

Immigration Practice Guide

Companion to Policy 31-8-13

Introduction Federal law is very strict regarding the continued presence of non-citizens within the borders of the United States. Such persons must meet all criteria and have proper documentation in order to avoid arrest or deportation. In cases where it is not possible or appropriate to assist the adult client with obtaining proper documentation, the Social Worker shall make reasonable efforts to ensure that the client has access to services that are reasonable and necessary to promote the best interests of the family.

DCF Social Workers shall engage this population and provide services that protect and serve children who may not have documentation papers as well as their documented family members.

NOTE: The identification of undocumented persons by DCF staff does not require reporting this information to the Department of Homeland Security Immigration and Customs Enforcement agency.

Due to the complexity of immigration law, it is important to proactively engage families to ascertain whether adults and children who are DCF clients may be undocumented (illegal aliens), as it will limit eligibility to many of the benefits and services that are available to United States citizens.

Undocumented Children

The Vienna Convention on Consular Relations, an international treaty, requires that if DCF obtains legal custody of a child who is a foreign national, the foreign consulate must be given notice ([DCF Policy 31-8-13.1, Vienna Convention](#)). The attorney for your Area Office will be able to assist you with this process. Notification must be documented in the case record.

Undocumented children of any age can be deported to their country of origin, even if they have been raised in the United States since infancy. In addition, children who have entered and remained in this country legally may be deported simply because their parents have been ordered deported.

In such cases the child may not have been aware of the parent's status or received notice that the parent had been ordered deported. Nonetheless, the child can still be at risk of deportation.

Immigration Practice Guide Companion to Policy 31-8-13

Committed Children (Special Immigrant Juvenile Status)

Undocumented children who find themselves in this country without parental support due to abuse, neglect, abandonment or another similar basis may be eligible for consideration for **Special Immigrant Juvenile (SIJ) status**. To be eligible, a minor child (unmarried person under the age of 21 at the time of filing) must submit an order of dependency that shows:

- the child was declared dependent in a juvenile court, or placed in the custody of the state or an appointed individual;
- the reunification with one or both parents is not viable due to abuse, neglect or abandonment (or a similar basis found under state law; and
- that it would not be in the child's best interest to be returned to the home country or place of last residence.

Legal Reference: INA §101(a)(27)(J), as amended by the Trafficking Victims Reauthorization Act of 2008 (TVPRA 2008) §235(d); INA §§101(b)(1) and (c)(1).

Once it has been determined that an undocumented child is to be committed to DCF and reunification is not the goal, the Social Worker shall work in collaboration with a contracted legal specialist (identified by the Area Office Attorney) to gather and submit the necessary documentation required for Special Immigrant Juvenile cases. This process can be lengthy and complex. If it is not completed before the child's commitment is revoked or expired, the child may not be permitted to complete the process. To ensure that the child obtains legal permanent residency (a Green Card) in a timely manner, this should be addressed well before his or her 18th birthday.

See: Appendix I for a list of task associated with required documentation for Special Immigrant Juvenile Status cases.

Once the child is no longer committed to DCF under Connecticut law, his or her former alien status may be restored and he or she may again be subject to deportation. Therefore, it is essential to address the child's immigration status well before his or her 18th birthday.

Given the complexity of immigration law, the Social Worker shall consult the Area Office Attorney as soon as the Social Worker learns that a child in DCF custody may be undocumented; however, the actual legal work will be performed by an outside immigration legal specialist with whom DCF contracts.

Note: It may still be possible for a youth to attain permanent resident status after he or she has turned 18 or left DCF guardianship. However, because the outcome cannot be guaranteed, staff should address the immigration status of children in DCF custody as soon as it becomes known that reunification is not an option.

Immigration Practice Guide Companion to Policy 31-8-13

Citizenship of Child Committed to DCF

There are two general ways to obtain citizenship through parents: one at birth and one after birth but before the age of 18. For more information, see [Citizenship and Naturalization](#).

Naturalization is the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA).

