
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Effective Date: July 30, 1991
Revised: October 18, 2007

Number: D-0508

Undocumented Dependents

Purpose To provide guidelines for obtaining lawful permanent resident status for eligible, undocumented dependents of the Orange County Juvenile Court.

Approved This policy was approved by Mike Ryan, Director of CFS, on October 18, 2007. *Signature on file.*

Background This policy is a revision of Special Immigrant Services for Undocumented Minors Cancelled (D-0508) and replaces Legal Residency Documents Request (Amnesty Program) (D-0505D).

The Immigration and Nationality Act, a Federal law enforced by the Department of Homeland Security (DHS), controls immigration in the United States. The DHS has distributed these duties to three bureaus within DHS:

- **United States Citizen and Immigration Service (USCIS)** is responsible for immigration-related services and benefits that were previously performed by the Immigration and Naturalization Service (INS)
- **United States Immigration and Customs Enforcement (ICE)** is responsible for domestic investigative and enforcement of federal immigration laws
- **United States Customs and Border Protection (CBP)** is responsible for border enforcement

Under immigration laws, any person in the United States who is not a U.S. citizen is referred to as an “alien.” Aliens may be in the country legally or illegally. An undocumented alien is in the United States illegally and is subject to deportation at any time.

Undocumented aliens who come under the jurisdiction of a juvenile court and meet certain other requirements may be able to obtain Special Immigrant Juvenile Status (SIJS), and based on obtaining that status, apply for an “adjustment of status” to become a lawful permanent resident. A permanent legal resident document is issued to those aliens who obtain an adjustment of status.

Children and Family Services (CFS) staff help eligible, undocumented dependents meet USCIS requirements in applying for both SIJS and a permanent legal resident document.

Legal Mandates

- Federal Immigration Act of 1990, Sections 153, 301, and 303
 - [Immigration And Nationality Act](#), Sections 101(a)(15)(U); 101(A)(27)(J); 101(B); 101(B)(1)(E); and 101(B)(1)(D)
 - [Immigration And Nationality Act](#), Section 201(B)(2)(A)(I)
 - [Immigration And Nationality Act](#), Section 203(A)
 - [Immigration And Nationality Act](#), Section 208
 - [Immigration And Nationality Act](#), Section 212(A)(9)
 - [Immigration And Nationality Act](#), Section 240A(B)(2)
 - [Immigration And Nationality Act](#), Section 237(A)
 - [Immigration And Nationality Act](#), Section 243(H)
 - [Immigration And Nationality Act](#), Section 244
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Definitions

Lawful permanent resident:

An alien, who has permanent legal immigration status.

Lawful permanent resident document:

A document commonly known as a “green card,” identifying the holder as a lawful permanent resident of the United States.

Undocumented dependent:

For the purposes of this policy and procedure (P&P), an undocumented dependent means an alien with no lawful immigration status who is under the jurisdiction of the Orange County Juvenile Court.

PRUCOL Status:

Undocumented dependents with PRUCOL status are “permanently residing in the United States under color of law.” This is not an immigration category. This status allows undocumented

dependents that are not eligible to remain in the United States by any other means to remain in the country at the administrative discretion of USCIS and is used primarily to determine eligibility for services. Undocumented dependents with PRUCOL status have access to federal assistance programs such as Medicaid, SSI, and AFDC-FC funding. See CFS Foster Care Program Development Policy and Procedure (P&P) Citizenship and Alienage 45-201.14 for additional information concerning funding for undocumented dependents.

Employment authorization document:

A government issued photo identification card commonly known as a “work permit” that allows the holder to work legally in the United States.

Adjustment of Status:

The procedure by which a person becomes a lawful permanent resident without leaving the United States.

POLICY

**Statutory
Requirements
For SIJS**

CFS social workers help eligible, undocumented dependents to obtain lawful permanent resident status, when it is in the dependent’s best interest to do so. The Immigration Liaison, a social worker with special training in the complex application process, works with the assigned social worker and the dependent to obtain this status prior to the termination of dependency so that the dependent is not deported when the Juvenile Court is no longer involved.

As soon as a determination has been made to apply for SIJS status for the dependent, the assigned social worker prepares an *Order Regarding Eligibility For Special Immigrant Juvenile Status JV-224* to be signed by the bench officer assigned to the undocumented dependent’s case.

The elements of the order include the following information:

- There is an open Juvenile Court case involving the undocumented dependent
- The undocumented dependent is “deemed eligible for long-term foster care” by the Court, i.e., the Court has found that family reunification is not a viable option and the child is in the permanent placement phase of the dependency process
- It would not be in the child’s best interest to be returned to the parent’s country of nationality or country of last habitual

residence. (Generally, this issue will have been addressed when the dependency case begins and an effort is made to locate and evaluate close family members in other countries and forms the basis for this finding.)

