

**SANTA CLARA COUNTY  
DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES**

**IMMIGRATION AND NATURALIZATION  
RESOURCE AND PRACTICE GUIDE**



**“E PLURIBUS UNUM”**

## **PREFACE**

“Imitation is the highest form of flattery” and is certainly an appropriate description of this handbook. At an Immigration Service Conference sponsored by the Annie E. Casey Foundation on July 28 and 29, 2005, in Costa Mesa, California, several major initiatives were presented. One document shared was the “Immigration and Language Guidelines for Child Welfare Staff” (2<sup>nd</sup> ed.) developed by the New York County Administration for Children’s Services. We are indebted to them for developing the handbook and for making it available to our own Department of Family and Children Services Immigration Services Committee. The handbook is an exceptional working document designed to help child welfare staff assist families with immigration issues.

Thanks to the New York County Administration for Children's Services, the handbook is now a reality for our Department. The handbook also incorporates a compendium of several Santa Clara County Department of Family and Children’s Services Immigration Memos, which also address similar immigration services and resources. The Department of Family and Children Services Immigration Service Committee wants to acknowledge the New York County Administration for Children’s Services for making their handbook available to us, as well as our own Department of Family and Children’s Services Immigration Services Committee for making the updates and modifications to produce such a relevant document for our agency and community.

Department of Family and Children’s Services  
Immigration Services Committee  
May 2006

## **Santa Clara County Social Services Agency Department of Family and Children’s Services Agency Memoranda**

**Please refer to prior agency memoranda regarding immigration issues.**

- 1. Agency Memorandum**  
August 1, 2003  
Child Welfare Immigration Issues
- 2. Agency Memorandum #03-13**  
November 4, 2003  
Immigration Services: Part I - Internal Support Services
- 3. Agency Memorandum #04-11**  
May 14, 2004  
Immigration Services: Part II - Information and Resources
- 4. Agency Memorandum #04-23**  
August 2, 2004  
U.S. Citizenship and Child Welfare Concerns

**Special Immigration Juvenile Status cases**

Miday Tovar, Social Work Supervisor

408-975-5625

Maggie Magnano, Coordinator II

408-975-5452

**Training for DFCS**

Staff Development Specialist

Linda Martinez

408-635-1744

**Transporting Children to Mexico  
Children Across Borders Program**

B. Estela Carrillo, SWI

408-975-5344

**SANTA CLARA COUNTY  
DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES**

**IMMIGRATION AND NATURALIZATION  
RESOURCE AND PRACTICE GUIDE**

**Santa Clara County Social Services Agency expresses sincere appreciation to the Department's Immigration Services Committee for their dedication and assistance in developing guidelines on Immigration Issues for the Department of Family and Children's Services.**

**Ken Borelli**, LCSW, Deputy Director of DFCS and Chair of the Immigration Services Committee

**Jorge Gonzalez**, SSPM and Liaison to the Mexican Consulate General

**Julie McKellar**, Deputy County Counsel

**Connie Vega**, SSPM, South County

**Linda Martinez**, Staff Development Specialist

**Miday Tovar**, MSW, Social Work Supervisor, Continuing Court Services and Co-Chair of the Immigration Services Committee

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**Christine Martinez**, MSW, Social Work Supervisor, Continuing Court Services

**Frank Azad**, Ph.D, Independent Living Program Supervisor

**Alicia Al-Far**, Social Worker II, Informal Supervision

**Alma Buschelman**, MSW, Social Worker III, Continuing Court Services

**Carmen Vargas**, MSW, Social Worker II, Dependent Intake Services

**Frank Carbajal**, Social Worker II, Continuing Court Services

**Christopher Peck**, MSW, Social Worker III, Informal Supervision Services

**Giorgio Quittan**, MSW, Social Worker II, Continuing Court Services

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**Luz Avila**, MSW, Social Worker III, Continuing Court Services