By law, a child may acquire automatic U.S. citizenship after birth or before the age of 18 years if

- the child was residing as a Green Card holder in the U.S.;
- AND EITHER:
- both parents naturalized before the child's 18th birthday;
- if one parent died, the surviving parent naturalized before the child turned 18;
- if the parents legally separated, the parent maintaining legal and physical custody naturalized before the child turned 18;
- or
- if the child was born out of wedlock and paternity has not been established by legitimation, the mother naturalized before the child turned 18.

In cases in which the citizenship status of an immigrant child committed to DCF is unclear, it is essential to engage the parents before the child's 18th birthday to verify that the child is indeed a U.S. citizen. If the Social Worker is unable to verify this, contact the Area Office Attorney to retain an immigration legal specialist to ensure that the child's citizenship status is resolved.

Benefits Eligibility

Persons who are in the United States illegally are considered to be undocumented and are not eligible for many of the state and federal entitlements afforded to United States citizens. This includes, but is not limited to, health insurance, housing assistance, financial subsidies, food stamps, federal student aid and Social Security benefits.

Children of undocumented parents born in the United States are considered citizens and are eligible for state and federal entitlements, regardless of parental immigration status. Social Workers should encourage undocumented parents of U.S.-born children to make appointments for their children through the Department of Social Services to determine what benefits their children are eligible to receive.

Immigration Practice Guide Companion to Policy 31-8-13

Benefits Eligibility (continued)

Undocumented children not born in the U.S. who are in a DCF placement are entitled to medical coverage throughout their placement episode and while they are committed to the care and custody of the Commissioner of DCF. Termination of this benefit becomes effective when a child returns home. In order to request the medical coverage, Social Workers must submit [DCF-MA1, "Medical Assistance Form,"](#) to the Medical Assistance Unit in the Revenue Enhancement Division.

Foster Care Licensure of Undocumented Individuals

When feasible, efforts shall be made to place children with relatives or other extended family members. Under special circumstances, undocumented individuals, may be considered for kin or fictive kin licensure.

The caregiver must have a valid federal Individual Tax Identification Number (ITIN-W7) in order to receive foster care payments. For additional information on how a potential undocumented caregiver can obtain an ITIN, click this link to locate a Connecticut IRS authorized [ITIN Acceptance Agent](#).

Obtaining Birth Certificates for Foreign- Born Individuals

Obtaining birth certificates for minor children born in foreign countries can be a lengthy and daunting task as the process differs by country. Therefore, whenever feasible, every attempt shall be made to work with the parents or guardians of foreign-born children in the U.S. to obtain these documents.

Many countries have a full-service embassy or smaller consular offices throughout the United States. These generally serve as foreign government satellite offices for citizens of that country. Depending on child welfare laws in their respective countries, embassy or consular offices may be able to assist DCF with obtaining citizen birth certificates.

Depending on the minor's country of origin, it may be necessary to consult your Area Office Attorney about retaining an immigration legal specialist.

For access to the U.S. Department of State's list of foreign embassies and contact information in the United States, go to: [Department of State: Websites of Foreign Embassies](#).

Click here to access to the [U.S. Department of State's list of foreign consular offices](#).

Immigration Practice Guide Companion to Policy 31-8-13

Locating Parents or Other Individuals in ICE Detention or Subject to Removal Proceedings

One of the challenges associated with undocumented parents or caregivers of undocumented children is removal or deportation proceedings. In the event that a parent or caregiver has been arrested and or removed for immigration violations, the United States Department of Homeland Security Immigration and Customs Enforcement (ICE) supports a detainee locator which can be accessed by following the following link:

<https://locator.ice.gov/odls/about.jsp>.

This site provides helpful information about the status of a case, an online detainee locator, enforcement and removal field operations offices, a list and contact information for ICE detainee centers, and regional contact information for ICE facilities.

If there has been involvement with ICE., a person can be located with biographical information. However, if at all possible, Social Workers should inquire about and try to obtain the reference person's Alien Registration Number (A-Number).

