

E080-0590

**PERMANENT RESIDENCE UNDER COLOR OF LAW (PRUCOL) AND
SPECIAL IMMIGRATION STATUS**

Date Issued: **04/09/10**

New Policy Release

Revision of Existing Procedural Guide E080-0590, PRUCOL and Special Immigration Status, dated 04/08/09

Revision made: This Procedural Guide has been updated to reflect current practice and procedures.

Cancels: None

WHAT CASES ARE AFFECTED

This Procedural guide is applicable to all new and existing referrals and cases.

OPERATIONAL IMPACT

Permanent Residence Under Color of Law (PRUCOL) is not recognized as an alien status by the United States Citizenship and Immigration Services (USCIS). However, eligibility staff is required to determine if an alien applicant falls into this category. For a child to be considered PRUCOL, the USCIS must be aware of the child's presence in the United States and USCIS must not be actively seeking the removal of the child from the United States.

Section 153 of the Federal Immigration Act of 1990 provides Special Immigrant Status to undocumented children who are dependents of the juvenile court, deemed eligible for long-term foster care and for whom the court has declared that it is not in the child's best interest to be returned to their country of origin. Special Immigrant Status is a grant of lawful permanent resident status.

A child from any country, who resides in the United States without current legal immigration status including, but not limited to, citizenship, permanent residency, unexpired immigrant visa, is an undocumented child. However, for eligibility purposes, though they are not United States citizens or nationals of the United States by reason of their birth, in certain unincorporated United States Territories such as American Samoa, Guam, Puerto Rico, or the American Virgin Islands,

they are considered United States Citizens. Legal status will afford these children the right to remain in the United States thus eliminating the fear of deportation upon emancipation from the child welfare system. In order to claim State funds for PRUCOL cases under State only Foster Care, counties must submit the G845S, Document Verification Request, form to the USCIS. This should be done at the time of the initial eligibility determination and applies to the person whose basis for PRUCOL is that "USCIS knows they are here and does not intend to depart them." The USCIS will contact the county if they plan to deport the person listed on the G845S. Otherwise counties should keep a copy of the G845S in the case file as verification that the form was sent to the USCIS.

A. WHEN: INITIAL PRUCOL WITHIN THE FIRST 30 DAYS OF THE INITIAL PLACEMENT

Intake Eligibility Worker Responsibilities

1. Receive the request to record an initial placement and determine eligibility for financial participation in foster care.
2. Identify/verify and determine the child's legal status.
 - a. If the child is found to be undocumented, send a PRUCOL questionnaire to the Children's Services Worker (CSW).
 - b. Send an e-mail to the PRUCOL EW advising him/her that a PRUCOL questionnaire has been sent to the CSW on behalf of the child. Provide the following information to the PRUCOL EW:
 - (1) Name of the child;
 - (2) Case Number;
 - (3) Name, file number and telephone number of the CSW.
 - c. Set a control for return in 7 work days.
 - (1) If not returned within the 7 work days provide a follow up to the CSW as a reminder of need for return of the completed questionnaire.
 - (2) If not returned in 7 additional work days follow established escalation process and refer to ES for assistance in follow up.

- (3) Advise the PRUCOL EW of the delay in receiving the completed questionnaire.
- d. Once the completed questionnaire is returned, the Intake Eligibility Worker reviews for completeness then forwards the questionnaire to the PRUCOL Eligibility Worker (EW) in the Glendora office along with the current court report completed by the Dependency Investigator.
- e. Via telephone or e-mail, contact the PRUCOL EW to advise him/her that an application has been forwarded via fax or county mail.

PRUCOL Eligibility Worker Responsibilities

Note: As timing is of the essence in claiming non-federal funds, if there continues to be difficulty in obtaining the returning questionnaire, the PRUCOL Eligibility Worker may complete the information on the questionnaire if upon review of CWS/CMS and the court reports there is sufficient documentation to complete the information. In some instances the EW may have to contact the family, or child (if old enough to provide assistance) to gather more specific information.

1. Upon receipt of the PRUCOL questionnaire the PRUCOL EW will take the following actions:
 - a. Update the unit controls.
 - b. Review the information on the PRUCOL questionnaire, gathering any additional information if needed to complete the PRUCOL application. If additional information is needed PRUCOL EW may:
 - (1) Contact the Children's Services Worker for additional information or for clarification of information provided on the questionnaire.
 - (2) Review the services case record to obtain additional information.
 - (3) Contact any relatives or persons with a vested interest in the child that may be able to provide additional background information.
 - (4) PRUCOL EW may contact the child if old enough to provide additional information.

Note: On Probation cases, the Probation unit will complete and send the PRUCOL application to USCIS. DCFS will receive a copy attached to the Placement Authorization Form (PROB 667)

2. Complete the PRUCOL application packet. Review to ensure the following information is provided:
 - a. Date of removal from the home
 - b. Reason for the removal from the home
 - c. Brief background/family history
 - d. Date of the child's birth
 - e. Family reunification efforts
 - f. Level of the child's development: medical, academic and social
 - g. Adoption prospects
 - h. Summary/prognosis
3. Upon receipt of the completed questionnaire from the CSW, send a copy to the SIJS Unit.

Note: Staple certified copy of receipt to transmittal list and file in the binder

4. Access the CWS/CMS application. Search, retrieve and open the existing child case.
5. Update the aid code to "40" State funded. This is effective the date that the PRUCOL application is signed.

Note: Aid code on Medi-Cal for an alien child, placed with relatives, will show aid code "58", while the aid code on CWS/CMS will reflect "45".

