eligible for SIJS. This means that, for example, a child who remains with, is reunified with, or is in the process of receiving reunification services with one parent is eligible for SIJS so long as the court has determined that reunification is not viable with the other parent. Additionally, a child no longer has to stay under the

jurisdiction of the court until the entire immigration application is adjudicated if the termination of jurisdiction is due to age. No child can be denied SIJS on account of age as long as he or she was under 21 when he or she applied.

To go through the SIJS application process, a young person needs to submit two different applications; an initial SIJS application followed by an application for adjustment of status (the process to become a legal permanent resident, i.e., green card holder). The application process can take anywhere from a few months to a few years, depending on the child’s country of origin and any complicating factors in the case. For further information and guidance on seeking Special Immigrant Juvenile Status, see **Appendix C**. Due to increased complexity and risks in SIJS cases, children applying for SIJS with the federal government should be represented by immigration counsel. It is not recommended that social workers file applications for SIJS on behalf of youth.

OTHER PATHS TO LEGAL STATUS

There are various paths through which undocumented children and adults may be able to gain lawful status in the United States. The below list is not exhaustive, but rather contains the most common forms of immigration relief for which children and families may be eligible. Some of these forms of relief are referenced in Section III., Definitions.

FORM OF RELIEF	EXPLANATION
<p>Asylum INA § 101(a)(42)(A)</p> <p>Withholding of Removal INA § 241(b)(3)(B); 8 C.F.R. § 208.16</p> <p>Protection under the Convention Against Torture Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85</p>	<p>A person may be eligible for asylum if they can demonstrate that they have (1) a well-founded fear of persecution (the infliction of harm or suffering⁴⁶) (2) on account of their race, religion, nationality, membership in a particular social group, or political opinion (3) by the government or by those the government is unable or unwilling to control.</p> <p>For example, if a child was persecuted because they are part of a religious or ethnic minority, the child may be able to argue that they merit asylum protection in the U.S. Asylum cases are extremely complex and should only be filed with the assistance of a skilled immigration attorney.</p> <p>A child could apply for asylum on their own or benefit from a parent who obtains asylum. In the latter situation, if the parent is granted asylum and the child was included as a beneficiary—or “derivative”—in their asylum application, the child will also become an asylee. If the parent is granted asylum but did not originally include the child as a derivative in their application, the parent must apply for the child no later than two years after the parent receives asylum. After one year in asylee status, the asylee may apply for a green card.</p> <p>Withholding of removal is a similar form of relief to asylum and is granted to immigrants who can demonstrate that they will be persecuted in their home country. Withholding is often sought or granted in situations where the applicant is barred from asylum eligibility. It is different from asylum protection because it has a higher burden of proof and provides fewer and more limited benefits.</p> <p>A person who fears torture by the home government for any reason can apply for benefits under the Convention Against Torture. This has a significantly higher bar than asylum and withholding of removal and does not provide a pathway to permanent residency.</p> <p>Children applying for asylum or withholding are entitled to special protections and evidentiary rules. Typically, the law requires applicants to apply for asylum within one year of entering the U.S., unless they were prevented from applying by extreme circumstances or conditions that affect their eligibility for asylum. Victims of domestic violence may qualify for this exception. Also, the Trafficking Victims Protection and Reauthorization Act (TVPRA) of 2008 eliminated the one-year bar for children classified as Unaccompanied Alien Children (UACs) as of March 23, 2009. The one-year bar does not apply to withholding or the Convention Against Torture.</p> <p>⁴⁶ See Matter of Acosta, 19 I&N Dec. 211, 222-23 (BIA 1985).</p>

FORM OF RELIEF	EXPLANATION
<p>Citizenship</p> <p>INA §§ 301, 309, 320</p>	<p>Someone who is born in the U.S. and certain territories or outlying possessions of the United States is automatically a U.S. citizen. Some people who were born outside the U.S. automatically inherited U.S. citizenship at birth from their U.S. citizen parents, often without knowing it. If at the time of a person's birth, their parent or even grandparent was a U.S. citizen, the person may have inherited citizenship and should obtain immigration counsel to advise on the laws governing "acquisition of citizenship."</p> <p>A second way that many people obtain citizenship without knowing it is through "derivation of citizenship." A child automatically becomes a U.S. citizen if, before they reach the age of 18, the following three events happen in any order: (1) the child is a permanent resident, (2) at least one of the child's parents becomes a U.S. citizen, and (3) the child lives in the U.S. in that parent's legal and physical custody.</p> <p><i>If a child who you are working with is a permanent resident, encourage the child's custodial parent to naturalize and become a U.S. citizen, if the custodial parent is eligible. If this occurs before the child's 18th birthday, the child will become a U.S. citizen automatically, without having to meet any other requirements, and will never be subject to deportation.</i></p>
<p>T Nonimmigrant Status</p> <p>(recipient of a T-Visa)</p> <p>INA § 101(a)(15)(T)</p>	<p>The T-Visa is available to victims of severe forms of trafficking in persons (i.e., labor or sex trafficking). This includes (a) trafficked persons who were forced or defrauded into performing sex acts, or while under the age of 18 were induced to perform such an act, and (b) trafficked persons who were coerced or defrauded into labor trafficking. The person must have complied with reasonable requests for assistance in the investigation or prosecution of the offense, unless they are under the age of 18 or qualify for a trauma exception, and must show they would suffer extreme hardship if returned to their home country.</p> <p>A child may obtain a T-Visa on their own or as a derivative from a parent (and in some cases a sibling) who obtains a T-Visa. Either way, there is no requirement that the child be under juvenile court jurisdiction to obtain a T-Visa. The T-Visa is a temporary "nonimmigrant" visa, but the person can apply for permanent residency (a green card) after three years in T nonimmigrant status.</p>
<p>U Nonimmigrant Status</p> <p>(recipient of a U-Visa)</p> <p>INA § 101(a)(15)(U)</p>	<p>The U-Visa is available to noncitizens who suffer substantial physical or mental abuse resulting from a wide range of criminal activity, including assault, domestic abuse, incest, etc. The applicant (or, if the applicant is under age 16, the applicant's parent, guardian or next friend⁴⁷) must possess information concerning the criminal activity and must have been helpful, currently be helpful, or be likely to be helpful in the investigation or prosecution of the criminal activity. In order to qualify for the U-Visa, a judge, prosecutor, investigator, or similar official must sign a certification regarding this requirement.</p> <p>A child could obtain a U-Visa on their own or as a derivative from a parent (and in some cases a sibling) who obtains a U-Visa. Either way, there is no requirement that the child be under juvenile court jurisdiction to obtain a U-Visa. The U-Visa is a temporary "nonimmigrant" visa, but the applicant can apply for permanent residency (a green card) after three years in U nonimmigrant status.</p> <p>⁴⁷ The regulations define "next friend" as "a person who appears in a lawsuit to act for the benefit of an alien under the age of 16 or incapacitated or incompetent, who has suffered substantial physical or mental abuse as a result of being a victim of qualifying criminal activity. The next friend is not a party to the legal proceeding and is not appointed as legal guardian." 8 C.F.R. § 214.14(a)(7).</p>

FORM OF RELIEF	EXPLANATION
<p>Violence Against Women Act (VAWA)</p> <p>INA § 204(a)(1)(A) (ii)-(vii); 204(a)(1)(B) (ii)-(iii)</p>	<p>A child is eligible for permanent residency under the immigration provisions of the Violence Against Women Act ("VAWA") if the child has been "battered or subject to extreme cruelty" (including purely emotional abuse) by a U.S. citizen or permanent resident parent or stepparent. The parent or stepparent must have the required immigration status, but there is no requirement that the child be under juvenile court jurisdiction. Like SIJS, a child could live with the other parent (who might also be eligible for VAWA) and apply for VAWA based on abuse by a U.S. citizen or resident parent. A parent can also access VAWA, as it is also available to people who have been abused by a citizen or permanent resident spouse.</p>
<p>Deferred Action for Childhood Arrivals (DACA)</p>	<p>DACA is a form of prosecutorial discretion that provides a work permit and relief from removal/deportation for two years to certain eligible undocumented people who came to the United States before June 15, 2012 when they were under the age of 16 and meet the other eligibility requirements. Note, however, that DACA is not an immigration status, nor does it lead to U.S. citizenship.</p> <p><i>In September 2017, the Trump Administration terminated the DACA program; however, due to ongoing litigation, renewal DACA applications continue to be processed for youth who have already been granted DACA in the past (but no new DACA applications are being accepted). Check https://www.ilrc.org/daca for updates.</i></p>

Further information:

Immigration law is incredibly complex, and the summaries above provide only the most basic information about these forms of relief.

For additional information about these forms of relief and others, please see Immigrant Legal Resource Center, *Immigration Options for Undocumented Immigrant Children* (Aug. 2018), available at <https://www.ilrc.org/immigration-options-undocumented-immigrant-children>.

You can also check the U.S. Citizenship & Immigration Services website at <https://www.uscis.gov> for additional information about each form of relief and up-to-date policy changes.

PROTOCOL FOR RESPONDING TO U-VISA CERTIFICATION REQUESTS

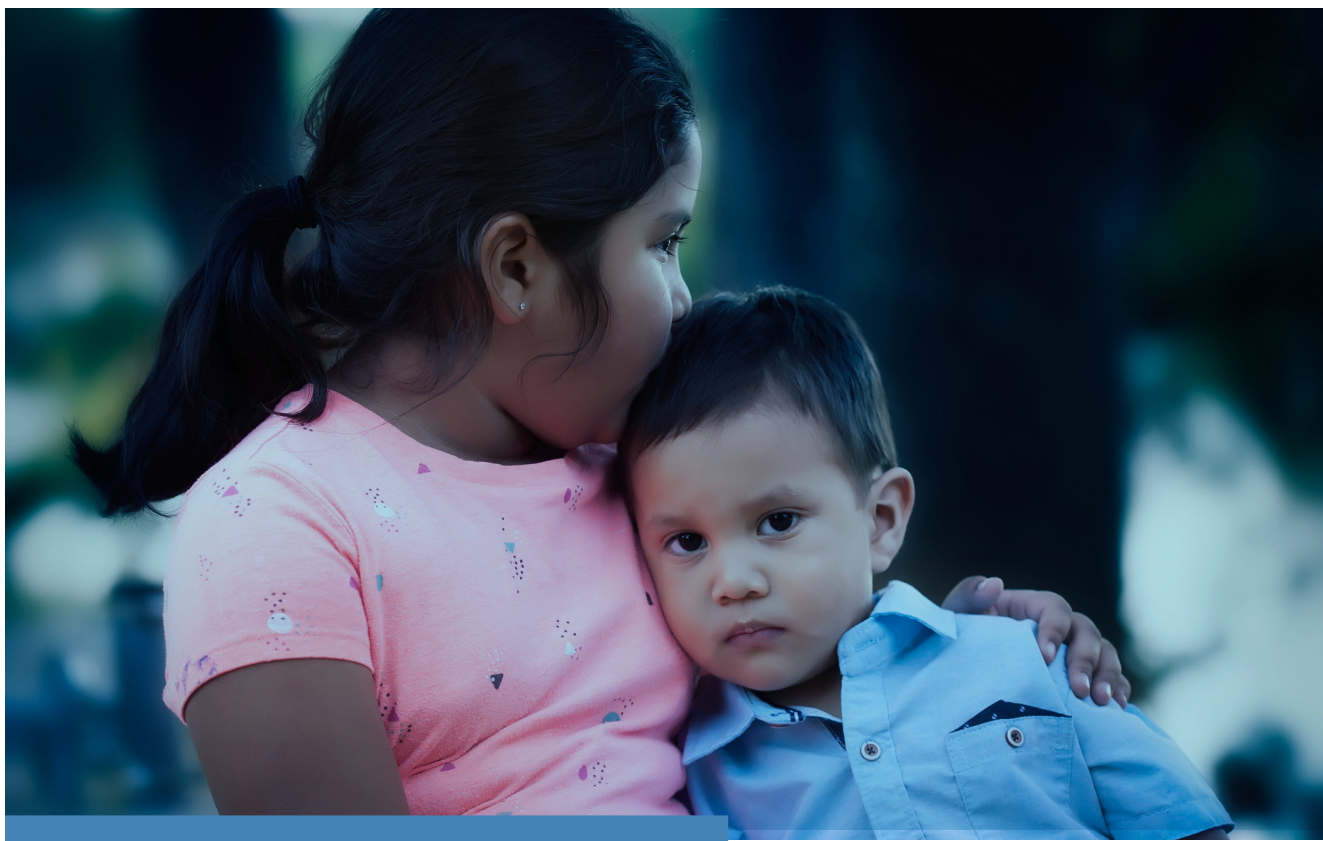
Child welfare agencies can sign law enforcement certifications for U-Visa applicants because they have authority to detect and investigate criminal activity. See 8 C.F.R. §§ 214.14(a)(2), (a)(5). 8 CFR §§ 214.14(a)(2) & (a)(5). The child welfare agency should designate a point-person for responding to U-Visa certification requests. The point-person should be someone in a supervisory role who has been specifically designated by the head of the certifying agency to issue U nonimmigrant status certifications on behalf of that agency. In a child welfare agency, this is often a social worker in a supervisory role with immigration expertise. A sample policy is available in **Appendix D**.

ESTABLISHING COMMUNITY REFERRALS TO IMMIGRATION LEGAL SERVICES

It is imperative that social workers and/or dependency attorneys connect noncitizen dependent children and noncitizen parents to immigration legal services providers. It is best practice for the child welfare agencies to have an established referral relationship with an immigration legal services provider for dependent children and family members so that a direct referral can be made. For a list of non-profit legal service providers in the area, go to the Immigration Advocates Network website: <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>. As a best practice, child

welfare workers should consider not only the relief options available directly to children, but also the relief available to parents, since children can derive certain forms of status from their parents, and legal status for the parents can provide greater stability for children and families. When addressing a parent or other caregiver regarding their own immigration status, remember to clearly state that you do not work with or for federal immigration enforcement, fully explain confidentiality, and provide the reason you are asking for the information.

