

International Child Welfare - Undocumented Children

(Revised 03/25/22)

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Forms

The following forms are referenced in this file:

- 04-231 Notification to Foreign Consulate/Embassy Form (CWS/CMS Template)
- 04-309 International Liaison Office Request Form (CWS/CMS Template)
- [I-90](#) Green Card Renewal/Replacement Application

Policy

When children born to parents with citizenship other than the U.S. are in protective custody and/or a petition has been filed in Juvenile Court, the Consular officers will be notified via the [International Liaison](#). The 04-231, Notification to Foreign Consulate/Embassy (CWS/CMS Template), must be completed.

In addition, if a SW requests services from a foreign country such as, but not limited to, home evaluations, parent searches, adoption home study, vital records request, and suspected child abuse cross reports, an International Liaison Office Request Form, 04-309 (CWS/CMS Template), must be completed.

NOTE: A separate 04-309 must be completed for each service requested.

Foster youth should not carry their original immigration documents with them. A copy will be made for the youth to carry and the original will remain with the caregiver. When the youth leaves foster care, the original documents will be given to the youth.

Children Who Are Not U.S. Citizens

In general, children who are not born in the U.S. are considered undocumented if there is no verification of any of the following:

Type of Verification	Form Number	Notes
Certificate of U.S. Citizenship	USCIS (N-600)	<p>If the parent is a U.S. citizen, but the child was not born in the U.S., the child is not automatically classified a U.S. citizen unless the child qualifies under the Child Citizenship Act of 2000 or other nationality laws.</p> <p>The parent needs to contact the U.S. Citizenship and Immigration Services (USCIS), formerly known as the Immigration and Naturalization Service (INS) to file for Derivative Citizenship for the child.</p> <p>If there is no parent available to do so, the SW will consult with CC about obtaining legal assistance to adjudicate the child’s citizenship status as quickly as possible.</p>
Consular Report of Birth Abroad (CRBA)	Department of State (DS-2029)	<p>Refers to the birth of a child abroad to a US citizen parent(s). <i>It is the equivalent to a Certificate of Citizenship except that it is issued by an American Consulate office abroad.</i> There is no need to apply for a Certificate of Citizenship or a Resident card if a child has a CRBA.</p>
Permanent Resident Card	(I-551)	<p>Having a Permanent Resident Card, also known as a Green Card, is proof of a foreign national’s immigration status and allows them to live and work permanently in the United States.</p>
Memorandum of Creation of Record of Lawful Permanent Residence	(I-181)	
Temporary Resident Card	(I-688)	<p>If this document has expired, it is invalid and must be renewed. The SW may request County funds for the filing fee.</p>

Children Who Are Not U.S. Citizens (cont.)

Type of Verification	USCIS Form Number	Notes
Re-Entry Permit	(I-327)	If this document has expired, it is invalid and must be renewed. The SW may request County funds for the filing fee.
Refugee Travel Document	(I-571)	If this document has expired, it is invalid and must be renewed. The SW may request County funds for the filing fee.
Arrival-Departure Record	(I-94)	
Employment Authorization Card	(I-688A)	May be used for identification only and cannot be used for verification of legal status.

NOTE: The term, “qualified alien” is used in reference to eligibility for certain public benefits. It is not a separate immigration category; rather, it refers to immigrants in many categories who are eligible for certain federal government benefits.

Lost, Stolen or Destroyed Immigration Documents

For lost, stolen, or destroyed immigration documents, follow the process in this table:

When the child is...	Action needed:
Outside the U.S.	<ol style="list-style-type: none"> 1. Have a valid passport. 2. Contact the nearest US Consulate, USCIS field office or port of entry and inquire about a “Letter of Transportation.” 3. Obtain a “Letter of Transportation” (which will allow re-entry into the U.S without a green card) by: <ol style="list-style-type: none"> a. filing the required form b. submitting passport pictures c. pay the required fee. 4. Once back in the U.S., file USCIS Form I-90 to replace the lost or stolen green card.
Inside the U.S.	<ol style="list-style-type: none"> 1. Complete USCIS Form I-90. 2. Pay the required fees for application and biometrics. <p>NOTE: You can also file the I-90 form online on the USCIS website at www.uscis.gov.</p>

NOTE: Use the USCIS website for straight replacements and/or when there are no other issues. If there are any issues with applying for or obtaining a new card or a replacement card, consult with CC. For more information, consult with the [International Liaison](#).