- The undocumented dependent was a subject of abuse, neglect or abandonment, as supported by the facts in the petition

Benefits of Obtaining SIJS

Undocumented dependents who obtain “special immigrant juvenile” status receive the following benefits:

- Ability to apply for an adjustment of status to become a lawful permanent resident (i.e., obtain a “green card”)
- Temporary protection from deportation
- Eligibility for limited public benefits
- Eligibility for employment authorization, once they have also submitted an application for an adjustment of status

Note: When an undocumented dependent is granted SIJS, federal foster care matching funds may then be accessed for their care. Undocumented dependents that have applied for or been granted SIJS and for whom lawful permanent resident status is pending, no longer qualify for PRUCOL funds.

Benefits of Obtaining A Lawful Permanent Resident Document

Undocumented dependents who become lawful permanent residents of the United States receive the following additional benefits:

- Right to live and work permanently in the United States
- Ability to travel in and out of the country
- Eligibility for some public benefits (e.g., welfare and Medicare) as time goes on
- Ability to apply for U.S. citizenship after five years in this country

Benefits of Simultaneously Applying for SIJS and An Adjustment of Status

Submitting an application for adjustment of status to become a lawful permanent resident simultaneously with an application for SIJS is protection against deportation and grants employment authorization until an interview with USCIS is held and a decision is made regarding an adjustment of status.

Benefits of Applying For An Employment Authorization Document

An undocumented dependent who has filed applications for both SIJS and adjustment of status qualifies for employment authorization during the whole period that the applications are pending. If the undocumented dependent is too young to work, or does not plan to work, an employment authorization document allows the undocumented dependent to obtain:

- A valid social security number
- Use of a government-issued photo identification card pending issuance of a permanent legal resident document

The employment authorization document may be given out the day the applications are filed, if they are filed in person. If the applications are mailed, the work authorization document may take a few weeks to arrive by mail.

Note: Unless it is imperative that the undocumented dependent begins to work immediately, there is no need to apply for an employment authorization document as the lawful permanent resident document serves the same purpose.

Possibility of Deportation Proceedings

When a petition for SIJS is filed, immigration officials in USCIS are alerted to the fact that the undocumented dependent is in the United States. If the SIJS petition and adjustment of status application are denied, USCIS might transfer the file to Immigration and Customs Enforcement, which could use that information to start deportation proceedings.

Other Avenues To Gain Lawful Status

When SIJS is not an option, lawful status can be gained through other programs such as:

- Family Visa Petition through natural, step or adoptive relatives
- Violence Against Women Act Petition (VAWA)
- Cancellation of Removal
- Asylum and Temporary Protected Status
- “U” Visa for a Victim of, and Witness Against, a Serious Crime
- “T” Visa for Victims of Alien Trafficking
- Inherited or Derived U.S. Citizenship

The use of any of the above methods for gaining lawful status requires the assistance of a skilled immigration attorney before the petition is filed.

Informed Consent

The assigned social worker will review the SIJS application process with undocumented dependents on their caseload, including the risks and benefits involved. A copy of *Special Immigrant Juvenile Status Information, F063-25-511* describing the benefits and risks of applying for SIJS may be given to age appropriate dependents, and to counsel representing dependents not deemed to be age appropriate.

The undocumented dependent's attorney, CASA volunteer (if any), foster caregiver, and any other interested advocate should also be involved in the process.

When and How to Apply

Referrals will be submitted, based on a case by case assessment and discussion between the assigned social worker and supervisor, when an undocumented dependent becomes eligible for SIJS, to determine, if it is in the dependent's best interest to remain in the United States legally when dependency is terminated.

Eligibility to apply begins when the Court terminates family reunification services and orders a permanent plan of long-term foster care, legal guardianship or adoption.

The *Legal Residency Documents Request, F063-25-200*, referral form will be completed and submitted to the CFS Immigration Liaison by the assigned social worker after the Court has determined that the child meets the criteria for SIJS and approves the funding for the application process.

Retaining Juvenile Court Jurisdiction

Applications for SIJS and lawful permanent resident status will be denied if there is no open dependency case, even if the applications were filed while the dependency case was open. The Juvenile Court must retain jurisdiction over the dependent until both SIJS and lawful permanent resident status are granted. This may mean continuing dependency after a legal guardianship has been granted, delaying the finalization of an adoption, or even after a child has turned 18 and/or graduated from high school.

