

# Department Policy

## Non-Citizen Foster Children

### Overview

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**Introduction** Undocumented non-citizen children placed in out of home care are, in some circumstances, eligible to federal or state Aid to Families with Dependent Children-Foster Care (AFDC-FC). This Department Policy (DP) provides details regarding those specific circumstances.

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# Department Policy

## 1. Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)

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### PRWORA

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) directly impacted the eligibility of non-citizen children in foster care.

Title IV of PRWORA delineated new rules governing non-citizen eligibility for public benefits. These rules govern federal, state and county foster care benefits.

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### “Qualified” vs “Non-qualified”

Non-citizens are classified as “qualified” or “non-qualified” for AFDC-FC. PRWORA defines a “qualified” non-citizen as a person:

- lawfully admitted for Legal Permanent Residence who has resided in the United States for at least five years,
- granted asylum,
- admitted as a refugee,
- paroled into the United States for at least one year,
- granted conditional entry,
- subjected to battery or extreme cruelty,
- defined in section 501 (e) of the Refugee Assistance Act of 1980 as a Cuban or Haitian entrant,
- whose deportation is being withheld, or
- who is a victim of trafficking, domestic violence, or other serious crimes whose status is documented as provided in EAS 42-431.

A non-qualified non-citizen is any non-citizen not listed above, including, but not limited to:

- an undocumented non-citizen, and
  - a non-citizen lawfully permitted for temporary residence with a student or work visa.
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### Federal AFDC-FC for Qualified Non-Citizen Children

A non-citizen child **may** be eligible for federal AFDC-FC, **if**:

- the child is a qualified non-citizen in the month of petition,
- the foster caregiver is **not** a non-qualified non-citizen, and
- the child is otherwise federally eligible.

If the child is a qualified non-citizen and has resided in the United States for at least 5 years, the child may receive federal AFDC-FC, as otherwise eligible, regardless of the foster caregiver’s citizenship status.

Foster Care staff do not question the caregiver regarding his/her citizenship status. The caregiver’s citizenship status is determined solely on information from the assigned social worker, or by the caregiver’s unsolicited statement.

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# Department Policy

## 2. Permanently Residing Under the Color of Law (PRUCOL)

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### PRUCOL

Permanently Residing Under the Color of Law (PRUCOL) is a term used by the United States Citizenship and Immigration Services (USCIS) to describe “categories of non-citizens who are potentially eligible for certain public benefits in California.”

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### Impact of PRUCOL on AFDC-FC

County Fiscal Letter (CFL) 01/02-42 Claiming Clarification for Foster Children who are Designated Permanently Residing Under the Color of Law (PRUCOL), allows counties to issue and claim benefits to State-funded AFDC-FC (aid code 40) for otherwise eligible undocumented children who have had a PRUCOL application submitted to USCIS.

This means that:

- if a child would have been eligible to receive State AFDC-FC funds *except* for his/her undocumented status, and
- the County Welfare Department has submitted a PRUCOL application for the child to USCIS, then
- the child may receive State AFDC-FC funds effective the date the PRUCOL application was sent.

“Otherwise eligible” means that the child meets all general AFDC-FC requirements in EAS 45-201, and all specific State AFDC-FC requirements in EAS 45-203. A child does not necessarily have to have received a social security number (SSN) to be eligible under EAS 45-201, but an application for SSN must have been submitted to the Social Security Administration (SSA), per EAS 40-105.241 and 40-107.74.

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# Department Policy

## 2. Permanently Residing Under the Color of Law (PRUCOL), Continued

### PRUCOL Application Process

The following table describes:

- the steps completed in the PRUCOL application process
- which staff are responsible to complete actions in each step, and
- the timeframe in which each step must be completed.