Immigration Status

Some common categories for immigration status are as follows:

Category	Description
Lawful permanent residents (green card holders)	<p>Immigrants who have “lawful permanent resident” status have been granted permission by the U.S. government to reside and work in the U.S. permanently. They are still citizens of their home country, but possess most of the same rights as U.S. citizens. For instance, lawful permanent residents are eligible for most welfare benefits although sometimes they may not be eligible for them until they have had a green card for five years. In some cases, however, lawful permanent residents can be deported or denied permission to reenter the country.</p> <p>An immigrant survivor of family/domestic violence may have become or be eligible to become a lawful permanent resident through the Violence Against Women Act (VAWA). These persons are sometimes known as “VAWA self-petitioners.” Refer to U-Visa description below and U Visas file.</p> <p>Lawful permanent residents can have either a green card or a stamp in their passports that reads “temporary evidence of I-551.”</p>
Naturalized United States Citizens	<p>Immigrants are generally eligible to apply for U.S. citizenship five years after they receive their green card, but some are eligible after only three years through marriage to a U.S. citizen. Those who become naturalized citizens possess the same rights and responsibilities as native-born citizens and cannot be deported. In some cases, lawful permanent resident children can become citizens automatically if their parents naturalize before the children turn 18. Lawful permanent residents 18 years and older must demonstrate five years of “good moral character” before seeking to naturalize.</p>
Parolees	<p>Parolees enter the country lawfully while the U.S. Government decides what status to give them. Some persons are “paroled indefinitely,” which is also a lawful status. A parolee may have a document stating this status, but as stated above, statuses are conferred regardless of the availability of documents.</p>
PRUCOL (Permanently Residing Under Color of Law)	<p>If the USCIS is aware of the presence of an undocumented immigrant and has done nothing to deport them, they may be considered part of this special category. This commonly occurs when, for instance, an undocumented person applies for lawful status.</p>

**Immigration Status
(cont.)**

Some common categories for immigration status are as follows:

Category	Description
Refugees and Asylees	Someone who comes to the United States fleeing persecution in their home country may have refugee or asylee status. They are in the United States legally, and have the right to apply to become lawful permanent residents. Asylees and refugees have the right to work in the U.S. without a separate employment authorization card. In addition, refugees and asylees are eligible for additional services that are not available to other types of lawful permanent residents. Refugees and asylees may have a stamp in their passport, or a letter from USCIS .
Undocumented Immigrants	Undocumented immigrants are people who entered the U.S. unlawfully or people whose legal immigrant or visitor status expired or was cancelled by the government. Undocumented immigrants do not have permission to work. Undocumented immigrant children may be eligible to apply for lawful immigration status including SIJS (see Special Immigrant Juvenile Status (SIJS)), asylum, or lawful permanent residence through a family member or an employer.
United States Citizens	All children born in the U.S. and its territories are citizens of the U.S., regardless of their parents' immigration status. Many children born outside of the U.S. may also be U.S. citizens, either through a parent born in the U.S., or through naturalization. Children born outside the U.S. to a U.S. Citizen parent may lack documentation that they are U.S. citizens, and the family or the SW should be directed to the web page on the USCIS website which gives instructions for obtaining this documentation. This should be done as quickly as possible.
Visa Holders	People with employment, student or tourist visas are in the U.S. legally for a fixed period of time and for a specific purpose. They are generally ineligible for public benefits.
U-Visa Holders	Non-US citizens may qualify for U Visa status (see U Visas) if they are victims of crime and have completed a U-Visa certification form with the USCIS. NOTE: Effective January 1, 2016, certain state and local agencies including child protective services, complete U Visa certifications, upon request, for immigrant crime victims who have been helpful, are being helpful, or are likely to be helpful in the detection, investigation or prosecution of specified, qualifying crimes. If you have any questions regarding U-Visa certifications, contact CC.

**Immigration Status
(cont.)**

Some common categories for immigration status are as follows:

Category	Description
Dual Citizenship	<p>The U.S. recognizes dual citizenship in some circumstances. Children who may have dual citizenship should be considered U.S. citizens, but the SW must still consult with the International Liaison regarding contacting the consulate general of the other country of citizenship.</p> <p>Since qualification is dependent both on foster care status and the timely filing of an application, SWs should promptly consult with CC. Because discharge from foster care can impact a SIJS (see Special Immigrant Juvenile Status (SIJS)) application, SWs should consult with CC about the filing or status of a SIJS application prior to the child's discharge from foster care to "independent living."</p> <p>The best way to determine whether a foster child might need immigration assistance is to look at their birth certificate. If the child has a U.S. birth certificate, that child is a U.S. citizen and does not need immigration assistance. To get a copy of a foreign birth certificate and any other relevant documents including a foreign passport and dispositions in any family court, criminal or delinquency proceedings, the SW should contact the International Liaison.</p>