VIII. WORKING WITH DETAINED OR DEPORTED PARENTS



LOCATING PARENTS IN IMMIGRATION DETENTION

When conducting absent parent searches, ICE detention facilities should be included in the search. ICE operates detention facilities all over the nation, and parents are not necessarily detained close to where they were apprehended or where their children live – though it is possible and advisable to advocate that they should be using the ICE Directive on Detention and Removal of Alien Parents or Legal Guardians, ICE Policy Number 11064.2, discussed below. ICE also

frequently transfers individuals between facilities for its own, often undisclosed, reasons without providing notice to the individual or their family. This can make it very difficult to locate parents in ICE detention. If you are working on a case in which a parent has been detained by ICE, but the parent's whereabouts are unknown, try the following strategies, discussed in greater detail below, to locate them: a) use the ICE Online Detainee Locator system, b) contact the consulate, and c) contact family members.

a) Employ the ICE Online Detainee Locator (<https://locator.ice.gov/odls/#/index>)

This website can be used to locate an individual if the individual's A# and country of birth is known. The A# ("alien number") is the nine-digit number that immigration authorities assign each person and that will be reflected on each immigration-related document for that person. If you do not know the A#, you can also search by first and last name and country of birth. If you know the parent's date of birth, that can also be helpful. Note that you must have the first and last name exactly as ICE entered them in its system, which can be challenging since ICE often makes spelling mistakes when it documents names. If a parent has two last names – a common custom in many Latin American countries – it is best practice to search each last name individually as ICE commonly will designate one of the last names as a middle name instead.

b) Contact the Consulate

The consulate for the parent's country of nationality can be a great resource in locating a detained parent. Consulates are supposed to be advised when any of their nationals who are detained in immigration detention and also get special access to their nationals while in detention. Call the consulate closest to your area for the detained parent's country of nationality and, keeping confidentiality concerns in mind, share the parent's biographical information. Also, let the consulate know that the parent has an open child welfare case in which the parent could possibly lose

his or her parental rights, making it extremely important that you are able to get in touch with the parent as soon as possible.

If you are working with clients whose family is likely to or already has submitted an asylum petition, please exercise caution with what information you share as it could have adverse consequences on the client's claim. See Section XI for more information.

c) Contact Family Members

Typically, a parent who is detained by ICE will be allowed a telephone call to alert his or her immigration attorney or family about their detention. Reach out to any family members who may have information about the parent's whereabouts and emphasize your role in trying to ensure the parent has continuing contact with their child.

UNIQUE CHALLENGES FOR DETAINED AND DEPORTED PARENTS

All parents whose children are in the child welfare system must comply with numerous requirements to have their children returned to their care. For detained or deported parents, the obstacles to complying with such requirements are especially significant and consequential. To begin with, basic understanding of the immigration system is not common knowledge within child welfare systems. Many child welfare workers, attorneys, and judges are unfamiliar with the extraordinarily complex immigration system. A lack of understanding may negatively influence the way a child's case is handled. For example, a child welfare worker may assume that an individual must be involved in criminal activity in order to be detained or deported by ICE. However, undocumented individuals may be detained or deported for a variety of reasons, including simple civil immigration issues unrelated to their parental fitness or any criminal activity. This lack of understanding regarding the reasons a parent might be detained or deported may impact the way a child welfare professional views the parent, which in turn can impact the way the case is treated.⁴⁸

Additionally, detained or deported parents face unique challenges related to a) their ability to participate in child welfare

proceedings, b) ability to comply with family reunification services, and c) divergent timelines of the immigration and child welfare systems. Each is discussed further below.

Ability to Participate in Child Welfare Proceedings

Detained or deported parents may not receive timely notification of a dependency court petition or hearing. Even if properly notified, parents' confinement in ICE detention or location abroad may render them unable to attend the dependency court hearings. Parents may lack appointed counsel, or they may lack the ability to regularly or effectively communicate with their appointed counsel due to their detention or location abroad. Dependency court judges may mistakenly interpret a parent's absence in court as a lack of commitment to their child instead of as an unavoidable result of their circumstances.

Compliance with Family Reunification Services

The family reunification plan typically requires parents or guardians to engage in therapy, rehabilitation, or other services with the goal of regaining custody of the child. A lack of understanding regarding barriers faced by detained or deported parents can lead professionals to create family reunification plans that may not be feasible for parents. ICE detention can significantly impede communication and visitation between parents and children. If they have

48 Applied Research Ctr., *Shattered Families: The Perilous Intersection of Immigrant Enforcement and the Child Welfare System* (2011), available at <https://www.raceforward.org/research/reports/shattered-families>; see also Children's Bureau, Child Welfare Information Gateway, Dep't of Health & Hum. Servs. *Immigration and Child Welfare* (2015), available at <https://www.childwelfare.gov/pubPDFs/immigration.pdf>.

been detained or deported, parents may not be able to complete typical requirements for family reunification such as visiting with their children or completing required parenting classes.

Divergent Timelines of the Immigration and Child Welfare Systems

Immigration courts and dependency courts operate on drastically different timelines. Federal law requires dependency courts to adhere to a strict and rapid timeline in which to provide services, evaluate whether reunification is in the best interests of the child, and create a permanency plan for dependent youth. The immigration process, however, is notoriously and increasingly slow due to a growing backlog of cases. This lack of alignment between the systems can prejudice detained parents whose immigration cases are not resolved within the timeframe that the decisions about termination of parental rights are made.

California's Reuniting Immigrant Families Act (SB 1064 or the Act)⁴⁹ was enacted as a response to these issues. It sought to create uniform, statewide policies and practices that eliminate family reunification barriers in the child welfare system for immigrant families. This legislation recognizes that, like parents who are incarcerated or institutionalized, parents who are detained or deported face

unique barriers to receiving services, visitation, and adhering to the typical reunification timeline.

REQUIREMENTS OF CALIFORNIA LAW⁵⁰

SB 1064, enacted September 30, 2012, is the nation's first law addressing the reunification barriers faced by many immigrant families involved with the child welfare system. The law clarifies that maintaining children's ties to their families remains the priority despite barriers imposed by immigration status, including immigration detention and deportation. The five major areas addressed by the Act are detailed below. For more information, see Cal. Dep't of Soc. Servs., *All County Letter No. 14-21* (Mar. 19, 2014), available at <http://www.cdss.ca.gov/Portals/9/lettersnotices/ACL/2014/14-21.pdf?ver=2014-03-20-150858-000>.

Reasonable Efforts

The Act recognizes that deported or detained parents may have limited access to services, barriers to visitation, or difficulty completing other case plan tasks required by the agency or court.⁵¹ SB 1064 requires that reasonable efforts must be provided to help reunify a family after the court and agency consider the particular barriers a detained or deported parent faces in accessing services and

⁴⁹ S.B. 1064, 2012 Leg. (Cal. 2012). See discussion *infra* Part 6.3.

⁵⁰ This section was adapted with permission from the authors. American Bar Association's Center on Children and the Law & ILRC, *The Reuniting Immigrant Families Act* (SB 1064), (Aug. 26, 2014) available at <https://www.ilrc.org/reuniting-immigrant-families-act-sb-1064>.

⁵¹ Cal. Welf. & Inst. § 361.5(a)(3).

maintaining contact with the child.⁵²

In particular, the agency's reasonable efforts to assist deported parents in reunifying with their children may include: helping deported parents contact their country's child welfare authorities; identifying services in their country that can assist them in meeting case plan goals; documenting the parents' participation in those services; and accepting reports from local child welfare authorities regarding the parent's living situation, progress, and participation in services.⁵³

For detained parents, among other efforts, the agency should, where appropriate, facilitate: phone calls between parents and children; visitation; transportation; and services for family members who could care for the child.⁵⁴ This will require coordinating with ICE, as discussed in Section 5 below. In addition, a detained parent may only be required to "attend counseling, parenting classes, or vocational training programs," if they have access to the services in the facility where they are detained.⁵⁵

Extended Reunification Periods

Prior to passage of SB 1064, California courts could extend the statutory reunification period based on compelling reasons and allow the county agency to continue to pursue reunification. These reasons included certain listed circumstances of parents, such as where a parent is incarcerated,

institutionalized, or in a court-ordered residential substance abuse treatment program. SB 1064 broadened this list of circumstances to include parents who have been detained or deported by U.S. immigration authorities.⁵⁶ It provides options for extended reunification timelines at four distinct times: 1) at initial disposition; 2) up to 12 months in care; 3) at 12 months in care; and 4) at 18 months in care.

- **At Initial Disposition:** The Act provides that courts will ensure that reunification services are provided for detained parents unless evidence is presented that services would be detrimental to the child, and that reunification services are provided for deported parents, including efforts made to identify services in their home country and acceptance of reports from foreign child welfare authorities regarding parental progress.
- **Up to 12 Months in Care:** SB 1064 added that the court will consider any barriers imposed by deportation or detention to visiting or completing case plan goals in hearing a motion to stop reunification services.
- **At 12 Months in Care:** At the 12-month permanency hearing, the court may extend reunification services for six months if: 1) there is a "substantial probability" that the child will be returned during the time period, or 2) if "reasonable services

⁵² *Id.* § 361.5(e)(1).

⁵³ *Id.* § 361.5(e)(1)(E).

⁵⁴ *Id.* § 361.5(e)(1).

⁵⁵ *Id.* § 361.5(e)(1).

⁵⁶ *Id.* §§ 361.5(a)(3) & (4); 366.21(g)(2); 366.22(b).

have not been provided to the parent.” The court may consider in this decision any immigration-related barriers to completing case plan tasks as well as good faith efforts the parent has made to maintain contact with the child.⁵⁷

- **At 18 Months in Care:** If reunification services have been provided for 18 months and the child remains out of the parent’s custody, the court may extend services for an additional six months if: 1) the parent was recently discharged from detention or has been deported, and is making significant and consistent progress, and 2) there is a substantial probability the child will be returned during the extended period.⁵⁸

Placement with Undocumented Relatives

The Act makes clear that the immigration status of a parent or relative alone cannot be a barrier to placement of the child with that person, including:

- Release of the child to a parent, guardian, or responsible adult after the state takes temporary custody;
- Placement or custody with a non-custodial parent for a child removed in a dependency case; and
- Placement in the care of a responsible relative for a child removed from the custody of their parents in a dependency case.
- Additionally, a child removed from the custody of his or her parents may

be placed with a relative outside the United States if the court finds, upon clear and convincing evidence, that placement to be in the best interest of the child.

SB 1064 includes other provisions to facilitate the involvement of immigrant relatives in dependent children’s cases. First, a relative’s request for the child to be placed with them is always due preferential consideration by the child welfare agency, regardless of the relative’s immigration status. Second, and importantly, the child welfare agency may use the relative’s foreign passport or consular ID card as a valid form of identification to initiate the criminal records check and fingerprint clearance check required for placement determinations. Third, the child welfare agency must give a relative caregiver information about the permanency options of guardianship and adoption, regardless of the caregiver’s immigration status.

Memoranda of Understanding (“MOU”) with Consulates

SB 1064 requires DSS to provide guidance to county agencies on creating MOUs (i.e. written agreements) with foreign consulates to help facilitate cooperation regarding children in the California child welfare system. These MOUs are relevant in juvenile court cases in which a parent has been detained by DHS or has been deported to their country of origin. It does not require

⁵⁷ Id. §§ 361.5(a)(3) & 366.21(g).

⁵⁸ Id. § 366.22(b).

that counties enter into such MOUs, but if counties choose to do so, the MOUs must include, at minimum, procedures for:

- Contacting the foreign consulate at the beginning of a juvenile court case;
- Accessing documentation for the child;
- Locating a detained parent;
- Facilitating family reunification after the parent has been deported;
- Aiding the safe transfer of a child to the parent's country of origin;
- Allowing reports from the foreign child welfare authorities documenting the parent's living situation; and
- Allowing reports from the foreign child welfare authorities documenting the parent's participation in service plans in the country of origin that comply with county case plan requirements.

As an example, see the MOU between San Francisco's Human Services Agency and the Consulate General of Mexico, at **Appendix E**.

Immigration Relief Options

The Act requires DSS to provide guidance to child welfare agencies on assisting children eligible to apply for certain immigration legal relief options, including Special Immigrant Juvenile Status (SIJS), T- and U-Visas, and the Violence Against Women Act.

The implementation of this provision has been limited, although DSS has created a website with some information: <http://www.cdss.ca.gov/inforesources/Foster-Care/SB-1064>. For further information, see the SIJS Policy in **Appendix C**.

ADDITIONAL BEST PRACTICES FOR WORKING WITH DETAINED OR DEPORTED PARENTS

There are many concrete steps that child welfare agencies can take to minimize, if not entirely eliminate, the barriers that detained or deported parents face. The following are examples of how child welfare workers can ensure that detained or deported parents have the support they need to successfully engage in their child's dependency case.

1. Ensure that detained parents are given sufficient notice of their child's dependency proceedings.
2. Ensure that detained or deported parents are kept apprised of their child's short-term and long-term case timelines.
3. Ensure that detained or deported parents can meaningfully participate in their child's dependency proceedings.
 - ◊ Support detained or deported parents in being physically present in court for their child's dependency proceedings. See **Appendix F**: Sample Border Crossing Permission Process. See **Appendix G**: Sample Monitored Visitation Process. See Section VI: Working with Detained or Deported Parents, Subsection 3: SB 1064 Requirements, Reasonable efforts.
 - ◊ Support detained or deported parents in participating in court dependency proceedings via telephone or video-conference technology.

- ◊ See Section VI: Working with Detained or Deported Parents, Subsection 3: SB 1064 Requirements, Reasonable efforts.
- 4. Ensure that detained or deported parents have the language supports they need and to which they are entitled.
 - ◊ See **Appendix A:** Identifying the Client's Language Needs
- 5. Create family reunification plans that are feasible for detained or deported parents to complete.
 - ◊ Ensure that detained parents are able to participate in visitation with their child.
 - ◊ See Section VI: Working with Detained or Deported Parents, Subsection 3: SB 1064 Requirements, Reasonable Efforts.
- 6. Ensure that detained parents have access to quality legal services. Visit <https://www.immigrationlawhelp.org> to find a trusted legal services provider in your area.
- 7. Pursue international placement if it is in the best interests of the child.
 - ◊ See **Appendix H:** Sample Process for Placing Children Outside of the Country.

ICE DETAINED PARENTS DIRECTIVE

In 2013, ICE issued a directive regarding parental interests that set forth its general policy that ICE personnel ensure that the agency's immigration enforcement activities do not unnecessarily disrupt parental rights and the rights of legal guardians.⁵⁹ However, this policy was replaced by the Trump Administration in 2017 with a policy that is less protective of parents facing immigration enforcement.⁶⁰ Agencies should familiarize themselves with the 2017 Detained Parents Directive and request that ICE comply with the 2017 Directive's provisions in cases where the detention of a parent or legal guardian affects that individual's ability to care for or maintain a relationship with their child(ren), preserve their parental rights, and/or make arrangements for what will happen to children in the event the parent or legal guardian is deported. The Detained Parents Directive can be used as an advocacy tool by child welfare workers and parents' attorneys to ensure that parents in ICE detention are able to participate in dependency proceedings and comply with reunification services.