Step	Action	Timeframe
1	<p>The FC ET:</p> <ul style="list-style-type: none"> <li>• sends form RVSD 3421 <u>Request to the Immigration and Social Security Liaison (ISSL)</u> with a Detention minute order stamped by the Deputy County Clerk to the Foster Care Program Specialist Unit Office Assistant (FC PSU OA) requesting a PRUCOL application be submitted for the child, and</li> <li>• completes a C-IV journal entry of all actions taken.</li> </ul>	When the child is identified as undocumented.
2	<p>The FC PSU OA:</p> <ul style="list-style-type: none"> <li>• enters the PRUCOL request to the PRUCOL Log</li> <li>• completes forms G845S <u>INS Document Verification Request</u> and DPSS 3903 <u>Immigration Child Information</u></li> <li>• attaches G845S, DPSS 3903 and minute order to blank form MC 845—these forms comprise the “PRUCOL Packet”</li> <li>• logs the PRUCOL packet out to the Immigration Liaison</li> <li>• provides the PRUCOL packet to the Immigration Liaison, and</li> <li>• completes a C-IV journal entry of all actions taken.</li> </ul>	Within 1 business day
3	<p>The Children’s Services Division (CSD) Immigration Liaison:</p> <ul style="list-style-type: none"> <li>• completes form MC 845</li> <li>• retains the original DPSS 3903 and copies of the G845S and MC 845, and</li> <li>• returns the completed original G845S and MC 845 to the FC PSU OA.</li> </ul>	Within 5 business days

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# Department Policy

## 2. Permanently Residing Under the Color of Law (PRUCOL), Continued

### PRUCOL Application Process, continued

Step	Action	Timeframe
4	<p>The FC PSU OA</p> <ul style="list-style-type: none"> <li>logs the PRUCOL packet in from the Immigration Liaison</li> <li>images forms G845S and MC 845 to the FC case</li> <li>sends original forms G845S and MC 845 to the Department of Homeland Security by certified mail</li> <li>sends an email to the FC ET stating: "PRUCOL application forms G845S and MC 845 imaged to FC case and originals sent to Department of Homeland Security on this date"</li> <li>logs the PRUCOL application as complete, and</li> <li>completes a C-IV journal entry stating: "PRUCOL application forms G845S and MC 845 imaged to FC case and originals sent to Department of Homeland Security on this date".</li> </ul>	Within 1 business day
5	<p>The FC ET</p> <ul style="list-style-type: none"> <li>changes the child's funding source to State AFDC-FC effective the date the FC PSU OA sent the PRUCOL application, if the child is otherwise eligible, and</li> <li>completes a C-IV journal entry of all actions taken.</li> </ul>	Within 3 business days

### Funding Change

Upon receipt of the e-mail stating forms G-845 S and MC 845 have been imaged to the C-IV case and originals sent to USCIS, the FC ET determines the appropriate funding for the non-citizen child based on the following table.

If the caregiver is...	then the FC ET...
A non-relative	converts the funding from All County Funds (ACF) to State AFDC-FC.
A relative	continues to pay from ACF

# Department Policy

## 3. Special Immigration Juvenile Status (SIJS)

**Special  
Immigration  
Juvenile Status**

The International Liaison (IL) reviews the child's case on CWS/CMS to determine the court status. A non-citizen child who has had a permanency plan established in accordance with a WIC 366.26 hearing is potentially eligible to have his/her immigration status adjusted under the Special Immigration Juvenile Status (SIJS) procedure.

When ...	Then the IL...
a permanency plan is established for the child	notifies the child's assigned social worker and FC ET of the: <ul style="list-style-type: none"><li>child's eligibility to SIJS</li><li>documents and forms needed to apply for SIJS.</li></ul>
all necessary documents and forms for SIJS application are prepared	<ul style="list-style-type: none"><li>sends the application to USCIS</li></ul>
the USCIS requires additional forms or documentation	<ul style="list-style-type: none"><li>notifies the assigned social worker of the delay in SIJS processing</li><li>gathers the additional forms/documentation</li><li>forwards to the USCIS</li></ul>
the USCIS sends the I-551 card showing the child's immigration status has been adjusted to Legal Permanent Residency Status	<ul style="list-style-type: none"><li>forwards copies to the assigned social worker and FC ET by request only</li><li>forwards the child's I-551 card to the child upon receipt</li><li>forwards a photocopy of the child's I-551 card to the FC ET, and to the assigned social worker</li><li>retains a photocopy of the child's I-551 card in the IL case</li></ul>