Personal Factors Affecting Eligibility For SIJS and Adjustment of Status

There are a number of factors that may affect the successful outcome of SIJS and Adjustment of Status applications:

Age: The adjustment of status must be completed prior to age 21. If there is a danger that the undocumented dependent will age out of the system, and there is no parental involvement, the assigned social worker will consult with the County Counsel assigned to the child's case to determine how soon family reunification services can be terminated. In addition, the assigned social worker should ask USCIS to expedite the application, for priority interviews and fingerprinting and other administrative relief, if needed.

Marital Status: SIJS is not available to married undocumented dependents. If the marriage occurs after SIJS has been granted but before permanent residency has been approved, SIJS is automatically revoked.

Grounds of Admissibility For Lawful Permanent Resident Status

Different regulations apply to obtaining SIJS and to obtaining lawful permanent resident status. Receiving SIJS is not a guarantee that an undocumented dependent can obtain lawful permanent resident status.

Undocumented dependents applying for lawful permanent resident status can apply for waivers for many, but not all, of the grounds prohibiting other applicants from obtaining lawful permanent resident status.

A. Grounds of admissibility can be waived for dependents who:

- Have been prostitutes or procurers (“pimps”)
- Were convicted as adults *once* of simple possession of 30 grams or less of marijuana
- Are HIV positive
- Were deported and did not remain outside the U.S. for five years before returning
- Committed fraud to enter the U.S. to get a visa
- Are alcoholics or have a “mental or physical disorder” that poses risk to people or property (e.g., suicidal behavior, psychopathic, disorder that caused the person to prey sexually on other minors)
- Are or have been drug addicts or abusers. **Note:** Drug abuse may mean anything more than one-time experimentation with illegal drugs
- Helped other aliens enter the U.S. illegally

Assigned social workers help undocumented dependents on their caseloads submit a special waiver application asking USCIS to “forgive” the ground of admissibility whenever possible. Consultation with an immigration expert is advisable, whenever there is any doubt as to whether or not a waiver might be granted to avoid possible deportation if the waiver is not allowed.

B. Grounds of admissibility cannot be waived for dependents who:

- USCIS has “reason to believe” are or have been drug traffickers
- Were convicted as adults of a wide range of offenses, or who have made a formal admission of any drug offense or a “crime involving moral turpitude” (such as shop lifting, assault with a deadly weapon, or sex crimes)

Use of Immigration Attorneys

The assigned social worker must consult with County Counsel to determine whether or not it is necessary to ask the Court to appoint an attorney skilled in the area of immigration law for the dependent, if the Court has made a determination that the undocumented dependent meets the statutory requirements for SIJS, **and** if any of the following circumstances apply:

- Deportation proceedings have been instituted
- SIJS or adjustment of status to permanent legal resident have been denied
- Grounds of admissibility that cannot be waived in order to become a lawful permanent resident exist
- The CFS Immigration Liaison recommends that an attorney be appointed to facilitate the process because of other unusual circumstances

Denials and Appeals

If USCIS denies the undocumented dependent's application for either SIJS or adjustment of status to lawful permanent resident, the assigned social worker must notify the dependent's Juvenile Court attorney, the Deputy County Counsel assigned to the case, and assist with arrangements to file an appeal of the denial. USCIS decisions are often reversed on appeal, and to avoid deportation, appeal possibilities must be investigated as quickly as possible with the assistance of an immigration expert as the protection against deportation is no longer in effect.

Confidentiality

USCIS will be provided with the bench officer's order with the minimum amount of information needed to meet the legal elements of SIJS. The assigned social worker will not supply any details about abuse, family, prior living situation, etc.

The statute provides that USCIS is to be given proof that judges have made certain findings, not proof that undocumented dependents actually were abused. If additional information is requested beyond the judge's order, a meeting with higher level USCIS officials and personnel from the juvenile system may resolve the issue without having to violate the dependent's confidentiality.

If the USCIS officer refuses to "consent" (i.e., accept the bench officer's order which has addressed all of the legal elements as a basis for granting SIJS), consult an attorney familiar with immigration law.

If the USCIS officer has asked for details of abuse, abandonment or other family issues that might traumatize the child, provide those

details in writing outside of the presence of the undocumented dependent, only if absolutely necessary to do so.

Required Documents

See the Procedure section of this policy below for the steps involved in obtaining SIJS status and lawful permanent resident status.