The 2017 Detained Parents Directive directs ICE to do the following:

1. If minor children are encountered during ICE enforcement actions, ICE should

⁵⁹ U.S. Immigration & Customs Enforcement, 11064.1: Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities, (Aug. 23, 2013), available at https://cis.org/sites/default/files/Parental_Interest_Directive_8-23-13.pdf

⁶⁰ U.S. Immigration & Customs Enforcement, 11064.2: Detention and Removal of Alien Parents or Legal Guardians (Aug. 29, 2017), available at <https://www.ice.gov/doclib/detention-reform/pdf/directiveDetainedParents.pdf>.

not take custody of children unless they are deportable; ICE should allow parents/guardians to make alternate care arrangements for minor children, unless there are indications of child abuse or neglect; and if alternate care arrangements cannot be made or if there are indications of abuse or neglect, ICE should contact the local child welfare authority or law enforcement to take custody of minor children.

2. When making initial detention placement decisions and subsequent transfers of parents and guardians, ICE should detain parents and guardians in the same area where they were initially arrested if their minor children, family court proceedings, or child welfare proceedings are within the initial area of apprehension. ICE should do this unless it is deemed “operationally necessary and otherwise consistent with applicable ICE policies” to detain the parent or guardian elsewhere. Note that ICE will not typically detain people locally, so this will require some advocacy to convince ICE to detain people close to home or transfer them back to the initial area where they were detained if they have already been moved away. The Department should assertively advocate with ICE for the local detention of a parent or guardian if it is in the best interest of the child. This will include contacting ICE (as discussed below, and pursuing multiple channels of communication if necessary), explaining that the parent has an open child

welfare case that could result in loss of parental rights if the parent is unable to participate (keeping confidentiality concerns in mind), and requesting that the parent be transferred to the closest ICE detention facility to minimize barriers to the parent’s participation. A map of ICE’s detention facilities can be found at <https://www.ice.gov/detention-facilities>.

3. When detained parents have active family court or child welfare proceedings, ICE should facilitate parents’ participation. ICE must, if practicable, arrange for detained parents and guardians to appear in-person at family court or child welfare proceedings when the detained parent or guardian’s presence is required to maintain or regain custody of minor children, and:
 - ◊ The parent, legal guardian or attorney timely requests with reasonable notice an opportunity to participate in such hearings;
 - ◊ The detained parent, guardian, or attorney has produced evidence of family court or child welfare proceeding, e.g., notice of hearing, scheduling letter, court order, or other such documentation;
 - ◊ The family court or child welfare proceedings are located within a reasonable driving distance from detention facility;
 - ◊ Transportation and escort of the detained parent/guardian would not be unduly burdensome on ICE

Field Office operations; and

- ◊ Such transportation and/or escort does not present security and/or public safety concerns.

If that is impractical, ICE should accommodate the detained parent/guardian's appearance/participation through video or teleconference from the detention facility or field office to the extent it is technologically feasible and approved by the family court or child welfare authority.

4. When a parent is detained, ICE must facilitate regular visitation between detained parents or guardians and minor children. Even if the ICE facility where a parent is detained does not allow visits by minors, ICE must arrange for the minor children to visit the detained parent within the first 30 days of detention. This includes step-children, foster children, and children by virtue of a guardianship. Following that, upon request, ICE must consider transferring the parent or guardian to a facility that allows visitation. If that transfer is not approved, ICE must continue to arrange for monthly visits. If parent-child visitation is required by the court or Department in order for the parent or guardian to maintain or regain custody of children, and proof of that requirement is provided by the parent or guardian, or their attorney, family member, or other representative, ICE must facilitate visitation (to the extent practicable), which may include contact visits. If in-person visitation is not practicable, video or standard teleconferencing may be used if approved by the court.

5. When a parent or guardian is actually being deported, ICE should accommodate the parent's efforts to make arrangements for their minor children. This may include allowing the parent or guardian to arrange for guardianship for the minor children, thus allowing the children to remain in the U.S., or to obtain travel documents for the minor children to accompany the parent to his or her country of removal. To do so, ICE must (to the extent practicable) afford parents and guardians access to legal counsel, consulates, courts, and/or family members in the weeks preceding their removal so that parents may execute any necessary documents, purchase airline tickets, and make other necessary preparations prior to removal.

Using the Detained Parents Directive as an Advocacy Tool with ICE

Social workers and parents' attorneys can use the ICE Directive to advocate that ICE should:

- Detain parents close to their children and child welfare proceedings;
- Arrange for detained parents to attend court hearings; and
- Facilitate regular visitation between detained parents and children.

A sample form for contacting ICE can be found in **Appendix J**.

How to Contact ICE:

Anyone may contact ICE on parental interests matters, including but not limited to: detained parents, legal guardians or primary caretakers of minor children in the United States; family or child welfare court officials; social workers or other child welfare authorities; immigration attorneys; family law attorneys; and other child welfare or immigration advocates. Prior to contacting ICE headquarters about a parental interest concern or question, you should first try to resolve your request or concern at the field office through one of the field points of contact. The field points of contact for California are:

- Steve Hottya;
Stephen.L.Hottya@ice.dhs.gov;
(213) 830-5918;
Area of Responsibility: Los Angeles Metropolitan Area, Central Coast
- Gabriela Pacheco;
Gabriela.B.Pacheco@ice.dhs.gov;
(760) 768-6307;
Area of Responsibility: San Diego and Imperial County
- April Jacques;
April.Jacques@ice.dhs.gov;
(415) 844-5542;
Area of Responsibility: Northern California, Hawaii, and Guam

If the local contacts are not responsive, email Parental.Interests@ice.dhs.gov.

You can also contact ICE Headquarters by calling the ICE Detention Reporting and Information Line at 1-888-351-4024 during

regular business hours, 8 a.m. to 8 p.m. EST, Monday through Friday. State that your request is a "Parental Interests Inquiry."

PLACING CHILDREN ABROAD

Child welfare workers may need to travel abroad to accompany a dependent child for a variety of reasons including:

- Placement of a child with relative/pre-placement visit;
- Reunifying children with parents;
- Placement failures after child is placed with relatives abroad; or
- Trial return home.

Many child welfare agencies have Memorandums of Understanding (i.e. written agreements) with local Consulate offices. For example, the Consulate General of Mexico in San Francisco, through its Memorandum of Understanding, is committed to assisting the San Francisco Human Services Agency in placing children in Mexico. Even if an agency does not permit its child welfare workers to travel abroad, contacting the local Consulate may still be very helpful.

Consulates can help with obtaining pre-placement home studies, conducting parent or relative searches, locating service providers and special services to meet the needs of a child and/or family, and assisting in establishing dual citizenship status for a child. Consulates can also help child welfare workers obtain official documents such as birth certificates and presumption of nationality documents. Mexican Consulates

can assist with obtaining a matricula consular, a form of identification issued to Mexican nationals living abroad.

For a comprehensive protocol on placing children in Mexico, see **Appendix H: Sample Process for Placing Children Outside of the Country**. Relationships between child welfare agencies and other foreign consulates will depend on the country. See Section XI for more information on working with consulates and embassies.

IX. Confidentiality & Information-Sharing Policies

Client records and information, whether in electronic or hard copy form, are confidential and, in general, are not open for examination for any purpose unrelated to the administration of agency programs and/or provision of services to the client. Select access to client records by third parties may be authorized by court order.⁶¹

Child welfare workers should only ask clients about immigration status if a program or service to which the child welfare agency wishes to refer that client makes eligibility determinations based on immigration status or when an inquiry is necessary for reimbursement purposes. This may include, for example, services offered by consulates and non-profit legal services.

⁶¹ Cal. Welf. & Inst. Code § 827.

X. PRUCOL

Information obtained by the child welfare agency, including immigration status of family members, is confidential. Further, child welfare workers shall not disclose immigration status information to DHS or any person or agency absent authorization from a juvenile court. Permanently Residing Under Color of Law (PRUCOL) is a benefit eligibility category that can promote the continued well-being of certain noncitizen children who are in foster care by allowing them to qualify for certain benefits and assistance. The intent of PRUCOL is to identify certain noncitizens who

are in the United States “under color of law” for purposes of benefit eligibility. This requires that USCIS is aware of the child’s presence in the United States and not actively seeking their removal. PRUCOL is not an immigration status and being identified as PRUCOL for benefits purposes does not affect a person’s immigration status. For a complete policy on PRUCOL, see **Appendix I**.

XI. WORKING WITH FOREIGN CONSULATES AND EMBASSIES

NOTIFICATION TO FOREIGN CONSULATES

The Vienna Convention on Consular Relations (“Vienna Convention”) provides for consular notification of and access to cases where foreign nationals are involved in legal proceedings.⁶² This treaty establishes the right of representatives or agents of any embassy or consulate of a foreign government to freely communicate with, and have access to, their country’s nationals without interference from the host state.

To provide the protections afforded to children and families by the Vienna Convention and all other applicable treaties and laws, it is important to identify whether children and parents are citizens of another country as early as possible. Involving the foreign consulate from the beginning can ensure that families are appropriately represented and prevent delays when considering options for permanency.

Pursuant to Article 37 of the Vienna Convention, child welfare agencies should ensure that all children or parents who are citizens of another country are connected to the appropriate foreign consulate.

⁶² United Nations, *Vienna Convention on Consular Relations*, April 24, 1963, available at <https://www.refworld.org/docid/3ae6b3648.html>

WARNING ABOUT ASYLUM-SEEKING PARENTS

If parents are seeking asylum, caution should be exercised prior to contacting a consulate or embassy due to the potential impact this inquiry may have upon the client and his or her family, who may still reside in the country of origin. For example, when applying for asylum, individuals should be very careful about contacting their consulate because an asylum request is based on an allegation of either government-perpetrated persecution, or persecution that the government was unwilling or unable to protect against, so there may be government retaliation upon learning of the asylum petition. The best practice is to inform the client of consenting age of any possible implications of contacting a consulate or embassy and get the client's permission prior to initiating contact. U.S. State Department guidance warns that agencies should never reveal to consulates when a child has an application for asylum or withholding of removal.⁶³

DUAL CITIZENSHIP

A child who is a citizen of the United States and also another country may be treated exclusively as a U.S. citizen when in the United States. Consular notification is not required if the child is a U.S. citizen, even if

the child's other country of citizenship is a mandatory notification country. Although consular notification is not required for a U.S.-born child with dual citizenship, Memorandums of Understanding between Consulates and child welfare agencies may nonetheless require consular notification in such cases.

CONFIDENTIALITY OF CASE RECORDS

A consulate may come to court to request permission to attend a juvenile dependency hearing. However, the consulate is not a party to the matter and may not receive documents from the case file, including court reports, without approval from the court.⁶⁴ Under Welfare and Institutions Code Section 827(a)(1)(P), individuals and agencies not specifically authorized to inspect or receive copies of a juvenile case file may obtain access by petitioning the juvenile court and obtaining a juvenile court order.⁶⁵ The process for obtaining a court order is stated in the court rules.⁶⁶ If parents wish to share case records and information with a consulate, they may sign a written release giving permission for the child welfare agency to share this information with the consulate.

⁶³ See U.S. Dep't State, *Consular Notification and Access, Fifth Edition* (Sept. 2018), available at https://travel.state.gov/content/dam/travel/CNAtrainingresources/CNA%20Manual%205th%20Edition_September%202018.pdf.

⁶⁴ See Cal. Welf. & Inst. Code § 827.

⁶⁵ See Cal. R. Ct. 5.552(b)(3), (c).

⁶⁶ See *id.* at 5.552(e).

ADDITIONAL CONSULAR SERVICES

Once notified of a dependency case, consulates may provide a range of services to children, parents, and child welfare staff. For example, the Consulate General of Mexico in San Francisco is committed to assisting the San Francisco Human Services Agency with obtaining identification documents such as birth certificates, locating parents in Mexico, carrying out home studies abroad, and obtaining supervisory reports of out-of-country placements.

Consulates may also assist in locating any other information needed to assist appropriate determination of placement for the minor's best interests, which could include assisting with criminal records requests or obtaining certain country-specific identification documents. It is important to note that consulates are not required to provide translations of requested documents.

XII. ADDITIONAL RESOURCES FOR CHILD WELFARE WORKERS

1. Family Preparedness Planning:

- Immigrant Legal Resource Center, *Family Preparedness Plan* (2017), available at <https://www.ilrc.org/family-preparedness-plan>; *Step-by-Step Family Preparedness Plan* (2018), available at <https://www.ilrc.org/step-step-family-preparedness-plan>.
- (Spanish Translation) Immigrant Legal Resource Center, *Plan de Preparación Familiar* (2017), available at <https://www.ilrc.org/plan-de-preparacion-familiar>.

2. Know Your Rights Information for Children and Parents:

- Immigrant Legal Resource Center, *Know Your Rights and What Should Immigrant Families Do Now* (2017), available at <https://www.ilrc.org/know-your-rights-and-what-immigrant-families-should-do-now>.
- Immigrant Legal Resource Center, *Using Your Red Cards* (2017), available at <https://www.ilrc.org/using-your-red-cards>.

3. Immigration Relief Options:

- Immigrant Legal Resource Center, *Immigration Options for Undocumented Children* (2018), available at <https://www.ilrc.org/immigration-options-undocumented-immigrant-children>.

4. Public Charge:

- Immigrant Legal Resource Center, *Public Charge*, available at <https://www.ilrc.org/public-charge>.
- National Immigration Law Center, *Public Charge*, available at <https://www.nilc.org/issues/economic-support/pubcharge/>.

5. Social Worker Toolkits for Working with Immigrant Families:

- Center on Immigration and Child Welfare, *Toolkits, Handbooks, Guides & Books*, available at <http://cimmcw.org/resources/training-tools/toolkits-handbooks-guides-books/>

6. Case Studies of Immigrant Families in the Child Welfare System:

- ABA Center on Children and the Law, *Immigrants in the Child Welfare System* (2018), available at https://www.americanbar.org/content/dam/aba/administrative/child_law/Immigration%20in%20CWS%20Case%20Studies_final.authcheckdam.pdf.