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# Department Policy

## 3. Special Immigration Juvenile Status (SIJS) Special Immigration Juvenile Status (SIJS), Continued

**Funding  
Impact of  
SIJS**

A child does **not** become eligible to federal AFDC-FC when he/she attains SIJS adjustment to Legal Permanent Residency. The child's foster care funding is impacted by the child's Legal Permanent Residency status as follows:

If the child is ...	then ...
receiving state AFDC-FC	the child continues to receive state AFDC-FC.
receiving ACF in a relative placement and has resided in the U.S. for less than five years	the FC ET reviews the INS Section Code on the child's I-551 card against the "Non-Citizen Card Code Chart" in the Charts and Tools section of the DPSS Intranet, to determine whether the child is CalWORKs or Kin-GAP eligible.
receiving ACF in a relative placement and has resided in the U.S. for more than five years or has an INS Section Code followed by an E in the CalWORKs (CW) column	<ul style="list-style-type: none"> <li>the FC ET initiates an Inter Program Transfer (IPT) to CalWORKs, or</li> <li>the FC ET initiates an IPT to Kin-GAP if all other conditions of Kin-GAP eligibility are met.</li> </ul>
receiving ACF in a relative placement, has resided in the U.S. for less than five years and has an INS Section Code followed by an I in the CW column	<p>the FC ET</p> <ul style="list-style-type: none"> <li>sets a Task in C-IV for the month and year in which the five year requirement will be met</li> <li>informs the social worker that the child will not qualify for Kin-GAP or CalWORKs until the five year requirement is met.</li> </ul> <p>the child continues to receive ACF until the Task comes due and the child meets CalWORKs or Kin-GAP eligibility requirements.</p>

# Department Policy

## 4. Documentation Types

### Verification of Non-citizen Status

Department Policy 45-201J Non-Citizen Documentation provides descriptions of the types of documentation acceptable to verify non-citizen status. The following table provides common types of documentation for each status.

Status	Documentation
Alien Lawfully Admitted for Legal Permanent Residence	<ul style="list-style-type: none"><li>• Citizenship and Immigration Services (CIS) Form I-551 (commonly known as a “green card”), or</li><li>• Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.</li></ul>
Aliens Granted Asylum (Asylee)	<ul style="list-style-type: none"><li>• CIS Form I-94 annotated with stamp showing grant of asylum under section 208 of the Immigration and Nationality Act (INA),</li><li>• CIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”,</li><li>• CIS Form I-766 (Employment Authorization Document) annotated “A5”,</li><li>• Grant letter from the Asylum Office of CIS, or</li><li>• Order of an immigration judge granting asylum.</li></ul>
Refugee	<ul style="list-style-type: none"><li>• CIS Form I-94 annotated with stamp showing admission under section 207 of the INA,</li><li>• CIS Form I-688B annotated “274a.12(a)(3)”,</li><li>• CIS Form I-766 annotated “A3”, or</li><li>• CIS Form I571 (Refugee Travel Document).</li></ul>
Alien Paroled Into the U. S. for at Least One Year	<ul style="list-style-type: none"><li>• CIS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA.</li></ul>
Alien Whose Deportation or Removal Was Withheld	<ul style="list-style-type: none"><li>• CIS Form I-688 annotated “274a.12(a)(10),</li><li>• CIS Form I-766 annotated “A10”, or</li><li>• Order from an immigration judge showing deportation withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under section 241(b)(3) of the INA.</li></ul>
Alien Granted Conditional Entry	<ul style="list-style-type: none"><li>• CIS Form I-94 with stamp showing admission under section 203(a)(7) of the INA,</li><li>• CIS Form I-688B annotated “274a.12(a)(3)”, or</li><li>• CIS Form I-766 annotated “A3”.</li></ul>
Cuban/Haitian Entrant	<ul style="list-style-type: none"><li>• CIS Form I-551 (“green card”) with the code CU6, CU7, or CH6,</li><li>• Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with the code CU6 or CU7, or</li><li>• CIS Form I-94 with stamp showing parole as “Cuban/Haitian Entrant” under section 212(d)(5) of the INA.</li></ul>

### References

EAS 42-431  
ACLs 98-34 and ACL 99-43  
ACIN I-54-01  
CFL 01/02-42  
DP 45-201J Non-Citizen Documentation  
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