
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 shall be notified via the [International Liaison \(IL\)](#). An **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, parole letters, vital records request, and suspected child abuse cross reports, an International Services 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 should be made for the youth to carry and the original should remain with the caregiver. When the youth leaves foster care, the original documents shall be given to the youth.

In the case of a dependent minor, specially a run away, *staff should always contact the International Liaison first.*

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	USCIS Form Number	Notes
Certificate of U.S. Citizenship	(N-560/N561)	<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</p>

		<p>Naturalization Service (INS) to file for Derivative Citizenship for the child.</p> <p>If there is no parent available to do so, the SW may contact the San Diego Volunteer Lawyer Program (SDVLP) for assistance. The child's citizenship status must be adjudicated as quickly as possible.</p>
Consular Report of Birth Abroad (CRBA)	(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></p> <p>There is no need to apply for a Certificate of Citizenship or a Resident card if a child has a CRBA</p>
Resident Alien Card	(I-551)	
Memorandum of Creation of Record of Lawful Permanent Residence	(I-181)	
Temporary Resident Card	(I-688)	
Re-Entry Permit	(I-327)	<p>If any of these documents have expired, they are invalid and must be renewed. The SW may request County funds for the filing fee.</p>
Refugee Travel Document	(I-571)	
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.
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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 Follow the process in this table:

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

NOTE: Use the USCIS Website for straight forward replacements and/or when there are no other issues. The San Diego Voluntary Lawyer Program (SDVLP) can be contacted to assist **ONLY** when there are problems in getting a replacement, and for new cards. For more information, consult with the [International Liaison](#) by calling 514-6730/858.

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 domestic violence victim may have become or be eligible to become a lawful permanent resident through the Violence Against Women Act, or VAWA. These persons are sometimes known as "VAWA self-petitioners". Refer to U-Visa description below.</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</p>

	<p>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>
<p>Parolees</p>	<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> <p>For the 04-242 Parole letter Request form, click here.</p>
<p><u>PRUCOL</u> (Permanently residing under color of law)</p>	<p>If the USCIS is aware of the presence of an undocumented immigrant and has done nothing to deport him or her, he or she may be considered part of this special category. This commonly occurs when, for instance, an undocumented person applies for lawful status.</p> <p>Before the undocumented person obtains a green card, he may be considered "PRUCOL" because USCIS is aware of the immigrant's presence through the application but is not seeking (at that time) to deport him or her. When an undocumented child enters foster care, the SW shall explore eligibility for PRUCOL. <i>PRUCOL is for payment (AFDC-FC) and Medi-Cal purposes only. It does not give the child any legal status in the U.S.</i> This category can</p>

	<p>be very complicated, and the SW should consult with County Counsel (downtown office, not dependency division (619) 531-4860) if they have questions. Every effort should be made to establish a child's legal status as soon as possible.</p>
<p>Refugees and Asylees</p>	<p>Someone who comes to the United States fleeing persecution in his or her 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.</p>
<p><u>Special Immigrant Juvenile Status (SIJS)</u></p>	<p>Unmarried, documented or undocumented immigrants under 21 are, in some cases such as when placed by the Family Court in long-term foster care or guardianship, able to become lawful permanent residents. For many, this will be their only opportunity to obtain legal status. When CWS SW believe a child might qualify, he/she should contact the International Liaison immediately to determine how to proceed. Also see SIJS and Undocumented Children in Foster Care.</p>
<p>Undocumented Immigrants</p>	<p>Undocumented immigrants are people who entered the U.S. unlawfully or people whose legal immigrant or visitor status expired</p>

	<p>or was cancelled by the government. Undocumented immigrants do not have permission to work. Undocumented immigrants may be eligible to apply for lawful immigration status including SIJS, asylum, or lawful permanent residence through a family member or an employer.</p>
<p>United States Citizens</p>	<p>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.</p>
<p>Visa Holders</p>	<p>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.</p>
<p>U-Visa Holders</p>	<p>Non-US citizens may qualify for a U-Visa status if they are victims of crime and have completed a U-Visa certification form with the USCIS. NOTE: U-Visa certification forms can only be certified by an law enforcement agency or jurisdictions where law enforcement is also responsible for child abuse investigations. In San Diego County, the U-Visa certification form must be completed by the District</p>

	<p>Attorneys Office. If you have any questions regarding U-Visa certifications, please contact County Counsel at (619) 531-4860.</p>
<p>Dual Citizenship</p>	<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 CWS 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 bring any such situation to the attention of the International Liaison. Because discharge from foster care can impact a SIJS application, SWs should consult with the International Liaison 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 his or her 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**

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

Act of 2000

- At least one parent of the child is a citizen of the U.S., whether by birth or naturalization;
- The child is under the age of eighteen;
- 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);
- 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 should discuss the matter with the supervisor and may contact County Counsel.