7. Cultural Engagement:

- Center for Advanced Studies in Child Welfare, *Latino Cultural Guide: Building Capacity to Strengthen the Well-Being of Immigrant Families and Their Children: A Prevention Strategy* (2014), available at <http://cascw.umn.edu/wp-content/uploads/2014/02/CulturalGuide-Latino.pdf>.
- National Center for Mental Health Promotion and Youth Violence Prevention, *Strategies for Engaging Immigrant and Refugee Families* (2011), available at http://crisisresponse.promoteprevent.org/sites/default/files/root/strategies_for_engaging_immigrant_and_refugee_families.pdf.

8. Resources for Detained Parents Searching for Children in the Child Welfare System:

- Women's Refugee Commission, *Resources for Families Facing Deportation and Separation*, available at <https://www.womensrefugeecommission.org/rights/resources/1409-resources-for-families-facing-deportation-separation>.

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APPENDIX A: IDENTIFYING THE CLIENT'S LANGUAGE NEEDS

Identifying the Client's Language Needs

Department of Family & Children's Services Social
Services Agency
Santa Clara County

Section 2-4

Overview

This policy provides guidelines and procedures of identifying client language needs.

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Available at: https://www.sccgov.org/sites/ssa/dfcs/opp2/02_assess/2-4.html

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Assessments and In-Person Responses

2-4 Identifying the Client's Language Needs





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Reference Points

Effective Date: 11/1/06

Last Updated: 2/17/11

Legal Basis:

-  [California Department of Social Services \(CDSS\) Manual of Policies and Procedures \(MPP\) Division 21 § 115-201](#)
-  [All County Letter \(ACL\) 08-65: Documentation of Interpretive Services](#)
-  [All County Letter \(ACL\) 03-56: Requirements for Language Services](#)
-  [All County Information Notice 1-09-06: Use of California Department of Social Services \(CDSS\) Translated Forms and Documentation of Services Provided to Non-English/Limited-English-Speaking Applicants/Recipients and Disabled Applicants/Recipients](#)

Overview

Under State regulations, the Department of Family and Children's Services (DFCS) is required ask clients their preferred language for oral and written communication and to document the preferred language(s) in the clients' case files. Further, for clients who are non or limited English-speaking, the Department must offer and provide interpreter services, upon request, in the language the clients have specified for oral communication and must provide written documents in the language of the clients' preferences, whenever available. Clients are not prohibited from providing their own interpreter, though the Department cannot require them to do so. It is prohibited to use minor children as interpreters and, as a Department policy, there are no exceptions to this prohibition. These regulations are in compliance with Title VI of the Civil Rights Act.

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How Is a Primary Language Determined

The primary language of a case is based upon the ability of all persons involved in the referral/case to communicate effectively with the social worker. The language of individuals connected with the case is established by using the Primary Language Designation Form (SCZ 225). The social worker shall determine the primary language of each case by having the parent/guardian/relative caregiver indicate their agreement or disagreement with the language designation on the SCZ 225. If the child does not have a parent/guardian/relative caregiver, the child may sign for himself/herself.

DFCS assigns referrals and cases involving persons whose primary language is other than English to social workers who speak the language of the clients.

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Who Must Be

Generally, any person with whom the social worker needs to communicate about the case

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Considered

plan or program services must sign a Primary Language Designation Form. This would include:

- Parents
- Child
- Relative caregivers
 - New relative caregivers must sign an SCZ 225 every time the child is placed in a new relative home.
- New person added to the case plan who does not have the same primary language as the other members of the case plan.

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CANC Social Worker's Role

To begin the process of identifying the clients' language needs, the CANC social worker:

- **Asks** the reporting party what language each person involved with the referral speaks.
- **Lists** each person's primary language in his/her ID Page in their CWS/CMS Client Notebook by selecting the correct language from the drop-down menu.
- **Writes** the language spoken by the family in the Screener Narrative, if any client in the referral does not speak English as a primary language or has limited English-speaking abilities.
 - Also document in the Screener Narrative the presence of any visual and hearing disabilities that exist for any of the clients in the referral.

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Assigning the Referral

In assigning the referral, the CANC social worker or ER clerical:

- **Reviews** the Emergency Response Document to identify language needs.
- **Checks** the Screener Alert section of the document and the data fields for each client to establish, on a preliminary basis, the language of the referral.
- **Makes** every possible attempt to assign the referral to a social worker who speaks the primary language of the family.
- If the language is other than one spoken by one of the available IR/ER social workers, and there is no other social worker who speaks the language of the family that is indicated on the referral, **assigns** the referral to the next IR worker or ER unit in line to get a referral.

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Interpreter Assistance

DFCS policy is to assign referrals or cases involving persons whose primary language is other than English to social workers who speak the language of the clients. There are occasions when a social worker is assigned a referral or case in which the worker does not speak the identified language of the family or caretaker. In those cases, the social worker uses assistance from one of the following sources:

- [Interpreter List](#)
 - Complete the Interpreter/Translation Services (SC1257) request form.

https://www.sccgov.org/sites/ssa/dfcs/opp2/02_assess/2-4.html

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- Follow [Instructions for using the \(SC1257\)](#).
- Telephone assisted interpreter (See [OPP Chapter 2-4.1: Language Line](#)).
 - Language Line is the current service with which DFCS has contracted for telephone assisted translation. Customers of Language Line have access to over-the-phone interpretation 24 hours a day, 7 days a week.
- Another DFCS employee who is certified in the language spoken by the client, caretaker, etc., if the other employee voluntarily agrees to assist.
- Person chosen by the client to assist with translation.
 - DFCS cannot require a client to provide his/her own interpreter, but some clients may prefer to use someone they know to translate.
 - The social worker is required to inform the client/caregiver providing his or her own interpreter of potential problems for ineffective communication caused by using his or her own interpreter.
 - If a client provides his/her own interpreter, the client must sign a Release of Information (SC 1029) to indicate that he/she gives permission for the interpreter to hear confidential information that may be discussed during the interview.
 - By Department policy it is prohibited to use children as interpreters.

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Considerations When a Client- Provided Interpreter Is Used

When a client provided interpreter is used, the social worker:

- Takes reasonable steps to ascertain that client-provided interpreter is not only competent in the circumstances but is also appropriate in light of the circumstances and subject matter.
- The client-provided interpreter is capable of interpreting the information.
- If concerned that the client-provided interpreter is not accurately and effectively translating conversations or is inappropriate, given the circumstances of the interview, arranges for a departmental qualified interpreter to assist.

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The Initial Face-to-Face Contact with the Family

Upon meeting with a family the social worker:

- Determines the family's primary language.
- Completes Primary Language Forms (SCZ 225) for each person in the family.
 - Emergency Response and After-Hours social workers should carry the SCZ 225 forms with them for completion with family members.
- Obtains the parents'/guardians' signatures on the SCZ 225 forms.
 - If the parent/guardian refuses to make a self-declaration, the social worker makes a determination regarding the primary language and documents it on the SCZ 225.
- Updates the Client Notebooks in CWS/CMS, if necessary, to reflect the correct language information for each client on the referral/case.

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[< Return to OPP Table of Contents](#) | [^ Back to Top of Page](#)**A Child is Placed with a Relative or a New Family Member is Added to the Case**

A Primary Language Designation Form is completed:

- By the substitute care provider when a child is placed with a relative or moved to a new relative placement.
- When a new family member of speaking age is added to the referral/case (e.g., a father whose whereabouts had been unknown) and the added person is part of the case plan and changes the language designation.

Social worker:

- Makes a determination regarding the primary language and document the language on the SCZ 225, if the relative caregiver or added person refuses to make a self-declaration.
- Creates a new Client Notebook or updates an existing Client Notebook, to reflect the correct language information for each added person on the referral/case.
- Prepares the case for transfer to a social worker who speaks the designated language, if necessary.

Social work supervisor:

- Determines if the case should be transferred to another social worker based upon a new primary language designation.
 - If transfer is necessary:
 - Negotiate the transfer with the social work supervisor to whose unit the case will be transferred.
 - Direct the social worker to prepare the case for transfer.

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The Department is required to maintain case record documentation in sufficient detail to permit a State reviewer to determine the agency's compliance with the requirements of Division 21.

- If the case involves a client or family member who is non-English speaking or has limited English speaking capability, the social worker:
 - Inputs the client's primary language in the Primary Language field in the client's notebook in CWS/CMS.
 - For caregivers, list the language on the Placement/Address Change Form (SCZ 17) for inputting by the Placement Tracking Team (PTT).
 - Documents in the initial Contact in CWS/CMS:
 - The method used to communicate during the contact. For example:
 - Assigned worker is bilingual
 - Other bilingual employee acted as interpreter
 - Telephone assisted interpreter
 - Client provided interpreter.

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It is not necessary to continue to document the method of communication, unless there is a change in the assigned social worker or change in communication method. If a new social worker is assigned to the case, the newly assigned social worker makes an initial documentation to indicate the method of communication.

- When clients provide their own interpreter, the social worker documents in the case record that the client was informed of:
 - The right to free interpretive service without undue delay.
 - The client was informed of the potential problems for ineffective communication, conflict of interest, and inaccurate interpretation.
 - The need to disclose private/confidential information to the interpreter.
 - The right of the client to switch from a client-provided interpreter to a county-provided interpreter anytime.
 - The client signed a Release of Information form.
 - The Release of Information must be maintained in the case file.
 Not a requirement, but good business practice to obtain a signed confidentiality agreement from the interpreter stating that the interpreter agrees to keep information confidential.
- If a person other than a DFCS employee or contract employee serves as an interpreter, e.g. family member or neighbor:
 - Have the interpreter sign a Confidentiality Agreement.
 - File the Confidentiality Agreement in the case file.
- The social worker documents an individual's acceptance or refusal of forms or other written material offered in the individual's primary language.
- Upon obtaining information that identifies a client or caregiver as disabled, each social worker ensures that the case record is so documented.
 - The social worker documents, in writing, a client's or caregiver's request for auxiliary aids and services.

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Other References

-  [Interpreter List](#)
- [OPP Chapter 2-4.1: Language Line](#)

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APPENDIX B: IMMIGRATION RELIEF SCREENING SHEET FOR SOCIAL WORKERS



Screening Questions for Immigrant Youth: Determining Potential Avenues for Legal Status

1. Is the child a U.S. citizen without knowing it?
 - A. Anyone born in the U.S. or Puerto Rico is a citizen, and anyone born in Guam, American Samoa or Swains Island is a national who can't be deported.
 - B. If a person is born outside the U.S., ask two threshold questions to see if the person might automatically be a **U.S. citizen**. If the answer to either might be yes, refer for immigration counseling.
 - Was there a U.S. citizen parent or grandparent at the time of the person's birth? Or,
 - Before the person's 18th birthday, did both of these events happen (in either order): the child became a permanent resident, and at least one natural or adoptive (but not step-) parent having some form of custody over the child is or becomes a U.S. citizen. (Tip: Encourage the parent to become a naturalized U.S. citizen!)
2. Is the child currently under dependency, delinquency, family or probate court jurisdiction where the court has ruled (or could rule) that the child (a) *cannot be reunified with one or both parents* because of abuse, neglect or abandonment or a similar basis under state law and (b) that it would not be in the child's best interest to be returned to the home country? The child may qualify for ***Special Immigrant Juvenile Status***.
 - The child need not be in foster care to be eligible, and may be living with the non-abusive parent.
 - If possible, the child should stay under the jurisdiction of the court until the entire SIJS application is decided, so watch out for youth aging out of the system. If this is not possible, the court should explicitly state that termination of jurisdiction is being done based on age.
3. Has the child been abused by a *U.S. citizen or permanent resident* spouse or parent, including adoptive, natural or stepparent? Has the child's parent been a victim of domestic violence by his/her U.S. citizen or permanent resident spouse? The child may qualify for ***VAWA relief***.
 - Child doesn't need to be under court jurisdiction, and may be residing with the other parent.
 - Child will need to show "good moral character."
4. Has the child been a victim of serious crime, including domestic violence, in the United States, or of human trafficking? The child may qualify for an ***S, T, or U visa***.
5. Does the child have a *U.S. citizen or permanent resident parent or spouse* who is willing to petition for them? The child may qualify for a **family immigration petition**.
 - To immigrate through an adoptive parent the adoption must be completed by the child's 16th birthday. These laws are complicated if the child is from a country that is a signatory to the Hague Convention.
6. Does the child come from a country that has recently experienced *civil war or natural disaster*? Does the child fear return to their home country because of *persecution*? The child may qualify for other forms of relief such as **asylum or temporary protected status**.
7. Did the child enter the U.S. before June 15, 2007 and while under the age of 16? The child might be eligible for **Deferred Action for Childhood Arrivals (DACA)**. DACA's fate is before the U.S. Supreme Court in fall 2019, and renewals, but no new applications, are currently being accepted. See www.ilrc.org/daca.