The required documents include:

- A. Special Immigrant Juvenile Status application.
- B. Signed *Order Regarding Eligibility For Special Immigrant Juvenile Status, JV 224*.
- C. Adjustment of Status application.
- D. Results of a medical examination conducted by a doctor approved by USCIS which includes:
 - A test for HIV
 - Tests for the presence of some illegal drugs
- E. Proof of age such as:
 - A birth certificate (with translation)
 - A passport
 - Official foreign identity document such as a school card
 - Substitute documents might include a baptismal certificate showing date and place of birth and baptism or affidavits from people who were personally aware of the birth

Note: The Citizen and Immigrant Service District Director has the discretion to accept any document to prove age in an SIJS case. If nothing else can be located, submit a juvenile court order on the child's age and include all efforts made to locate another proof of age. See Attachment 2 for a sample ex parte to get the court order.

In addition to the above, the applicant will also need two passport-style photos, various filing fees (unless they are waived), and a photo-identification for the interview.

Fees

The assigned social worker must submit an ex parte to the Court to request that the bench officer authorize the use of county funds to pay the fees necessary to obtain SIJS and lawful permanent resident status. The ex parte must be submitted at the same time as the *Order Regarding Eligibility For Special Immigrant Juvenile*

Status, JV 224. (See Attachment 1 for a sample ex parte and the Procedure section below for information on submitting the ex parte to Court.)

Interview

After USCIS receives the application packets, a date will be set for an interview. The interview date may be anywhere from 6 to 36 months after the applications are filed. A USCIS officer will conduct the interview at their office. An attorney for the undocumented dependent can be present, and it is seldom a problem for the social worker to be present as well. If the USCIS officer attempts to bar a non-attorney from the interview, ask to talk with a supervisor.

Assigned social workers will explain the interview process to the undocumented dependents on their caseload, as some of the questions may be confusing. In addition to routine questions about the applications and forms, the USCIS officer may ask the undocumented dependent additional questions such as: "Are you a communist? Are you a drug dealer?" etc.

Interviews are usually short and normally cover basic information contained in the application packets. See the Confidentiality section above for additional information in the event questioning goes beyond requests for the basic information and into areas that might traumatize the dependent.

The USCIS officer may indicate at the interview that the applications have been granted. Otherwise, the decisions will be mailed to the applicant.

Revocation of SIJS Approval

The USCIS can revoke SIJS at any point before the final processing of the adjustment of status application. Reasons for revocation include:

- Reaching 21 years of age
- Marriage
- Termination of juvenile court jurisdiction
- Ineligibility for long-term foster care status due to abuse, neglect or abandonment
- A determination that it is in the undocumented dependent's best interest to return to their country of nationality or last habitual residence
- Failure to apply for lawful permanent resident status within one year of being eligible

Revocation of Lawful Permanent Resident Status Lawful permanent resident status can only be revoked if something is done to create grounds for deportation. For example, if the person is convicted of a drug offense, or travels while inadmissible because of a crime, or abandons U.S. residency by moving to another country or, potentially, by remaining outside of the U.S. for over one year.

Once a special immigrant juvenile becomes a permanent resident the status cannot be lost by reaching adulthood, marrying or by being emancipated from Juvenile Court jurisdiction.

Note: A court dependent should consult with an immigration expert before leaving the United States, as USCIS officers at all entry points to the United States may question returning permanent residents to determine if they are inadmissible.

CWS/CMS Documentation Court Services and Specialized Family Services Investigations staff will ensure that the child's immigration status is entered/changed in CWS/CMS under Immigration Status on the Demographics page of the client notebook as soon as the information that the child is undocumented becomes known.

The assigned social worker will insure that the service component is entered/changed to Permanent Placement in CWS/CMS as soon as the Court orders Permanent Placement. In addition, the assigned social worker and the CFS Immigration Liaison will document all efforts to obtain SIJS and lawful permanent resident status on the appropriate contact pages in the client notebook in CWS/CMS.

REFERENCES

Hyperlinks Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS Policy and Procedure (P&P) [Out-of-Country Travel and Passports For Children \(D-0412\)](#)
- [Attachment 1–Ex Parte for SIJS Funds](#)
- [Attachment 2–Ex Parte to Establish Birth Date and/or Place](#)
- California Department of Social Services (CDSS) [All County Letter \(ACL\) 07-20](#)
- CDSS [ACL 07-22](#)
- CDSS [ACL 93-84](#)

Other Sources Other printed and/or linked references include the following:

- CFS Foster Care Program Development P&P Citizenship and Alienage (45-201.14) (available in the FC Eligibility program)
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REQUIRED FORMS

Online Forms Required forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Legal Residency Documents Request	F063-25-200
Order Regarding Eligibility For Special Immigrant Juvenile Status	JV-224
Special Immigrant Juvenile Status Information	F063-25-511

Hard Copy Forms Forms listed below must be completed in soft copy and sent via email.