Valuable information 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 his or her 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. And of course, 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

	<p>undocumented mother and father may have children who were born in the U.S. (and who are thus 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.</p>
<p>Kinship Care</p>	<p>CWS 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 foster 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.</p>
<p>Protective Custody</p>	<p>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. CWS 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.</p>
<p>Undocumented Children in Foster Care</p>	<p>In the case of foster children who are neither U.S. citizens nor lawful permanent residents, the SW must consult the International Liaison to provide guidance on legalizing the child's status through an application for SIJS. This should be done as quickly as possible.</p>
<p>Immigration Status</p>	<p>SWs shall 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</p>

	<p>status.</p> <p>CWS 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) formally known as Immigration and Naturalization Service. Therefore, staff members 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 CWS staff, including immigration status of family members, is confidential. Staff should first consult with supervisors before communicating any information about an undocumented or documented immigrant. In particular, CWS employees shall not disclose immigration status information to any person or agency, including law enforcement without first consulting with a supervisor and with County Counsel (downtown office, not dependency (619) 531-4860).</p>
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**Agreement
with Foreign
Consulates**

On December 24, 1969, the U.S. signed the Vienna Treaty on Consular Relations. The Treaty designated Consular officers as guardians of children when children are without adequate supervision in a foreign country. The treaty grants Consular officers the right to have communications with their citizens and to represent them in foreign courts.

In April 30, 2008, the County of San Diego Health and Human Services Agency signed a Memorandum of Understanding (MOU) with the [San Diego Mexican Consulate](#). The objective of the MOU is to enhance services provided to minors and families who are Mexican nationals and are taken into protective custody by HHSA-CWS and a petition is filed in Juvenile Court. The following is a list of responsibilities according to the MOU:

Who	What
SW	<p>Will notify the CWS International Liaison (IL) via form 04-231 Notification to Foreign Consulate (<i>CWS/CMS Template</i>). Other responsibilities may include:</p> <ul style="list-style-type: none"> • Ensuring that due consideration be given to relative placements, including those residing in Mexico, when out-of-home care is deemed necessary for the minor. • Upon request, providing the Mexican Consulate with verbal updates regarding case status. • When considering placements in Mexico, providing copies of the home evaluations completed by Sistema para el Desarrollo Integral de la Familia (DIF) at the request of the Consulate. <p>Note: Written documentation from staff to the Consulate should be exchanged through the IL.</p> <ul style="list-style-type: none"> • Coordinating with IL when placing minors out of the country and supervise visitation at the border.
International Liaison	<p>Be responsible for facilitating communication and all matters regarding child welfare issues with international and domestic institutions during regular business hours. Other responsibilities include the following:</p> <ul style="list-style-type: none"> • Assisting Mexican nationals with obtaining permission to cross the border for court hearings and related reunification activities • Facilitating procedures to identify, repatriate, and reunify children to and from Mexico when appropriate. • Upon request from the San Diego Mexican Consulate, providing verbal updates regarding progress of a case and copies of related Court reports.
San Diego Mexican Consulate	<p>Maintain open communication with the IL and be available during regular business hours and after hour emergencies. Other responsibilities include the following:</p> <ul style="list-style-type: none"> • Observing confidentiality requirements as

	<p>stipulated by the state of California statutes and County of San Diego Juvenile Court rules</p> <ul style="list-style-type: none">• Facilitating the reunification of Mexican minors and/or minors of Mexican parents• Assisting with parent searches• Assisting with visits between dependent minors and their parents and relatives.
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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.

Procedures for Notifying Foreign Consulates The SW must complete a *Notification to Foreign Consulate* form **04-231** (*CWS/CMS Template*) and send it to the [International Liaison](#) for processing.

The assigned SW is responsible for completion of the **04-231** *Notification to Foreign Consulate* form and sending it to the IL 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.