<https://locator.ice.gov/odls/homePage.do>

The A-Number is the nine-digit identifying number that is assigned to a person during immigration benefits or enforcement proceedings. The A-Number may be preceded by zeros. A-Numbers are assigned one per person. The A-Number can be found in the top right corner of the individual's federal Form I-862, "Notice to Appear" (NTA).

It is important to note that the site does not reveal whether a person was removed. The system will only reveal if a person is currently in ICE custody or was released from ICE custody within the last 60 days. Family members and legal representatives may be able to obtain additional information about a person's removal status by contacting the ICE Enforcement and Removal Operations (ERO) field office where you believe the person's immigration case was initiated.

<http://www.ice.gov/contact/ero/>.

Immigration Practice Guide Companion to Policy 31-8-13

Victims of Criminal Activity: U Nonimmigrant Status (U Visa)

The U Nonimmigrant Status (U visa) is a status that has been established for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. Undocumented immigrant victims of domestic violence, sexual assault and similar crimes may qualify for a U visa, and be permitted to remain in the United States, provided they meet the following criteria:

- the client must be a victim of qualifying criminal activity;
- the client must have suffered substantial physical harm or extreme emotional abuse as a result of the criminal activity as determined by the United States Office of Citizenship and Immigration Services (USCIS);
- the client must possess information about criminal activity;
- a designated government official must certify that the victim has been, is likely to be or is being helpful to an investigation or prosecution of criminal activity; and
- the criminal activity must have occurred in the United States or have violated United States law.

Designated DCF staff are authorized to certify that a victim has been, is likely to be or is being helpful to an investigation or prosecution of criminal activity. Contact the DCF Office of Multicultural Affairs for information about DCF-authorized certification officials.

Note: If the victim is under the age of 16, is incapacitated or incompetent, certain family members or guardians may be permitted to provide the information about the criminal activity.

The U visa covers a broad range of serious crimes. To qualify for a U visa, the client must be a victim or attempted victim of one of the following felonies:

- Abduction
- Abusive sexual contact
- Blackmail
- Domestic violence
- Extortion
- False imprisonment
- Felonious assault
- Female genital mutilation
- Hostage situation
- Incest
- Involuntary servitude
- Kidnapping
- Torture

Immigration Practice Guide Companion to Policy 31-8-13

**Victims of
Criminal
Activity: U
Nonimmigrant Status (U
Visa)
(continued)**

- Obstruction of justice
 - Peonage
 - Perjury
 - Prostitution
 - Rape
 - Sexual assault
 - Sexual exploitation
 - Slave trade
 - Torture
 - Trafficking
 - Unlawful criminal restraint
 - Witness tampering.
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**Trafficking
Visa
(T Visa)**

Human trafficking, also known as trafficking in persons, is a form of modern-day slavery in which traffickers lure individuals with false promises of employment and a better life. Traffickers often take advantage of poor, unemployed individuals who lack access to social services.

The T Nonimmigrant Status (T visa) is available for those who are or have been victims of human trafficking. The T visa protects undocumented victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking.

To be eligible for a T visa the applicant must have been a victim of a "severe" form of trafficking in persons defined as:

- sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform the act is under 18 years old: or
- the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bonding or slavery.

The applicant must be willing to cooperate with law enforcement through the prosecution process of the traffickers.

In all cases, when the victim of human trafficking is not a citizen of the United States, the DCF Office of Multicultural Affairs must be contacted immediately to commence the process of obtaining benefits on behalf of the victim.

Immigration Practice Guide Companion to Policy 31-8-13

Trafficking Visa (T Visa) (continued)

Forms, further instructions and additional information are available at this website:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=02ed3e4d77d73210VgnVCM10000082ca60aRCRD&vgnnextchannel=02ed3e4d77d73210VgnVCM10000082ca60aRCRD>

Cross reference: [DCF Policy 31-10-6.1, "Human Trafficking."](#)

Unaccompanied Alien Children

In recent years, a large number of Unaccompanied Alien Children (UAC) have been placed with relatives and other sponsors in Connecticut.