**Mirna Lau**, MSW, Social Worker III, Continuing Court Services

**Maggie Magnano**, MSW, Coordinator II, Family Finding Unit

**Gilbert Murillo**, Social Work Supervisor, Placement Unit

**Ed Sanchez**, MSW, Social Worker III, South County

**Carmen Carrasco**, MSW, Social Worker III, Joint Decision Making Unit

**Esmeralda Alvarez**, Social Worker II, South County

**B. Estela Carrillo**, BSW, Social Worker I, Transporting Children to Mexico, Children Across Borders Program

### **Independent Living Program for Youth**

Frank Azad, Social Work Supervisor  
408-975-5725

### **KinGAP**

Pat Matsuoko, Foster Care Eligibility  
408-975-5763

### **Legal Consultations**

Julie McKellar, County Counsel  
408-491-4242

### **Liaison with Mexican Consulate**

Jorge Gonzalez, SSPM  
408-975-5351

### **Public Charge, BCIS Assessments, Strategic Planning**

Ken Borelli, Deputy Director, DFCS  
408-975-5702

Miday Tovar, Social Work Supervisor  
408-975-5625

### **Public Notary Services**

Robin Rivas, OMC  
408-975-5498

Rose Bacani, Adoptions Unit  
408-975-5121

Maria Guerrero, South County (Spanish)  
408-846-5010

### **Social Security Income for Disabled Foster Children**

Hieu T. Tran, SSI Coordinator II  
408-975-5793

**For questions regarding this protocol or for additional guidance with immigrant issues in Santa Clara County, Department of Family and Children’s Services, please contact:**

**Adoptions**

Kathryn Ashizawa  
408-975-5199

**CalWORKS/Child Welfare Refugees**

Hieu Tran, Coordinator  
408-975-5793  
Phaivanh-Khowong  
408-491-6693

**Catholic Charities**

Hoa Nguyen, BIA Accredited Representative  
408-325-5167

**Citizenship Information**

Ed Sanchez, GFRC  
408-846-5063

**Domestic Violence: VAWA**

Alicia Al-Far, SWII  
408-975-5724  
Alma Buschelman, SWIII  
408-975-5538

**Family Conferences/TDM**

Jim Anderson, Social Work Supervisor, JDM Unit  
408-299-1525

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**DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES  
IMMIGRATION GUIDELINES FOR CHILD WELFARE STAFF**

Immigrant families and families with members whose primary language is not English pose a special challenge to child welfare staff. The purpose of this pamphlet is to provide staff at the Department of Family and Children's Services with a brief overview of immigration and language issues for the purpose of maximizing child welfare services to meet the diverse needs of Santa Clara County's immigrant community. In order to meet these diverse needs, DFCS staff is required to identify a client's primary language at the initial contact, and to seek interpretive services when necessary.

**IMMIGRATION STATUS**

**Child welfare services are provided to children and families without regard to immigration status.** DFCS does not conduct investigations into the immigration status of children and families brought to the Agency's attention; however, learning a family member's immigration status may be necessary in determining eligibility for services, may enable DFCS to obtain federal reimbursement for the provision of child welfare services including preventive and foster care services, and could indicate the family's eligibility to receive other services. Therefore, DFCS can only ask clients about immigration status if a program or service to which DFCS wishes to refer that client makes eligibility determinations based on immigration status or when an inquiry is necessary for reimbursement purposes. Identifying services for which immigrant children and

**Legal Aid Society of Santa Clara County**  
480 N. First Street  
San Jose, CA 95112  
408-998-5200

**Immigration Information Telephone Line**  
1-800-375-5283

**Resources for Families and Communities in Santa Clara County**  
480 N. First St. #216  
San Jose, CA 95112  
408-521-5110

**Sacred Heart Community Service**  
1381 S. First Street  
San Jose, CA 95110  
408-278-2160  
[www.sacredheartcommunityservice.org](http://www.sacredheartcommunityservice.org)

**Services, Immigrant Rights, and Education Network of Santa Clara County, (SIREN)**  
408-453-3017

**San Jose Immigration and Tax Services**  
639 Tully Rd., Ste. I  
San Jose, CA 95111  
408-298-3974

**The following individuals and organizations can provide information and assistance regarding immigration issues in Santa Clara County:**