Form Name	Form Number
Placement History	F063-25-SOC153
County Funds Request	F063-25-415

CWS/CMS Forms The following required forms may **only** be obtained in CWS/CMS. **For reference purposes only**, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
Ex Parte Application and Order	(no form number)

Brochures Brochures to distribute in conjunction with this procedure include:

Brochure Name	Brochure Number
None.	

PROCEDURE

Required Actions		The following actions must be completed when an undocumented dependent becomes eligible for SIJS status.
Staff Responsible	Step	Required Action
Placement or Diversion Unit Clerk	1.	<p>Document dependent's Immigration Status in CWS/CMS as follows upon receipt of the initial <i>County Funds Request, F063-25-415</i>, from eligibility worker to begin funding for the dependent's placement when reason for request is that dependent is undocumented:</p> <ul style="list-style-type: none"> • Open Demographics page of the client notebook • Open Immigration Status drop down menu • Select "undocumented alien" option • Save to database
	2.	<p>Change the service component for all children in out-of-home care from "Family Reunification" to "Permanent Placement" on Service Component page in undocumented dependent's notebook in CWS/CMS as soon as family reunification services have been terminated and either a hearing pursuant to WIC § 366.26 or to WIC § 366.3(e) (Post Permanent Plan Review) is the next calendared hearing.</p>
Assigned Social Worker	3.	<p>Determine if undocumented dependent is eligible to apply for SIJS and legal permanent resident status as soon as notified to do so by CFS Immigration Liaison.</p>
	4.	<p>Give undocumented dependent and caregiver <i>Special Immigrant Juvenile Status Information, F063-25-511</i>, and discuss benefits and risks of applying for SIJS and permanent legal resident status.</p>
	5.	<p>Discuss with supervisor whether or not undocumented dependent would benefit from obtaining legal permanent resident status, and if so, proceed with steps below to facilitate that process.</p>
	6.	<p>Consult with CFS Immigration Liaison if it appears that circumstances of undocumented dependent's life</p>

suggest that an attorney specializing in immigration law will be required.

7. Notify Deputy County Counsel and attorney assigned to undocumented dependent's case that an attorney specializing in immigration law needs to be appointed to assist in obtaining legal permanent resident status.
8. Submit an *Order Regarding Eligibility For Special Immigrant Juvenile Status, JV 224*, and an Ex Parte Application And Order supporting an SIJS application (see Attachment 1) to Court, if the CFS Immigration Liaison will be facilitating application process.

Note: If an immigration attorney is needed to facilitate application for legal permanent resident status, submit documents to Court as requested by that attorney.

9. E mail completed *Legal Residency Documents Referral* to Immigration Liaison Inbox. Liaison will assist the dependent in completing and submitting applications.
10. Pony following documents to CFS Immigration Liaison:
 - Signed Ex Parte Application and Order supporting SIJS application
 - Signed *Order Regarding Eligibility For Special Immigrant Juvenile Status*
 - Proof of birth
 - Immunization record
 - *Placement History*
11. Document all activities related to obtaining permanent legal resident status on appropriate contact page in undocumented dependent's client notebook in CWS/CMS.
12. Review Immigration Status report monthly to obtain names of dependents that may be eligible to apply for SIJS and lawful permanent resident status.
13. Notify assigned social worker that undocumented dependent on their caseload may need to apply for SIJS and lawful permanent resident status to avoid deportation upon termination of dependency, when dependent's name appears on Immigration Status report.

**CFS
Immigration
Liaison**

14. Advise assigned social worker to e-mail *Legal Residency Documents Referral, F063-25-200*, to Immigration Liaison Inbox for eligible dependent.
15. Review referral and advise assigned social worker if it appears that services of an attorney specializing in immigration issues are required.
16. Work with attorney specializing in immigration law, if Court appoints one, to help obtain legal permanent resident status for undocumented dependent.
17. Prepare and submit application packets for SIJS and permanent legal resident status.
18. Prepare undocumented dependent for USCIS interview questions and accompany dependent to interview.
19. Document all activities related to obtaining permanent legal resident status on appropriate contact page in undocumented dependent's client notebook in CWS/CMS.
20. Complete data entry in dependent's notebook in CWS/CMS on appropriate pages, after SIJS and Adjustment of Status applications are granted to insure that dependent is eligible for proper Federal funding.
 - a. Enter:
 - Alien Number (ID page)
 - Social Security Number (ID page)
 - Change in Immigration Status to Legal Resident Alien (Demographics page)
 - b. Verify and correct as necessary:
 - Legal first, middle, and last name (ID page)
 - Date of birth (ID page)
 - Place of birth – city and country (Demographics page)
 - Country of origin (Demographics page)