APPENDIX C: MODEL CHILD WELFARE SIJS POLICY

HSA/FCS Policy Statement	<p>The Human Services Agency (HSA) has the same obligations to noncitizen dependents as it does to citizen dependents, including a legal obligation to search for relatives or Non Relative Extended Family Members (NREFMs) and to provide reunification services.</p> <p>If reunification efforts are not appropriate, or have failed as to at least one parent, then the minor may be eligible for Special Immigrant Juvenile Status (SIJS). It is HSA policy to assist in securing SIJS status for all eligible dependents. A court-appointed immigration attorney, not the Human Services Agency, files SIJS applications on behalf of the minor.</p>
Synopsis	<p>Special Immigrant Juvenile Status (SIJS) is a path to permanent immigration status for youth under age 21 who are dependents of the juvenile court; for whom the court has declared that reunification of the minor with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law; and it is not in the minor's best interests to be returned to his or her country of origin or his or her parent's country of origin. The federal law that governs SIJS is found at 8 USC 1101 (a)(27)(J). This definition of SIJS was enacted on December 23, 2008 by The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Pub. L. No. 110-457, 122 Stat. 5044. Under the definition set forth in the TVPRA, a child may be eligible for SIJS if they are unable to reunify with one parent only; it is no longer a requirement that the child must be eligible for long-term foster care. To go through the SIJS application process, a youth needs to submit two different applications – an initial SIJS application as well as an application for adjustment of status (the process to become a lawful permanent resident, otherwise known as a “green card”). If a child does not qualify for SIJS, see information about other immigration relief options at Section VII.</p> <p>Benefits of SIJS:</p> <ul style="list-style-type: none"> • Youth who qualify for SIJS can seek lawful permanent resident status (a green card). Legal status will permit the child to remain lawfully in the United States and provide eligibility for employment authorization and financial aid. • Many of the grounds of inadmissibility and deportability--the bases for deporting or denying immigration benefits to non-citizens--are waived for SIJS applicants. • Employment authorization can be requested as soon as the application for adjustment of status is filed. This will allow a minor to work until the application is adjudicated, get an official picture identification, and obtain a social security number. <p>Social workers working with children who may be eligible for SIJS should alert the dependent's attorney, who will ensure that the child secures immigration legal counsel.</p>

Requirements for Special Immigrant Juvenile Status	
Requirements	<ol style="list-style-type: none"> 1. The Court must either declare the youth to be a court dependent or must legally commit them to a state department or agency or to an entity or individual appointed by the Court. This includes minors in dependency proceedings, delinquency proceedings, family court custody proceedings, and guardianship through a probate court. 2. In order for a youth to be eligible to apply for SIJS, an order from the Court making certain required findings must be obtained. This special order signed by the Court must find that the court has jurisdiction to make the findings, the youth is a dependent of the court or has been placed in the custody of another agency or individual, that the youth cannot be reunified with one or both parents due to abuse, neglect, abandonment or similar basis under state law, and that it is not in the youth's best interest to return to their country of origin or their parent's country of origin. The JV-357, a Judicial Council form order, must be used. The Court's order should cite to state law in making these findings (e.g. state law on best interests or abuse). The Court's order, or a PSW's report, must provide the specific findings of fact supporting the three findings (of dependency, abuse, neglect or abandonment, and best interests). These specific findings of facts need not be overly detailed, but should include 2-3 sentences of facts supporting each finding, and must reflect that the court made an informed decision. It is preferred that these facts are set forth in the Court's order. It is important that the juvenile court reports are not disclosed (i.e., included in the SIJS packet) as this would violate California confidentiality provisions under Welfare and Institutions Code § 827. 3. The youth must be under the age of 21 when the initial SIJS application is filed with U.S. Citizenship & Immigration Services (USCIS, the federal agency that adjudicates applications for SIJS). USCIS has recently begun to deny SIJS cases in which the state court made the above-listed findings after the youth turned 18. A class action lawsuit has been filed challenging this practice, and immigration experts believe that the practice is incorrect and will ultimately be corrected through the lawsuit. Nonetheless, for the time being, the findings should be requested from the state court prior to the youth turning 18 whenever possible. If this is not possible, it is still best practice to request the SIJS findings from the state court even after the youth has turned 18, but the youth should consult with an experienced immigration attorney prior to filing the application for SIJS with USCIS. The minor's age can be proven with a birth certificate, passport or official foreign identity document issued by a foreign government. 4. The youth must be unmarried until the entire application is processed (i.e. until they receive their green card). The minor may, however, be a parent.

	<p>5. Applicants for SIJS should remain under court jurisdiction, whether in paid or non-paid placement, until the entire immigration application is finally decided and the minor receives the Permanent Resident Card (known as the “green card”). This is important to keep in mind because the immigration process may take months or years, depending on the youth’s country of origin and the complexity of their case.</p> <p>NOTE: In most cases, applications for SIJS status and adjustment of status (lawful permanent residence)/authorization to work cannot be filed concurrently.</p> <p>A youth who qualifies for SIJS status will also need to qualify for adjustment of status. Some may not. It is important to consult with the minor's attorney prior to beginning the SIJS process. However, it never hurts to request the SIJS findings from the state court, and the youth and attorney can then decide whether or not to apply with USCIS.</p>
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Roles and Responsibilities	
Protective Services Worker (PSW)	<p><u>Coordinate with the minor's attorney and the caretaker to ensure the following documents are obtained:</u></p> <ul style="list-style-type: none"> ✓ Government-issued ID (i.e. an official identification card issued by the Consulate or a passport); ✓ An original birth certificate; ✓ Medical and physical examination results (including immunization records) from a USCIS approved and/or authorized physician; ✓ Passport photographs; ✓ Fingerprints of minor (14 years or older); and ✓ Certified copy of order signed by the judge required for application for SIJS. <ul style="list-style-type: none"> • Ensure that all forms are completed accurately, verify information on passport and other identification documents, and ensure that information is consistent in the different documents (check names and dates). Any incorrect or inconsistent information will delay and/or obstruct the process.

Minor's Attorney	<p>The minor's dependency attorney, in conjunction with the court appointed immigration attorney, not the Human Services Agency, is responsible for overall SIJS processing. The minor's dependency attorney or immigration attorney will file a motion requesting that the court issue an order making the SIJS findings and will also be responsible for filling out all application forms and obtaining the youth's signature.</p> <p>The minor's dependency attorney may ask the court to appoint an immigration attorney for the minor, if another system for placing dependent children with an immigration attorney is not already in place.</p> <p>Subject to the court's granting the PSW permission to share information and documents with the minor's immigration attorney, the PSW will provide the attorney with all required documentation (i.e. case plan, reports, photos, summaries, identification, copies of medical/health exams, etc.) and any additional information to expedite the SIJS filing process.</p> <p>It is helpful for the minor's immigration attorney if the PSW summarizes the case for them, e.g., what the case is about and what the court based its decision upon. It is also helpful for the attorney to have copies of: (1) the petition/detention report; (2) disposition report; and (3) any order relating to finding the child dependent and not able to reunify with one or both parents...Note: information about other siblings or other third parties not involved in the SIJS process should be redacted from reports.</p>
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How to Obtain Required SIJS Documents	
Obtaining Birth Certificates & Other Identification	<p>Birth certificates, passports and citizen identification cards are needed in the SIJS application process. Some foreign governments issue identification cards through their Consulates. It is important to make sure that the information contained in these documents is consistent. Watch out especially for names and dates, e.g., if the date of birth differs in the documents, it can create a credibility issue for the minor in the immigration process. All foreign documents are required to be translated. Translation may be done by someone who is competent to translate in the language(s) and does not require that the person be certified.</p> <p><u>A. Obtaining Birth Certificates and Other Identification</u></p> <p>To obtain an original birth certificate:</p> <ol style="list-style-type: none"> 1. Request in writing a birth certificate from the consulate or embassy of the minor's country of origin. Include as much detailed information about the minor's birth as possible, such as, date of birth, names of parents, place of birth, and province, town and name of hospital where minor was born. 2. When applicable, send fees payable to the consulate/embassy of the minor's country of origin for the birth certificate or the identification card. <p>An original birth certificate is needed to obtain a passport.</p> <p><u>NOTE:</u> If a birth certificate cannot be obtained for a minor, the minor's immigration attorney may try to request a certificate referred to as a "delayed registration of birth document" from the state of California in Sacramento called the "California Office of Vital Records." In order to obtain this document, a court order will be needed to establish the facts of birth and stating that the birth certificate is unobtainable. This is used in lieu of a birth certificate. See more information from the California Department of Public Health, "Court Order Delayed Registration of Birth," available at www.cdph.gov.</p> <p><u>B. Passports</u></p> <p>It is important to start as early as possible to obtain the minor's passport as the process takes time. To obtain a passport, a request must be submitted in person and all of the documents listed below must be presented at the time of the appointment. If necessary, the PSW should contact the appropriate consulate for an appointment and inquire about its specific requirements for obtaining a passport.</p>

Obtaining Birth Certificates & Other Identification

(continued)

Usually the passport request will include:

- A letter from worker requesting passport;
- An original birth certificate;
- A school identification card or an identification card from the country of origin or issued by the consulate. If the minor has no form of identification, the PSW must write a letter providing the information about the minor, with a photo attached to the letter;
- A court order or findings supporting dependency; and
- The appropriate fees to pay for passport (contact the consulate for specific amounts and types of payment accepted).

C. Photos

It will be necessary for the minor to have at least four (4) “passport-type” color photographs. Most passport photo shops are familiar with immigration photo standards and specification. The photographs must be taken no earlier than 30 days before the SIJS application is submitted. The minor's name should be written lightly in pencil on the back of each photograph.

D. Medical Exam

Minors will be required to have a medical exam by a USCIS-authorized physician. When requested by the immigration attorney, PSWs should coordinate with the youth and the youth's caretaker to make an appointment with a USCIS-authorized physician. A list of authorized physicians may be found by calling the USCIS National Customer Service Center at 1-800-375-5283 or by visiting <https://my.uscis.gov/findadoctor> and entering your zip code.

PSWs must ensure that the minor's attorney or another appropriate adult accompanies the minor to the appointment. The physician will record the results of the exam on a USCIS-approved form and provide the completed form in a sealed envelope. The sealed envelope must not be opened. It must be submitted to USCIS with the Adjustment of Status application and will only be accepted if it is sealed.

If the worker needs a copy of the form, the minor (or representing worker) can request a copy from the physician. There is no filing fee for this form, but a fee must be paid to the physician for this exam. Any current medical and immunization information, as well as the minor's photo identification, must be taken to the medical appointment.

<p>Obtaining Birth Certificates & Other Identification</p> <p><i>(continued)</i></p>	<p><u>E. Biometrics/Live-Scan Fingerprints</u></p> <p>Minors 14 years of age or older are required to be fingerprinted at an approved immigration office, called an Application Support Center. After USCIS receives the adjustment of status application, USCIS will send an appointment letter with the location of the nearest USCIS-authorized fingerprint site. PSWs should work with the minor's attorney to ensure that the fingerprinting appointment is kept. Any changes may delay the process.</p> <p>PSWs must also ensure that the minor is accompanied by either their attorney or another appropriate adult. The minor must bring a government-issued photo ID, the appointment letter, and the completed forms to the appointment.</p> <p><u>F. Collection of Other Key Information</u></p> <p>The minor's attorney will have to submit biographic information in the form I-485, application for adjustment of status. It is helpful if the worker can start collecting key information that is requested in this form. The key information needed includes: all of the minor's residences in the U.S. in the last five years and the time periods during which they lived there, the minor's last address outside the U.S. of more than one year, and employment in the last five years (name and address of employer, occupation, and time periods of employment).</p>
<p>Fees</p>	<p>PSWs will submit 1015 forms to the rate setter after supervisor approval to request payment for all application fees associated with SIJS. These forms are accessible through CWS/CMS. Immigration filing fees do change. Therefore, prior to filing the request for application fees, consult the youth's immigration attorney or the USCIS website, www.uscis.gov for the current filing fees and policies. If the youth's attorney submits forms with the incorrect filing fee amount, they will not be considered properly filed.</p> <ul style="list-style-type: none"> • There is no filing fee for the I-360 SIJS Application. • The filing fee for the I-485 Adjustment of Status (lawful permanent residence) application is currently \$1,140. • The filing fee for the I-765 Employment Authorization is currently \$340. • The filing fee for the biometrics (fingerprinting) is currently \$85, if 14 years old or older.

Fees <i>(Continued)</i>	<p>A fee waiver for each of those filing fees may be requested for SIJS applicants who are unable to pay the fees. This option should not be pursued in cases where timing is critical – for example, where the minor may soon age out of dependency. This is because the forms are not considered properly filed until the fee amount is received or a fee waiver request is granted, and a fee waiver request may delay the process or ultimately be denied. Case workers should check with the minor's attorney to determine if there is sufficient time to file a fee waiver in the case.</p>
SIJS Interview	
Appointment for Interview	<p>Upon submission of all forms and documentation required for SIJS, the youth may have an interview with a USCIS officer, though this has been uncommon in recent years. If the youth is scheduled for an interview, the immigration attorney will receive an interview letter with an appointment date from USCIS.</p> <p>The immigration attorney should notify the worker of the interview date and arrange a pre-interview meeting with the minor and the worker at least one or two weeks before the interview.</p> <p>The immigration attorney will accompany the minor to the interview.</p> <p>If the application for Adjustment of Status is granted, USCIS will send the official documentation of permanent residency, a Lawful Permanent Resident (LPR) card. Lawful permanent residency does not end when the minor ages out. Lawful permanent residency is indefinite. However, an LPR can be placed in removal proceedings and have their green card terminated if they violate the immigration laws, most commonly by violating criminal laws. The Permanent Resident Card itself must be renewed every ten years.</p>

Responsibilities of the PSW if permanent residency is granted	<p>Upon receipt of the Permanent Resident Card, the PSW will make copies and provide them to the minor, the minor's attorney and Foster Care (FC) Eligibility. The original card should be placed in the minor's file. Upon emancipation or earlier if the dependency is dismissed, the minor will receive all original paperwork from the PSW.</p> <p>The minor should be advised of their rights and responsibilities as a lawful permanent resident by the attorney. Caseworkers can also give them a rights and responsibilities guide entitled <i>Living in the United States: A Guide for Immigrant Youth</i> found at</p> <p>https://www.ilrc.org/living-united-states-guide-immigrant-youth</p>
Obtaining Other Important Documents	
Employment Authorization (Work Permit)	<p>Applicants who file an adjustment of status application are eligible for employment authorization during the time it takes USCIS to make a decision on the application. The applicant files the application for employment authorization (Form I-765) at the time of submitting the adjustment of status application. The employment authorization application may take months to be adjudicated.</p> <p>Once the minor has the employment authorization (work permit), the worker must make a copy for the file and send a copy to the minor's attorney.</p>
Social Security Card	<p>Upon receipt of the employment authorization document or permanent resident card, the PSW will apply for a social security card for the minor at the local Social Security Administration Office. If a dependent is over 18 years of age, the case-carrying worker will ensure that the dependent applies for a Social Security card.</p>

State Identification Card or Driver's Permit	<p>Once the minor has a social security card, they can go to the Department of Motor Vehicles to get a state identification card or a driver's permit. Check with the DMV office for the current cost of a state identification card. (Note that it's also possible for undocumented people in California to get driver's licenses [but not state identification cards] under AB 60, so if a youth needs a driver's license prior to obtaining work authorization or their permanent resident card, they may wish to apply for a driver's license pursuant to AB 60. For more information, see https://www.dmv.ca.gov/portal/dmv/detail/ab60.)</p> <p>The PSW should assist the minor in connecting with the Independent Living Skills Program (ILSP) to obtain a California Identification Card or a California Driver's License.</p> <ul style="list-style-type: none"> • To obtain a state identification card, the minor must provide a social security number, legal presence document (permanent resident card or work permit), with the Driver's License or Identification Card application (DL-44) and the application fee. • To obtain a driver's permit, the minor must be at least 15 ½, but under 18 years of age. The minor must complete the (DL-44) form with the appropriate signatures. The minor must also provide a social security number, birth date, legal presence document (permanent resident card or work permit), proof of driver education completion and proof of driver training enrollment, and the application fee. If over 18 years of age, the applicant must provide a social security number, birth date, and legal presence document. Applicants must also take a written exam.
Forms, Information, Contacts, and Important Links	<ul style="list-style-type: none"> • Application Support Centers provide biometrics, e.g., fingerprinting and related services. • United States Immigration and Citizenship Forms – link to all forms and documents. • Asylum Offices handle scheduled interviews for asylum-related issues only. • Service Centers and the National Benefit Center receive and process a large variety of applications and petitions. • Local Citizenship and Immigration Services Offices handle scheduled interviews on other applications. They also provide limited information and customer services that supplement those we provide through our website and by phone.