**Asian Law Alliance**

184 East Jackson St.  
San Jose, CA 95112  
408-287-9710

**Catholic Charities of Santa Clara County**

2625 Zanker Road, Suite 201  
San Jose, CA 95134  
(408) 944-0347  
Contact Person: Hoa Nguyen

**Katherine and George Alexander Law Center**

1030 The Alameda  
San Jose, CA 95126  
408-288-7030

**Gilroy Citizenship/Educational Programs**

8833 Monterrey Rd., Suite G  
Gilroy, CA 95020  
408-846-5017

**Immigrant Legal Resource Center ILRC**

1663 Mission Street  
San Francisco, CA 94103  
415-255-9499

**Jewish Family Services of Silicon Valley**

14855 Oka Rd.  
Los Gatos, CA 95032  
408-556-0600

families may be eligible, and then making the appropriate referrals, is a critical aspect of protecting and serving Santa Clara County's immigrant children and families. It is the purpose of this document to assist workers in achieving that goal. DFCS 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," formerly known as Immigration and Naturalization Service or "INS"). Therefore, staff members should not inquire about immigration and/or United States citizenship status until after they have engaged the family and explained the purpose of the inquiry. Information obtained by DFCS, 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, DFCS employees shall not disclose immigration status information to USCIS (formerly INS) or any person or agency, including law enforcement without first consulting with a supervisor and County Counsel.

**The following is not an exhaustive list of United States immigration policy and laws but provides some common categories staff may encounter when working with immigrants.**

Although many lawfully present persons in the U.S. lose or otherwise become separated from their documents at some point over the years, many types of immigration statuses do not "expire." If, for example, a "green card" or residency registration card becomes lost, or if an asylum-granting letter is lost or destroyed, the individual continues to be a

lawful permanent resident or asylee. Immigrants who have lost their documents should be referred to immigration advocacy organizations for assistance in determining how they should get replacement documents. For more information on this, consult your supervisor, and the attached list of referrals. In working with immigrant clients, you may see the term "qualified alien" in reference to eligibility for certain public benefits. The term "qualified alien" is not a separate immigration category; rather, it refers to immigrants in many categories who are eligible for certain federal government benefits. In Santa Clara County, many immigrants who are not qualified aliens can still get state government benefits.

### **Immigrant Domestic Violence Survivors:**

A collection of federal laws, known generally as "VAWA" (Violence Against Women Act), is designed to protect immigrant abused spouses and children who are afraid to seek police protection because the abuser has threatened to withhold immigration status from the victims if they do so. The laws enable battered spouses and children to obtain lawful immigration status without the abuser's knowledge or permission. In order to be eligible, the batterer must be either a U.S. citizen or lawful permanent resident ("green card holder"). Unfortunately, no relief is available under these laws if the abuser is neither a United States citizen nor a legal permanent resident. If you think a parent or child who has been battered might qualify for a "green card" under these circumstances, there are many organizations that can assist them in applying. You should make an appropriate referral immediately to one of the resources listed for domestic violence survivors in this

### **Consulate of Spain**

1405 Sutter St.  
San Francisco, CA 94109  
415-922-2995  
Consul General Camilo Barcia  
conspsfo@mail.mae.es

### **Consulate of the United Kingdom**

One Sansome St., Ste. 850  
San Francisco, CA 94104  
415-617-1300  
Consul General Martin Uden  
Cg.sf@fco.gov.uk

### **Consulate of Venezuela**

311 California St., Ste. 620  
San Francisco, CA 94104  
415-955-1982  
Acting Consul General Jose Rodriguez  
Consulado@sanfrancisco.embavenez-us.org

### **Consulate of Vietnam**

1700 California St., Ste. 430  
San Francisco, CA 94109  
415-922-1707  
Consul Tran Tuan Anh  
Info@vietnamconsulate-sf.org

**Consulate of Israel**

456 Montgomery St., Ste. 2100  
San Francisco, CA 94104  
415-844-7500  
Sf@israeliconsulate.org

**Consulate General of the Republic of Mexico**

540 N. First St  
San Jose, CA 95112  
408-294-8334 Ext. 141

**Consulate General of the Republic of Nicaragua**

870 Market Street, Suite 1050  
San Francisco, CA 94102  
Consul Mayra Centeno  
415-765-6821  
conicsf@pacbell

**Consulate of Panama**

3137 W. Ball Rd., Ste. 104  
Anaheim, CA 92804  
714-816-1809

**Consulate of the Philippines**

447 Sutter St.  
San Francisco, CA 94108  
415-433-6666  
Consul Maria Mendoza Sanchez

**Consulate of the Russian Federation**

2790 Green St.  
San Francisco, CA 94123  
415-202-9800  
Consul Victor N. Lizun

brochure. Often, domestic violence shelters have lawyers specially trained to do these types of "VAWA" self-petitions.