An UAC is a child who has:

- no lawful immigration status in the United States;
- not attained 18 years of age; and
- no parent or legal guardian in the United States or no parent or legal guardian available to provide care and physical custody.

A determination that a child is a UAC is made at the time the child arrives at any of the contiguous borders of the United States.

Legal references: 6 U.S.C. Sec.279(g)(2). In addition, two statutes and a legal settlement most directly affect U.S. policy for the treatment and administrative processing of UAC: The Trafficking Victims Protection Act of 2008 (P.L. 110-457); the Homeland Security Act of 2002 (P.L. 107-296); and the Flores Settlement Agreement of 1997. <http://fas.org/sqp/crs/homesecc/R43599.pdf>.

The Department of Health and Human Services (HHS) will determine if the UAC can be reunited with a family member, who does not need to have legal immigration status. Throughout the entire period that a determination is being made regarding the immigration status of a UAC, the child is in removal proceedings.

The vast number of UACs entering the United States are arriving from El Salvador, Guatemala, Honduras and Mexico. They are not migrating here because of legal immigration law changes. They are largely escaping natural disasters, poverty, violence and government corruption. The trauma associated with the journey to the U.S. border is often severe with adverse childhood experiences that can have lifelong implications.

Immigration Practice Guide Companion to Policy 31-8-13

Unaccompanied Alien Children (continued)

Therefore, it is important that Social Workers engage UACs from a trauma-informed framework, which includes realizing the impact of trauma, recognizing the signs of trauma, responding by understanding the UAC's experiences and creating a supportive environment. A trauma-informed response includes screening, assessment and referral in the child's native language for appropriate behavioral health services including evidence-based trauma interventions when necessary.

UACs are highly vulnerable for human trafficking and labor exploitation at the hands of their sponsors. Given this special designation by HHS, it is essential that the Area Office Attorney and the Office of Multicultural Affairs be contacted immediately for guidance on how to best proceed with cases involving UACs.

Immigration Practice Guide Companion to Policy 31-8-13

Appendix I

Required Supporting Documentation for Special Immigrant Juvenile Cases

The Social Worker shall consult the Area Office Attorney as soon as he or she learns that an undocumented child in DCF custody is an appropriate candidate for Special Immigration Juvenile Status. The Area Office Attorney will provide the Social Worker with contact information for an immigration attorney as the actual legal work will likely be performed by an outside immigration specialist with whom DCF contracts. This will require approval by the Area Office management for payment for outside legal assistance.

Once approval has been granted, the immigration specialist will send the Social Worker a packet requesting that the following items be gathered and/or completed. The application process for petitions for SIJS is time-sensitive and it takes approximately six months to gather required documentation. Therefore, it is essential that the Social Worker gather the below items as quickly as possible:

1. Sealed medical exam. This is a specialized exam that must be performed by a United States Citizenship and Immigration Services (USCIS)-approved Connecticut Civil Surgeon. You may locate an approved doctor by using this link: <https://my.uscis.gov/findadoctor>

Note: Most of these doctors only accept cash for payment. Therefore, arrangements must be made with DCF Child Welfare Accounting to request an exception to the established petty cash limit prior to the date confirmed for the actual doctor visit. This process may take several days. It is imperative that Social Workers request the exception in advance of the anticipated appointment.

2. Original country of birth certificate with certified translation. Certified translations can be completed by any DCF-authorized interpreter and translation provider, which can be located at this link: <http://www.ct.gov/dcf/cwp/view.asp?a=2546&q=314490>
3. Four passport photographs of the child.
4. Fully-completed Biographic Information (G-325A) provided to the Social Worker by the contracted immigration attorney.
5. Copies of the Commitment Order, Motion and Order for Best Interest Finding, Summary of Facts and Social Study.
6. Copy of the country of birth passport information page and visa page in the passport and the I-94 arrival verification if available. <https://i94.cbp.dhs.gov/I94/consent.html>