APPENDIX D: MODEL CHILD WELFARE PROTOCOL FOR REQUESTING U-VISA CERTIFICATIONS

Human Services Agency	Immigration and Child Welfare Practices
	Protocol for Requesting U Visa Certifications

U Visa Certification Preferences: Contact Information

Name of Certifying Agency: [COUNTY] Department of Family and Children's Services

Name of Certifying Official: [NAME]

Head of Certifying Agency: [NAME]

Address: [ADDRESS]

Phone: [PHONE]

Fax: [FAX]

Agency Type: Local

Certifying Agency Category: Child Protective Services

E-mail address: [EMAIL OF CERTIFYING OFFICIAL]

Preferred Request Method: [COMPLETE PREFERRED REQUEST METHOD, E.G. VIA U.S. MAIL, NO PHONE CALLS PLEASE, FOLLOW-UP BY EMAIL.]

Required Documents

What documents should be included in the U Visa Certification request?

1. **Brief Cover Letter:** The cover letter should contain the client's identifying information, mailing address, and the name and DOB of at least one of the children included in the DFCS case. Include a brief description of the crime that forms the basis of the U visa case. If client has had several child welfare referrals or cases investigated, please address the specific crime or incident you are inquiring about and when it happened.
2. **Request to the juvenile court to submit to USCIS the I-918 B certification** which includes information from the dependency file. This should include a signature from the client with the following or similar language: "I request permission to submit to USCIS the I-918 B certification which includes information from the dependency file."
3. **Pre-populated Form I-918 B:**
 - a. Please review the child's file and prepare the certification based on the information in the report.
 - b. If you do not have a copy of the child's records, please request a copy pursuant to the Welfare & Institutions Code § 827 and Cal. Rules of Court 5.552.
 - c. If you are not able to obtain the file in a timely fashion, please include as much information and documentation as possible with your request, including:
 - i. Victim name and DOB, as well as the name and DOB of the oldest child included in the child welfare case.
 - ii. If the victim is a child, include the mother's name and DOB.
 - iii. Date of the incident that forms the basis of the U visa case (at a minimum, the year).
 - iv. Detailed description of the incident/crime that forms the basis of the U visa case.

- v. Description of the client's cooperation with the child welfare agency in the investigation of the incident/crime.
- vi. Explain your efforts to obtain the documents and lack of response and request that the child welfare agency check their system for relevant records.
- d. Note that in Part 2, the case number should either be the referral number/state number, or if the case was referred to court, the court case number.
- 4. Police report and restraining order, if available.
- 5. Child welfare agency report of the incident/crime.

Notification

You will be notified by the child welfare agency of the final decision within approximately [X] weeks. The signed certification will be mailed to you via US certified mail. You will be notified via [EMAIL] if the U visa certification request is denied.

APPENDIX E: SAMPLE CONSULAR MOU

MEMORANDUM OF UNDERSTANDING BETWEEN THE CONSULATE GENERAL OF MEXICO IN SAN FRANCISCO AND THE SAN FRANCISCO HUMAN SERVICES AGENCY, DEPARTMENT OF FAMILY AND CHILDREN SERVICES, CALIFORNIA, UNITED STATES OF AMERICA REGARDING CONSULAR ASSISTANCE IN CUSTODY PROCEEDINGS INVOLVING MEXICAN MINORS

The Consulate of Mexico in San Francisco (hereinafter “the Consulate”) and the San Francisco Human Services Agency, Department of Family and Children Services, California, United States of America (hereinafter “SFHSA-FCS”) jointly referred to as “the Parties”;

CONSCIOUS of the importance of preserving, rehabilitating and reuniting families;

RECOGNIZING their interest in working together in order to prevent neglect, abuse and exploitation of Mexican minors located in the United States of America and to provide them with a safe, stable and permanent home in a timely fashion;

BEARING IN MIND the international commitments set forth in the Consular Convention between the United States of America and the United Mexican States, 57 Stat. 800; Treaty Series 985 (hereinafter Bilateral Convention), and the Vienna Convention on Consular Relations, 21 U.S.T 77, T.I.A.S. No. 6820 (hereinafter “Vienna Convention”); that provide for consular notification and access in those cases where foreign nationals are involved in legal proceedings;

CONSIDERING that an important duty of the Consulate is assisting Mexican nationals and protecting their interests;

CONSCIOUS of the need to join efforts to treat, with special care, the high number of protective custody and dependency cases involving Mexican minors located

in the City and County San Francisco, through the development of a bilateral mechanism that facilitates the early identification of said minors and assure the exercise of the consular assistance referred to in the Bilateral Convention and Vienna Convention;

Have agreed as follows:

I. PURPOSE

The purpose of this Memorandum of Understanding is to enhance the services provided to minors and families who are Mexican nationals, by clarifying the responsibilities between the Parties to assure the exercise of the consular assistance set forth in the Bilateral Convention and Vienna Convention, during custody and dependency proceedings involving Mexican minors.

II. APPLICABLE TREATIES

SFHSA-FCS recognizes that the Government of Mexico has the right to carry out consular functions to protect the interests of its nationals abroad, including those of minors, in the terms set forth in Article 5, paragraphs (a) and (h) of the Vienna Convention.¹

SFHSA-FCS further recognizes its duty to communicate the Consulate, without delay,² about any custody proceeding involving Mexican minors, in accordance with Article 37 (b) of the Vienna Convention.³

Likewise, *SFHSA-FCS* recognizes that the Consulate has the rights to interview, to communicate with, to visit, and to assist⁴ Mexican minors involved in *SFHSA-FCS* custody proceedings, in accordance with Article VI of the Bilateral Convention.⁵

III. CONFIDENTIALITY INFORMATION

The Consulate recognizes and shall abide by the confidentiality provisions established in the California Welfare & Institutions Code (CWIC), Section 827 and local rules of Court, which allows *SFHSA-FCS* to share court reports and confidential information only pursuant to court authorization.

Nevertheless, the *SFHSA-FCS* recognizes the Consulate's rights to request information regarding protective custody and dependency proceedings involving Mexican minors, pursuant to the above mentioned international treatments. Mainly, in order to facilitate their Consular functions for the protection of the minor's rights by assisting the *SFHSA-FCS* in the location of relatives in Mexico, obtaining home studies from their sister agency in Mexico, (*Sistema Nacional para el Desarrollo Intergral de la Familia* herein D.I.F.), as well as any other information needed to assist the appropriate determination of temporal or permanent placement for the minors' best interest.

IV. DEFINITIONS

For the purposes of this Memorandum of Understanding:

- A. **"Mexican minor"** means any unmarried individual who is under the age of eighteen and:
 - 1. Was born in Mexico, or
 - 2. Two or more countries confer their nationality to the individual and Mexico is one of those countries, or
 - 3. Mother or father is Mexican.
- B. **"Custodian"** means the person in charge of the Mexican minor's care.
- C. **"D.I.F."** means the Agency for Integral Family Development. This is the agency in Mexico responsible for child protection services.

V. PROVISIONS

To achieve the purpose of the present Memorandum of Understanding, the Parties agree to the following responsibilities:

A. The SFHSA-FCS through the corresponding social worker will:

1. Notify the Consulate pursuant to the Bilateral Convention and Vienna Convention, as well as California Welfare & Institutions Code, Section 828, *SFHSA-FCS*, when:

- a) *SFHSA-FCS* assumes protective custody of a Mexican minor;
- b) the parent or custodian of a Mexican minor so request the notification of the Consulate, and
- c) *SFHSA-FCS* is aware that either parent of a minor resides in Mexico, and
- d) *SFHSA-FCS* is aware that either parent of a U.S born minor is Mexican.

The notification shall be made without delay, from the date *SFHSA-FCS* assumed the protective custody of a Mexican minor or the Mexican citizenship of the minor is established.

2. Provide the parent or custodian of the Mexican minor with information on the consular services and assistance prescribed in the Bilateral Convention and Vienna Convention. Specifically, shall provide the following:

3. Written information, in Spanish and English about the protective custody or/and dependency proceeding before the Juvenile Court, and

4. The address of the Consulate General of Mexico as follows: *Consulado "General de Mexico en San Francisco. 532 Folsom St. San Francisco, CA 94105. Teléfonos (415)354-1716, durante horas de oficina, y (415) 699-1885 para casos de emergencia."*

5. Determine the citizenship of the minor at the time of assuming his/her protective custody, or later on. Once protective custody is assumed by *SFHSA-FCS* and information available allows *SFHSA-FCS* to presume the minor's citizenship.

When possible, the *SFHSA-FCS* caseworker responsible for the protective custody case shall obtain a certified copy of the Mexican U.S. birth certificate, in order to prove the minor's citizenship, through their place of birth or by his/her parents citizenship. The Consulate may assist *SFHSA-FCS*, whenever possible, in obtaining the corresponding Mexican birth certificate.

6. For purposes of the notification referred to in the above paragraph, *SFHSA-FCS* shall provide the Consulate the following information, when available:

- a) Name of the Mexican minor;
- b) Date and place of birth of the Mexican minor;
- c) Name, phone number and address of the parents or custodian, and
- d) Name and phone number of the caseworker responsible for the protective custody case.

7. Upon request from the Consulate, the *SFHSA-FCS* social worker shall provide verbal updates regarding progress of a Mexican minor's case.

8. Facilitate procedures to identify and repatriate children for placement in Mexico when there is no child protective issue.

B. The Consulate will:

1. Have the right to interview the Mexican minor under *SFHSA-FCS* protective custody. To such effect, the supervisor of the caseworker responsible for the custody case shall consent for the interview to take place.

In order to arrange for an interview with a Mexican minor, the Consulate shall contact the child Advocate's Office or the *SFHSA-FCS* caseworker in charge of the protective custody case.

2. Maintain open communication with the *SFHSA-FCS* and be available during business hours and after business hours for emergencies.

3. Observe confidentiality requirements as stipulated by the State of California statutes.

4. Assist with parents or relatives searches in Mexico when needed.

5. When there are no protective issues involving Mexican minors, facilitate procedures to identify and repatriate minors to Mexico for placement.

6. Upon *SFHSA-FCS* notification to the Consulate regarding the custody of a Mexican minor, the Consulate may contact DIF in order to procure the appropriate socio-economic (home) studies of families in Mexico who may be eligible to obtain custody of a Mexican minor under protective custody of *SFHSA-FCS*. Upon reception of the studies, the Consulate shall immediately transmit the information to the *SFHSA-FCS* caseworker responsible of the case.

When custody of a Mexican minor is granted to a family in Mexico, the Consulate shall coordinate with the *SFHSA-FCS* and D.I.F., in order to facilitate the repatriation of said minor to Mexico.

Once the minor is in Mexico, DIF shall be responsible of turning the Mexican minor over to the family assuming custody and shall adopt the necessary measures to assure the minor's welfare.

7. The Consulate and *SFHSA-FCS* shall work jointly in locating those persons that reside in Mexico, that are required to appear before a Court in California in connection to a custody proceeding involving a Mexican minor. Effort should be made to notify them in a timely manner to assure their appearances.

The *SFHSA-FCS* shall assist in the issuance of witnesses subpoena, needed to obtain the appropriate immigration documentation to achieve court appearances.

8. Both Parties agree to assist in procedures needed in order to finalize the adoption process in cases when the child has been placed with relatives in Mexico, upon termination of parental rights. A protocol will be established to facilitate court appearances, either by bringing families to San Francisco, CA; by web video-conference protocol or in case the court would appoint an attorney to represent the prospective adoptive family.

9. In cases of Mexican children being adopted through court proceedings in Mexico currently living with their adoptive parents in San Francisco, Ca. The *SFHSA-FCS* will assist in verifying the well being of children in specific cases, upon the Consulate's request.

10. When a Mexican minor is under dependency custody of County of San Francisco and is considered eligible to obtain the Special Immigrant Juvenile Status (SIJS), pursuant to INA, sec, 101 (a)(27)(j)(ii), 8 U.S.C. sec 101 (a)(27)(J)(ii). The Consulate will assist *SFHSA-FCS* in obtaining the necessary documentation from Mexico for completion of the SIJS application.

11. Both Parties agree that when a parent (s), in violation of a protective custody order, remove their child(s) from their placement in San Francisco and flee with him or her to Mexico, the proper procedure to request assistance for returning the child to the agency that had jurisdiction, will be the one established by Hague Convention on International Child Abduction, through their Central authorities, in order to continue with the proceedings to safeguard his/her/ their safety and well being.

12. Consular Officers and the *SFHSA-FCS* staff shall meet periodically, in order to review issues arising from the application of this Memorandum of Understanding. The Consul and the *SFHSA-FCS*' Director or designee shall meet once a year in order to evaluate the progress and development of the present Memorandum of Understanding.

Both Parties confirm their commitment to celebrate joint meetings and to develop other coordinated efforts, such as their participation in preventive activities regarding the welfare of Mexican families and minors. In addition, the *SFHSA-FCS* Communications Section and the Consulate shall make every necessary effort to exchange, in a timely manner, information and opinions when high profile cases involving Mexican minors receive media coverage.

Notwithstanding the provisions set forth in this Memorandum of Understanding, the Parties acknowledge that the Consulate may contact, at any time, the *SFHSA-FCS*, the Court Appointed Special Advocate (CASA) and/or Office of Attorney General in relation to a Mexican minor

VI. RULES AND PROCEDURES

The Parties agree to adopt the necessary rules and procedures, in order to comply with this Memorandum of Understanding.

FINAL PROVISIONS

This Memorandum of Understanding shall become into force from the date of its signature and shall remain in force for a period of twelve (12) months, automatically renewable for equal periods, unless any of the Parties gives written notice to the Other of its intention of not renewing it, at least sixty (60) days prior to the expiration of the current effective period.