6. Notify the Centralized Medi-Cal Unit, via the Medi-Cal Card Issuance/Update Referral, of the need to change the aid code on the MEDS system.
7. Record all eligibility activity in the CWS/CMS Case Notes.

8. Notify the intake or case carrying eligibility worker via e-mail that PRUCOL has been filed on behalf of the child and that the aid code has been updated.
9. Update and maintain the PRUCOL Unit controls by recording the following:
 - a. New Referrals
 - b. Applications sent to USCIS
 - c. USCIS/PRUCOL determination acceptance/rejection
 - d. PRUCOL child's foster care placement status
10. Request monthly listings from the Special Immigrant Status (SIS) Unit/Belvedere Office Supervising Children's Services Worker (SCSW) to reconcile approved PRUCOL cases.
11. Annotate on the PRUCOL Excel listing any relevant information.
12. Send the PRUCOL file to the foster care library for storage and retrieval if necessary.
13. At the end of the month the PRUCOL EW will provide the designated HSA III with a copy of the log, indicating children who had PRUCOL filed on their behalf during the month.

Note: On December 23, 2008 the Trafficking Victims Protection and Reauthorization Act (TVPRA) of 2008, Pub. L. No. 110-457, 122 Stat. 5044, was signed into law. This new law changes some SIJS requirements, codifies some of the SIJS regulation provisions, and streamlines SIJS procedures.

The effect dates are March 23, 2009 for new SIJS applications and December 23, 2008 for SIJS pending cases.

Under Section 235 (d) (1) of the TVPRA a Special Immigrant Juvenile is now defined as an immigrant who is present in the United States, who has been declared dependent by a juvenile court located in the United States or whom such a court has legally committed to or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law; and for whom it has been determined in administrative or judicial proceedings that it wouldn't be in the alien's best

interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.

Note: At the time Special Immigrant Status (SIS) is granted to a child placed in relative foster care, they are referred to DPSS to apply for CalWORKs.

Prior to sending the NOA of termination of foster care and referring the family to CalWORKs, the case carrying EW must confirm that the child has been granted permanent residency, and received their permanent residency card.

Note: The time from filing for SIS until it is granted may take from 6 – 12 months on a regular case, and 2 – 3 years or more for a more complex case. Children who receive Permanent Residency under these circumstances are exempt from the 5-year ban of sponsorship and are eligible for CalWORKs.

B. WHEN: DETERMINING WHETHER SPECIAL IMMIGRANT STATUS FOR AN ALIEN CHILD HAS BEEN FILED OR APPROVED

Redetermination Eligibility Worker Responsibilities

1. EW receives notification that a redetermination is due.
2. Review the CWS/CMS Client Notebook and Case Notes. Determine the foster care child's citizenship/alienage status.
 - a. Process the redetermination per the existing procedure if the child is a U.S. citizen.
 - b. If the child is undocumented with PRUCOL status, review CWS/CMS to determine if Permanent Residency has been filed on behalf of the child. The SIJS unit will set up an "A" number on CWS/CMS, once Permanent Residency has been granted and the child has received their Permanent Residency Card.
 - i) Request a copy of the child's Permanent Residency Card and Social Security Card (if they have received it) from the SIJS CSW for the child's eligibility case.
 - ii) Upon receipt of the copy of the child's Permanent Residency Card and Social Security Card (when applicable), if the child has been placed under the care of a relative, the child is now eligible for CalWORKs and the foster care case must be terminated.

- (a) Send a Ten (10) day Notice of Action (NOA) to the relative caregiver advising them that the child is no longer eligible for foster care and that they should apply for CalWORKs and provide them with the address of the DPSS office nearest to their home.
 - (b) Include with the NOA a SAWS 1, copy of the child's Permanent Residency Card, and a copy of the child's Social Security Card (when available). (On some occasions the relative caregiver, upon receipt of the child's Permanent Resident Card, will apply for a Social Security Card on behalf of the child. The SIJS CSW works closely with these families and will have knowledge if this occurs.)
 - (c) Set a 10-day control for termination of the foster care case.
 - (d) Send notice to the Transitioning Medi-CAL unit advising them that the out-of-home foster care payment has been stopped and that the relative caregiver has been referred to CalWORKs.
- c. Record all activity in the CWS/CMS Case Notes.
 - d. Follow the departmental processes for terminating a foster care case.
 - e. Refer the case to the ES for review and approval.

Note: SIS can be granted for children up to age 21 as long as they remain dependents of the court, whether they are in paid or non-paid placement. A youth age 18 or older must have been receiving AFDC-FC prior to reaching age 18 and must continue to meet all other eligibility requirements to be eligible for continuation of AFDC-FC. Therefore, if a youth age 18 – 21 is granted SIS, the youth does not automatically become AFDC-FC eligible. The only funding source for non-relative foster care payment remains General Relief (GRI).

Note: If a child is undocumented in the month that the petition was filed, granting of either PRUCOL or Special Immigrant Status does not change the legal status from that of the initial month of petition. Throughout the episode of the child's case, the eligibility determination will remain unless additional factors are provided to the EW for review and consideration.

Overview of Statutes/Regulations

Federal Immigration Act of 1990, Section 153
County Fiscal Letter (CFL) No. 01/02-42
All County Letters (ACL) Nos. 98-35 and 99-43
Trafficking Victims Protection and Reauthorization Act (TVPRA) of 2008

FORMS

DCFS 2384
G-845S
MC 845 (11/89)
PROB 667

Two Way Gram
Document Verification Request
G-845 Supplement- PRUCOL
Probation Placement Authorization