**Child Citizenship Act
of 2000**

These are the eligibility qualifications for the Child Citizenship Act of 2000:

1. At least one parent of the child is a citizen of the U.S., whether by birth or naturalization;
2. The child is under the age of eighteen;
3. The child is residing in the U.S. in the legal and physical custody of the citizen parent and the child entered the U.S. pursuant to a lawful admission for permanent residence (admission in any immigrant classification will satisfy the requirements that the applicant be admitted to the U.S. as a lawful permanent resident);
4. In the case of an adopted child, the child is under the age of sixteen and has resided in the legal and physical custody of the adoptive citizen parent(s) for at least two years (sibling children adopted by the same parent(s) have until the age of 18).

If the SW has any questions regarding a child's status, the SW will consult with the PSS and CC.

Cultural Considerations When Working with Immigrant Families

The following information may be helpful when working with immigrant families:

Topic	Information
Education for Immigrant Children	Regardless of their immigration status, all children are entitled to a free public education in their local school district. In fact, they are required to attend school until they are 18.
English Proficiency and Immigration Status	How well someone speaks English may not be reflective of their immigration status. A child who arrived in the U.S. at age 2 might speak perfect English and yet be an undocumented immigrant; an elderly woman who speaks no English may be a U.S. citizen, having qualified for certain exemptions from the English-language-speaking requirement. Many immigrants come from English-speaking countries and have already mastered the language.
Multiple Statuses in One Family	It is very common for one household to have members with different immigration situations. For example, an undocumented mother and father may have children who were born in the U.S. (and who are thus U.S. citizens). They may live with recently arrived relatives who have green cards, and may be receiving a visit from a family member in the country on a tourist visa.
Kinship Care	<p>Staff are required to seek suitable relatives for kinship care. Undocumented relatives can be considered as a resource for children. For all persons, including undocumented relatives, to be considered as resource parents, however, they must be able to demonstrate visible means of financial support other than the foster care rate and they must meet the other criteria for becoming kinship resources.</p> <p>NOTE: Relatives residing outside the U.S. can be considered as a placement resource for children in foster care. See Placement of a Child in Mexico or Outside the United States.</p>
Protective Custody	In a case where a child who is not a U.S. citizen is taken into protective custody, the SW must notify the consulate general of the child's country of citizenship via the International Liaison . Staff should also inform the family members that it is their right to contact their home country's consulate for assistance if they so wish.

Cultural Considerations When Working with Immigrant Families (cont.)

The following information may be helpful when working with immigrant families:

Topic	Information
Undocumented Children in Foster Care	In the case of foster children who are neither U.S. citizens nor lawful permanent residents, the SW must consult with CC to provide guidance on legalizing the child's status through an application for SIJS (see Special Immigrant Juvenile Status (SIJS)). This should be done as quickly as possible.
Immigration Status	<p>SWs will not ask a person about their immigration status unless this information is required to determine program, service or benefit eligibility. Child welfare services are provided to children and families without regard to immigration status.</p> <p>Staff should be sensitive to the fact that many immigrants are reluctant to interact with government officials or employees for fear of being reported to the U.S. Citizenship and Immigration Services (USCIS). Therefore, staff should not inquire about immigration and/or U.S. citizenship status until after they have engaged the family and explained the purpose of the inquiry.</p> <p>Information obtained by staff, including immigration status of family members, is confidential. Staff should first consult with the PSS before communicating any information about an undocumented or documented immigrant. Staff will not disclose immigration status information to any person or agency, including law enforcement without first consulting with the PSS and with downtown office CC.</p>

Confidentiality of Case Records

Local Superior Court Rule 6.6.4 authorizes the sharing of information with foreign and U.S. Consulates when complying with notice requirements or requesting assistance and services. See Confidentiality - General.

Procedures for Notifying Foreign Consulates

The SW will complete a Notification to Foreign Consulate form (04-231), and send it to the [International Liaison](#) for processing whenever it is learned that a foreign born minor is in protective custody, and/or the parent(s) of a foreign nationality is before the Juvenile Court for potential dependency action.

Alignment with SET

This policy aligns with SET [Value 5](#) and the guiding principle of always maintaining the primary focus on children's best interests and with SET [Value 3](#) guiding principle of continual focus on children's wellbeing while they are in our care and actively striving to preserve their connections to culture.