Either Party may terminate this Memorandum of Understanding at any time, by providing a ninety (90) days written notice to the other Party.

Signed in San Francisco, California, this _____ day of _____ two thousand and ten, in duplicate, in the Spanish and English languages, being both texts equally authentic.

**FOR THE CONSULATE GENERAL OF
MEXICO IN SAN FRANCISCO**

**FOR THE SAN FRANCISCO HUMAN
SERVICES AGENCY, DEPARTMENT OF
FAMILY AND CHILDREN SERVICES OF
THE STATE OF CALIFORNIA OF THE
UNITED STATES OF AMERICA**

Carlos Felix Corona
Consul

Trent Rohrer
Director

¹ Article 5 of the Vienna Convention provides in part that consular functions consist in:

“a) protecting in the receiving State the interest of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
[...]

h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interest of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons”

² The time of notification will be specified below.

³ Article 37 of the Vienna Convention states in relevant part:

“If the relevant information is available to the competent authorities of the receiving state, such authorities shall have the duty:

(a) [omitted]

(b) To inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interest of a minor or other person lacking full capacity who is national of the sending state. The giving of information shall, however, be without prejudice to the operation of the laws and regulations of the receiving state concerning such appointments.”
(*Emphasis added*)

(c)

⁴ Procedures for notification will be specified below.

⁵ The Bilateral Convention expresses an Article VI that:

“1. Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the state by which they were appointed in the enjoyment of rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul or the consular officer stationed at the capital may apply directly to the Government of the country.

2. Consular officers shall, within their respective consular districts, have the right:

(a) to interview and communicate with the nationals of the State which appointed them;

(b) to inquire into any incidents which have occurred affecting the interest of the nationals of the State which appointed them;

(c) upon notification to the appropriate authority, to visit any of the nationals of the State which appointed them who are imprisoned or detained by authorities of the State; and

(d) To assist the nationals of the State which appointed them in proceedings before or relations with authorities of the State.

3. National of either High contracting Party shall have the right at all times to communicate with the consular officers of their country. (*Emphasis added*).”

APPENDIX F: SAMPLE BORDER CROSSING PERMISSION PROCESS

Definition At times, it is necessary for a non-U.S. citizen residing in Mexico to attend court hearings or court-ordered reunification/maintenance activities within the U.S. An agreement has been developed with USA Bureau of Customs and Border Protection (CBP) for this purpose.

Procedure The following procedure will be used to assist a parent in legally entering the United States.

Step	Who	Action
1	SW	Complete and sign 04-242 . Obtain supervisor signature. At least one week before desired entry date ; send completed 04-242 and copy of court order, minute order, subpoena, summons, or court officer's summary to the International Liaison (FAX: 858/514-6632). NOTE: Include the parents' full name including paternal and maternal last names; e.g., Jose Perez Lopez.
2	International Liaison	Review 04-242 Fax completed 04-242 to CBP
3	CBP	Review 04-242. If request approved , fax confirmation number to International Liaison and Port of Entry. If request is not approved , fax denial to International Liaison only.
4	International Liaison	Notify SW of CBP decision and give SW the confirmation number.
5	SW	Notify parent(s) of CBP decision. If request approved : Instruct parent(s) to: <ul style="list-style-type: none"> ○ Bring identification ○ Go to pre-arranged

		<p>Port of Entry on date of court hearing or court-mandated activity and present the confirmation number.</p> <p>Advise parent(s) that immediate return to Mexico is mandatory after the designated activity is completed.</p> <p>If request is not approved, parent(s) may not legally enter the U.S.</p>
6	Parent	<p>Give Confirmation Number to CBP and request I-94.</p> <p>Return the original admittance document, I-94, to CBP upon leaving the U.S.</p> <p>NOTE: If the original I-94 is not returned to CBP following the hearing/visit, it must be returned prior to a new I-94 being issued.</p>

When a parent does not/cannot return as scheduled


The SW is responsible for notifying the International Liaison when the parent:

- goes AWOL (does not return to Mexico), or
- will not be able to return to Mexico as scheduled.

To notify the International Liaison, the SW will call (858) 514-6730.

APPENDIX G: SAMPLE MONITORED VISITATION PROCESS

FOR YOUR INFORMATION

FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI
Issue 18-29					Date: 07/20/18				
<p>Arranging Monitored Visits Between Dependent Children and Parents Residing in Tijuana, Mexico</p> <p>This is to provide clarification and guidance to staff on the procedures to follow when a court order and/or case plan require a visit between dependent children and parents residing in Tijuana, Mexico.</p> <p>The Consulate General of Mexico in San Diego located at the San Ysidro-Tijuana Port of Entry, functions as a liaison between the United States and Mexico on many matters, including the visitation of dependent children with parents residing in Tijuana, Mexico. The DCFS International Liaison is the only DCFS staff authorized to schedule visits through the Mexican Consulate of San Diego.</p> <p><i>Please note that transportation of the children and the monitoring of the visit is the responsibility of the case-carrying CSW and that visits must be monitored by a DCFS Spanish Speaking HSA or CSW. Transporting the children to and from the Border and monitoring the visit will most likely last all business day. Therefore, two DCFS staff are needed to ensure that the children are supervised at all times and that staff is able to take their appropriate breaks.</i></p> <p><u>REQUESTING A VISIT AND VISITATION PROTOCOL:</u></p> <ul style="list-style-type: none"> Fax a written request to the DCFS International Placement Unit at 213-742-7070 (attention: "international Liaison"). The telephone number for the International Placement Unit is (213) 743-8604 or (213) 743-8601. Visits are available Monday to Friday from 10am to 12pm, 11am to 1pm, or 12pm to 2pm. Once the visits are authorized and arranged, the assigned CSW is to inform the parent of the location, date and time of the visit. DCFS staff should be prepared to provide proof of citizenship or residency for each child and for themselves. If the child is undocumented or if the child has no proof of citizenship or legal 									
					<p>If you have any questions regarding this release please e-mail your question to:</p> <p>Policy@dcfs.lacounty.gov (right click to open footer section and access link)</p>				

FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI	FYI
Issue 18-29							Date: 07/20/18		
<p>residency consult with County Counsel to inform the Court that travel to the Border might not be in the child's best interest.</p> <ul style="list-style-type: none">No food, drinks and large or bulky items are allowed and all personal belongings are subject to inspectionThere is available parking at Las America's Outlets and in nearby lots (\$15 - \$20).The Consulates of Mexico are not responsible for any incidents that occur during visits.									
<p><u>INFORMATION FOR PARENTS ARRIVING FROM MEXICO:</u></p> <ul style="list-style-type: none">Entry is through the PedWest Section walkway, at the San Ysidro Port of Entry.Inform the security guard of the appointment at the Consulate Social Services Division.Bring valid picture identification.Personal belongings are subject to inspection and no large packages or bulky items will be allowed.									
<p><u>Location of the Mexican Consulate in San Diego:</u></p> <p>420 Virginia Ave. San Diego, CA 92173 619-690-5717 Contacts: Cesar Rodriguez or Jose Manuel Hernandez</p>									



If you have any questions regarding this release please e-mail your question to:

Policy@dcfs.lacounty.gov

(right click to open footer section and access link)

APPENDIX H: SAMPLE PROCESS FOR PLACING CHILDREN OUTSIDE OF THE COUNTRY

Placing Children Outside of the Country

Department of Children and Families Los Angeles County

0100-525.11

Revision Date: 7/1/2014

Overview

This policy provides guidelines and procedures of placing children with a parent or relative outside of the United States.

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Version Summary

This policy guide was updated from the 07/10/2013 version, as part of the Policy Redesign, in accordance with the DCFS Strategic Plan.

Available at: http://policy.dcfs.lacounty.gov/Content/Placing_Children_Outside.htm

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Placement Outside of the Country

Whenever a placement outside of the United States is necessary, the CSW must assess whether the placement is in the child's best interest. The court will not order an out of country placement of a child prior to establishing that it is in the best interest of the child, unless the placement is with the child's parent.

The CSW must identify and address the child's feelings, and assess the ability of the potential caregiver to attend to the child's needs to the best of his/her ability. Caregivers outside of the country will not receive any financial assistance through Foster Care and KinGAP programs. The CSW, when possible, must plan for contact (telephone or physical) with the prospective caregiver in an effort to ensure the child's comfort with moving out of the country.

In cases where the court may order the placement of a school-age child in another country, the CSW must research the issues of education and advise the court accordingly with the assistance of the International Placement Unit (IPU).

Neither DCFS nor the court may authorize placement of a child in another country until an international plan and home study have been received from the receiving country.

International Placement Unit (IPU)

The International Placement Unit (IPU) provides assistance to DCFS staff when placing children with their parent(s) or relatives who resides in another country. Any child(ren) referred to the International Placement Unit must already be declared a dependent(s) of the juvenile court.

All international home study requests must be for the purposes of placement of a child(ren) with a parent or relative, and all must be processed through the International Placement Unit. Approved home studies are good for only six (6) months. If placement does not take place within that timeframe, the international case will be closed.

Placement with a Non-Related/Extended Family Member (NREFM) does not qualify for an international home study. IPU does not process requests for international adoptions, welfare checks, birth, death, or marriage certificates, due diligence on parents/relatives or a visit by a dependent child.

International Home studies are done as a professional courtesy. There are no formal agreements/compacts between Los Angeles County DCFS and other countries. Los Angeles County Dependency Court does not have legal authority over social services in other countries. Procedures differ amongst countries and are subject to change. In some cases, a country may charge a fee for completing the home study.

Requests for home studies from other countries are also completed/processed by the International Placement Unit (IPU) for the purpose of placement with a parent or relative. The International Placement Unit (IPU) does not process requests from other countries for NREFMs. Approved home studies are good for six (6) months, if placement does not take place within 6 months, the international case will be closed. International Placement Unit (IPU) conducts the home study and determines whether placement is appropriate and in the

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best interest of the child. If the assessment of the proposed placement resource is favorable, IPU must forward a request to ASFA for an assessment of the placement resource's home. Incoming International home study request packets must include the following:

- A formal letter requesting the home study, information regarding the placement resource and the reason why the child is in the sending country's custody.
- A legal document indicating that the child is a court dependent.
- A report on the child's educational, medical, dental and emotional well being.
- Case Plan including the permanent plan for the child's care.
- Visitation orders/restrictions.

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PROCEDURE

Requests for an International Placement

CSW Responsibilities

1. When a child(ren) is declared a dependent(s) of the juvenile court, and relatives who reside out of the country express interest in caring for the child(ren), the CSW must work to obtain pertinent information about these individuals.
2. When requesting an out-of-country placement, DCFS has the burden of proof to show that the placement is in the best interest of the child. The CSW must include the following factors in the court report:
 - a. Whether the placement is with a relative
 - b. Whether the placement would assist with placing siblings in the same home
 - c. Amount and nature of any contact between the child and the potential caregiver
 - d. Physical and medical needs of the child
 - e. Psychological and emotional needs of the child
 - f. Social, cultural and educational needs of the child
 - g. The placement desires of a child who is twelve (12) years and older
3. CSW must also ensure that the court order be worded as follows:
 - "The court orders DCFS to initiate an international home study request for (full name of parent/relative), (relationship to the child) in (name of country)."
4. CSW must also request that the minute order be translated to the receiving country's official language and that both the original and translated minute order be signed by the Judge and stamped with the court's official seal.

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5. Once the minute order is received, assemble an [International Home Study Request](#) packet. It must consist of the following:
 - a. Minute order signed by the hearing officer
 - b. A letter written by the CSW on [DCFS letterhead](#), requesting that the receiving country's social service agency complete a home study for the purpose of placement. The letter should also include:
 - i. Reasons the child(ren) were taken into custody
 - ii. Any educational, medical and/or psychological problems the child(ren) may have
 - iii. Parent/Relative's full name, address, and telephone number in the foreign country
 - iv. The nationality and legal status of the child(ren)
 - v. Visitation orders/restrictions
6. Forward or fax the International Home Study Request Packet to the attention of the OCS/International Placement Unit located at 1933 S. Broadway , 5th Floor, Los Angeles, CA 90007, Phone (888) 303-5111, Fax (213) 742-7070.
7. If the child/youth is undocumented and the international placement is not a permanent placement, consult with the [Special Immigrant Status \(SIS\)](#) unit at (323) 725-4679 to determine if a referral should be submitted.

IPU Responsibilities

1. IPU SCSW assigns secondary assignment on CWS/CMS to an IPU Coordinator.
2. IPU Coordinator will contact DCFS CSW to discuss case specifics and requirements for an international home study request.
3. IPU Coordinator must ensure that all required documents are received from CSW.
4. Contact social services, consulate/embassy or other designated government officials in the receiving country, to discuss their policies/procedures for processing international home study requests.

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5. Notify CSW of the requirements as dictated by the receiving country.
6. Assume the role of liaison between receiving countries officials, DCFS staff and Los Angeles County Dependency Court.
 - All dealings with the receiving country should exclusively be handled by IPU.

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Receiving the International Home Study

CSW Responsibilities

1. Evaluate the home study when it is returned by IPU.
2. Submit the home study to the court with a recommendation for approval or denial of the placement.
 - a. Attach the original and translated copies of the home study to the court report.
 - The home study must have an overall positive recommendation in order to consider placing a child(ren) with a parent/relative.
3. If recommending for the child(ren) to be internationally placed, obtain the following documents:
 - a. An original [birth certificate](#) for each child. (Photocopies will not be accepted).
 - b. Copies of the child's original school records (if applicable) – (Photocopies will not be accepted).
 - c. Psychological evaluation (if applicable), medical and dental records.
 - d. Valid U.S. passport or passport from country of origin for non-U.S. citizens.
 - e. If the child(ren) is a U.S. citizen, Visa issued from the country they are traveling to (if applicable).
4. Documents need to be authenticated by the California Secretary of State Office.
 - a. Check with IPU to determine which documents require authentication.

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Placing and Transporting a Child to Another Country

CSW Responsibilities

1. If the home study is favorable, recommend that the child be transported to a specific parent/relative or social service agency in the receiving country.

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2. Discuss the case with International Placement Coordinator to ensure compliance with international placement protocol.

3. The minute order from the court granting consent for the child(ren) to be placed outside of the United States must :
 - a. Be signed by the hearing officer
 - b. Be translated by the court to the official language of the country receiving the child(ren).
 - c. Clearly state the name of the child(ren), and that he/she is ordered to be placed in the custody of (give full name of placement resource and relationship to the child).
 - d. Clearly state that the DCFS staff member (give full name) is authorized to transport the child(ren) to the city and country of destination.
 - e. Both the English and translated version of the minute order must be exemplified (using an official seal) and authenticated (Apostille) by the California Secretary of State Office.
 - Check with the IPU to determine which documents the receiving country requires to be authenticated.
 - f. Submit the minute orders and any other notarized documents for authentication by the Secretary of State.
 - Documents submitted to the Secretary of State must be certified within the last five years by the appropriate public official or must be notarized by a California Notary Public.

4. If documents need to be notarized, notify your ARA that Notary Services are required to process the out-of-country placement.
 - The CSW requesting the Notary Services needs to have a valid California ID such as a Driver's License.
 - Ensure that the notarization of all applicable documents is completed by a notary.

5. Submit documents to be authenticated ([Apostille](#))
 - a. An appointment is not necessary to submit in person. A processing fee (per signature authenticated) and a handling fee may apply. The fee may be waived if the CSW presents their county badge along with a letter on [DCFS letterhead](#) from their SCSW indicating that the CSW is on official business. The address is as follows:
 - 300 South Spring Street, Room 12513, Los Angeles, CA 90013, (213) 897-306, Monday-Friday 8:00 am-4:30 pm
 - b. If submitting by mail, note that the processing time is typically three (3) to five (5) business days from the date the request is received and there is a fee. Please

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see the California Secretary of State [website](#) on what to include in the packet. Submit packet to the following address:

- Notary Public Section, P.O. Box 942877, Sacramento, CA 94277.

6. Notify the IPU that all documents have been obtained and request assistance with making arrangement for placement in the receiving country.
7. Arrange transportation for DCFS CSW to accompany the child(ren), if the child(ren) must be accompanied by an adult other than a parent or relative, by completing the [DCFS 304](#).
8. The CSW transporting the child will need the child(ren)'s international travel documents, a copy of the minute order, [passport](#), travel tickets, the consulate document authorizing transportation of the child(ren) and other appropriate documents (health, school, etc.) when transporting the child(ren).
9. CSW must maintain monthly contact with the family and report any concerns to IPU.

Regional ARA Responsibilities

1. Make a request for Notary Services by calling one of the three (3) following notaries:
 - Tom Ross, (310) 225-6789
 - Daniel Borquez, (626) 840-4333
 - Robert Marshall, (323) 296-6491
2. The notary will send his/her billing to the ARA who requested the services.
3. Review billing from notary for approval or denial. If approving the billing, complete the following:
 - a. Make two (2) copies of the notary's billing.
 - b. Complete the [DCFS 250](#) and be sure to include the Fund ORG Code.
 - c. Both signatures on the DCFS 250 must be ARA level or above.
 - d. Mail the completed DCFS 250 , the original, as well as one copy of the notary's billing to:
 - i. Procurement Services/Forms Management Section, 501 Shatto Place, Suite 300, Los Angeles, CA 90020
 - ii. Procurement staff will review ARA approval and send notary's billing for payment using to the Fiscal Operations-Accounting Services Section.

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- iii. The Fiscal Operation Division-Accounting Services Section will approve and mail check to the notary.

IPU Responsibilities

1. Coordinate and plan the details of the international placement with the CSW. Remain in contact with the CSW/SCSW throughout the placement process.
2. Establish and maintain contact with the receiving country's social services before and after the placement is made.
3. Request supervision from the receiving country's social services to assure the child(ren) has adjusted to the placement until termination can be recommended.

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Incoming International Cases

IPU Responsibilities

1. Complete a home study in accordance with the rules and regulations of Los Angeles County DCFS.
2. Refer appropriate proposed placement resource to [ASFA](#) for NREFM assessment.
3. Translate the home study to the primary language of the sending country.
 - Utilize the DCFS list of approved bilingual staff for assistance in translation for non-English/Spanish speaking countries.
4. Once the home study is complete, including translation, submit for review and approval by IPU Liaison SCSW.
5. Document any conditions of placement and obtain a written agreement from the sending country.
6. If placement is made the sending country must give the placement resource a legal document granting them full legal/physical custody of the child(ren).
7. If the child(ren) is not an American citizen, the parent/relative in the United States must work directly with the [Immigration Department](#) prior to placement of the child in the United States to ensure compliance with all Immigration laws.

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APPROVALS

International Placement Unit (IPU) SCSW Approval

- Home Study
- Assignment
- Supervision

ASFA SCSW Approval

- Home Study
- Assignment
- Supervision

Regional ARA Approval

- Home Study
- Assignment
- Supervision
- Notary Services

HELPFUL LINKS

Forms

LA Kids

[DCFS Letterhead](#)

[DCFS 250](#), Procurement Request

[DCFS 304](#), Case Related Travel Request.

Hard Copy

Cover Letter for the International Placement on DCFS letterhead

International Home Study Request

Referenced Policy Guides

[0100-520.10](#), Evaluating a Prospective Caregiver

[0100-525.10](#), Interstate Compact for the Placement of Children (ICPC)

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[1200-500.10](#), Vital Records (Birth, Death, Marriage and Divorce)[1200-500.86](#), Immigration Options for Undocumented Children and Families[1200-501.40](#), Obtaining a Passport for a Child/Youth Under DCFS Supervision

Statutes

[U.S. Constitution, Article VI, Clause 2](#) – Dictates that all treaties made shall be the supreme law of the land and are binding on federal, state, and local government officials to the extent that they pertain to matters within such officials' competence.

[Annex to the MOU on Consular Protection between the U.S. and the United Mexican States; 57 STAT .800, Treaty Series 985 and the Vienna Convention on Consular Relations](#) – Outlines the rights of children with dual citizenship; the requirements of consular notification; procedures for sharing information with foreign consulates when complying with notice requirements or requesting assistance and services; and the requirements of maintaining all matters confidential that are related to legal affairs, particularly cases involving custody and adoption of children.

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APPENDIX I: MODEL CHILD WELFARE PRUCOL POLICY

Human Services Agency	Immigration and Child Welfare Practices Permanent Residence Under Color of Law (PRUCOL)
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Reference: [ACL 07-20](#); [CFL 01/02-42](#)

Policy Statement	<p>HSA FCS strives to achieve safety, permanency and well-being for all children in its care. PRUCOL (Permanently Residing in the U.S. Under Color of Law) is a benefit eligibility category that can promote the continued well-being of certain non-citizen children who are in foster care.</p> <p>The Protective Services Worker must submit a G-845 form for every child in Court dependency who is a non-US citizen, within 30 days of the undocumented youth coming into care.</p> <p>PRUCOL must be re-applied for each undocumented minor on an annual basis. Without an annual PRUCOL application, the county cannot utilize state funds to pay for foster care. [CFL 01/02-42] Consult with the Foster Care eligibility worker for eligibility-related matters.</p> <p>The intent of PRUCOL is for certain non-citizens to be identified as in the United States “under color of law” for purposes of benefit eligibility. PRUCOL is not an immigration status, and being deemed PRUCOL for benefits purposes does not affect a person’s immigration status.</p>
Background	<ul style="list-style-type: none"> PRUCOL, by definition, refers to a person who is residing in the U.S. under “color of law.” PRUCOL is a term defined by regulations and court decisions to describe categories of noncitizens who are potentially eligible for certain public benefits in California. PRUCOL is not a separate immigration classification. It does not protect a youth from deportation if ICE chooses to pursue deportation. In order to claim State funds for PRUCOL cases under State-only Foster Care, counties must submit form G-845, Document Verification Request, to U.S. Citizenship & Immigration Services (USCIS). This should be done at the time of the initial eligibility determination and applies to the person whose basis for PRUCOL is “USCIS knows they are here and does not intend to deport them.” For a minor to be considered for PRUCOL, USCIS must be aware of the child’s presence in the United States and USCIS must not be actively seeking the removal/ deportation of the minor from the United States. <p>Since PRUCOL determinations are provisional and must be re-determined by USCIS on a yearly basis, the assigned PSW must initiate the annual PRUCOL application.</p>

Protective Services Worker (PSW)	New PRUCOL Application
	<p>Once it is determined that a child may be undocumented, the PRUCOL application should be completed as part of the foster care eligibility packet within the first 30 days of determination.</p> <p>The PSW completes one form for a new PRUCOL application: G-845, <u>and the Case Summary-Foster Care (attachment 2)</u>. The rest of the information is completed by the Eligibility Worker.</p> <p>For new cases, PRUCOL processing should begin when an attorney is appointed for the minor and once the detention occurs (if applicable).</p> <p>The PSW should always discuss potential PRUCOL eligibility with the child's attorney (if appointed).</p> <ul style="list-style-type: none"> • Secure necessary information from all available sources (minor, relatives, school records, parents, etc.) • Complete all questions on the form. • If after checking all sources, the information is not known or is not available, write that response in the appropriate box and note with an asterisk. • No sections can be left blank. A response of "Information Unknown" or "Information Not Available" should be entered rather than leaving the section blank. • Forward the completed G-845 to the Foster Care Eligibility Worker within 30 days of implementation. <p>The PSW should also explain to the child and family the purpose of PRUCOL and inform the family that the federal government cannot use information collected through the G-845 for immigration enforcement purposes (see Relevant Law, below).</p>

Protective Services Worker (cont'd)	Yearly Re-Determination for PRUCOL
	<p>For existing cases, the assigned PSW should determine if the minor continues to be eligible for benefits as PRUCOL. Prior to processing PRUCOL documents, the PSW should always discuss the subject with the child's attorney (if any).</p> <ol style="list-style-type: none"> 1. Complete the G-845S (Supplement); Attachment 2. 2. Forward to the Eligibility Worker who will send original to USCIS <ul style="list-style-type: none"> • Initiate the application for one year re-determination when notified by the Eligibility Worker • This is a case summary and is available online. There are several areas that need to be addressed as concisely as possible, that is: medical problems; no likelihood of family reunification with either parent; no one to return minor to in the country of origin; prospects for adoption are slim; or minor will remain a dependent until the age of majority. This summary must be provided or the request for PRUCOL will not be processed. • Make copies of the G-845S (supplement); attachment 2 and all supporting documents and place in case file. • Send the originals of the G-845S along with all supporting documents, and a current Court Report to the Foster Care Eligibility with the completed application packet. • It should be noted that once this packet is approved by the Foster Care Unit the funding for the case is shifted from "All County Funds" to State Funding. <p>NOTE: If the PSW subsequently determines that the child is here legally and has appropriate documentation, the PSW should immediately notify the F/C Eligibility Worker who will take appropriate action.</p>

Relevant Law	<p>When the Department of Homeland Security (DHS) receives a PRUCOL verification form (G-845), it checks the SAVE database (Systematic Alien Verification for Entitlements). SAVE is a verification system designed solely for immigrants to receive social benefits. Its purpose is to aid benefit granting agency workers in determining a non-citizen applicant's immigration status, and thereby ensure that only entitled non-citizen applicants receive federal, state, or local public benefits and licenses. It is an information service for benefit issuing agencies, institutions, licensing bureaus, and other entities. The DHS is by law prohibited to use any SAVE information and related information for removal proceedings based on civil immigration violations. The information, however, can be used if there is a criminal violation.</p> <p>42 U.S.C. § 1320b-7(a)(4)(C) – (a)(5)(B)) specifically provides that, “[T]he use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments...and adequate safeguards are in effect so as to assure that the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information...(and) the information is adequately protected against unauthorized disclosure for other purposes.” See also 42 USC 1320b-7 Note (“Such system shall not be used by the Immigration and Naturalization Service for administrative (non-criminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.”)</p>
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APPENDIX J: MODEL FORM FOR CONTACTING ICE

COUNTY OF [COUNTY] SOCIAL SERVICES AGENCY CHILDREN AND FAMILY SERVICES

U.S. Immigration and Customs Enforcement (ICE) Detained Parents Directive Notification/Request for Services

ICE Detention Information Line 1-888-351-4024
Online Detainee Locator System (ODLS) <https://www.ice.gov/locator>
Field Points of Contact:
Los Angeles/Central Coast: Stephan.L.Hottya@ice.dhs.gov; (213) 830-5918
San Diego/Imperial County: Gabriela.B.Pacheco@ice.dhs.gov; (760) 768-6307
Northern California: April.Jacques@ice.dhs.gov; (415) 844-5542

Submit form electronically via [secure] email to: Parental.Interests@ice.dhs.gov

Date:		
Parent/Legal Guardian/Primary Caretaker Information		
Name:	DOB:	
A # (9-digit):	Country of birth:	
Juvenile Court Information		
DP/J #:		
Next Court Hearing:	@ 8:30 AM	Hearing type:
Location: [Court Address]		

The above-mentioned individual meets the criteria/definition under the ICE Detained Parents Directive 11064.2. This notification/request for services is being submitted on behalf of the aforementioned individual for your consideration and discretion of the following services, as they may apply:

- ☐ **Placement/Transfers:** To refrain from making initial placement or transfers outside the area of initial apprehension if the person's child, children, or family court or child welfare proceedings are within the area; request to transfer detainee to location closer to court or that can facilitate parent/child visits
- ☐ **Participation in Court Proceedings:** Arrange for detained parents' participation in court-proceedings, either in-person or by video or teleconferencing
- ☐ **Parent-Child Visitation:** Facilitate parent-child visitation required by the family court or child welfare authority
- ☐ **Accommodate Arrangements for Children Pending Removal of a Parent:** Accommodate the arrangements of the parents/legal guardians, who are imminently facing pending removal, for the care and/or travel of their children
- ☐ **Return for Termination of Parental Rights Proceedings per Welfare and Institutions Code 366.26:** On a case-by-case basis, facilitate the return of lawfully removed persons to the United States, by granting parole for the sole purpose of participation in termination of parental rights proceedings

Please contact the social worker below to discuss this notification/request. Thank you in advance for your prompt response and collaboration.	
Social Worker:	Supervisor:
Phone:	Phone:
Email:	Email:

ICE Notification Form



ABOUT THE ILRC

The Immigrant Legal Resource Center (ILRC) is a national nonprofit that works with immigrants, community organizations, legal professionals, and policymakers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training & technical assistance, and policy development & advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities. www.ilrc.org



ABOUT NCYL

The National Youth Law Center leads high impact campaigns that weave together litigation, research, public awareness, policy development, and technical assistance. The Center's goal is not to reform one particular system, but to transform the multiple public systems serving vulnerable children—including education, child welfare, public health, behavioral health, juvenile justice, and workforce development—such that they receive the supports they need to advance and thrive. www.youthlaw.org