**Lawful Permanent Residents ("green card" holders):**

Immigrants who have "lawful permanent resident" status have been granted permission by the United States government to reside and work in the United States permanently. They are still citizens of their home country, but possess most of the same rights as United States 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. One difference between lawful permanent residents and U.S. citizens is that in some cases, lawful permanent residents can be deported or denied permission to reenter the country. 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.") Lawful permanent residents can have either a "green card" or a stamp in their passport that reads "temporary evidence of I-551."

**Naturalized United States Citizens:**

Immigrants are generally eligible to apply for United States 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.

### **Parolees:**

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.

### **PRUCOL (Permanently Residing Under Color of Law):**

If 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. Before the undocumented person obtains a "green card", he/she 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. This category can be very complicated, and if you are in doubt, consult with a DFCS attorney. In Santa Clara County, PRUCOL immigrants are eligible for some public benefits, including Medi-Cal, Healthy Families, and cash assistance (General Assistance).

### **Consulate General of the Republic of El Salvador**

870 Market Street, Suite 508  
San Francisco, CA 94102  
415-781-7924  
Consul Rafael Antonio Carballo

### **Consulate of Ethiopia**

101 California St., Suite 4725  
San Francisco, CA 94111  
415-434-2800

### **Consulate of Guatemala**

870 Market St., Ste. 667  
San Francisco, CA 94102  
415-788-5651  
Consul: General Patricia Santizo de Calderon

### **Consulate of Haiti**

PO Box 29450  
San Francisco, CA 94129-0450  
415-561-2555  
Honorary Consul Gerald Jay Sanders

### **Consulate of Honduras**

870 Market St., Ste. 449  
San Francisco, CA 94102  
415-392-0076  
Consul Amalia L. de Hernandez

### **Consulate of India**

540 Arguello Blvd.  
San Francisco, CA 94118  
415-668-0998  
Consul Belhur Prakesh

**The following organizations and individuals may be able to provide assistance with immigration questions, status information, and referrals.**

### **GOVERNMENT WEBSITES**

U.S. Department of State:

<http://www.state.gov>

U.S. Citizenship and Immigration Services:

<http://www.uscis.gov>

U.S. Department of Labor:

<http://www.workforcesecurity.doleta.gov>

### **INTERNATIONAL CONSULATES**

#### **Consulate of Colombia**

595 Market St. , Ste. 2130

San Francisco, CA 94105

415-495-7195

Consul General Mauricio Mesa

#### **Consulate of Costa Rica**

870 Market St., Ste. 647

San Francisco, CA 94102

415-392-8488

#### **Consulate of Croatia**

11766 Wilshire Blvd., Ste. 1250

Los Angeles, CA 90025

310-477-1009

Consul Damir Tomka

### **Refugees and Asylees:**

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 or INS.

### **Special Immigrant Juvenile Status:**

Unmarried, documented or undocumented immigrants under 21 years of age are able to become lawful permanent residents in some cases, such as when placed by the Juvenile Court in long-term foster care or guardianship. For many, this will be their only opportunity to obtain legal status. If you think a young person might qualify, be sure to inform County Counsel immediately.

### **Undocumented Immigrants:**

Undocumented immigrants are people who entered the United States unlawfully or whose legal immigrant or visitor status expired or was cancelled by the government. Undocumented immigrants do not have permission to work. Undocumented immigrants are eligible for Healthy Families and emergency Medi-Cal, and for many city and state services, including preventive and protective services

offered by DFCS and its contract agencies. Undocumented immigrants may be eligible to apply for lawful immigration status including Special Immigrant Juvenile Status, asylum, or lawful permanent residence through a family member or an employer.

### **United States Citizens:**

All children born in the United States and its territories are citizens of the United States, regardless of their parents' immigration status. Many children born outside of the United States may also be United States 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 should be referred immediately to an agency that can assist them in filing the appropriate paperwork with USCIS.)

### **Visa Holders:**

People with employment, student or tourist visas are in the United States legally for a fixed period of time and for a specific purpose. They are generally ineligible for public benefits.

### **American Nationals:**

A national of the United States is defined as a person who, though not a citizen of the United States, owes permanent allegiance to the United States. Nationals can enter the U.S. at any time without going through immigration

## **LANGUAGE ISSUES**

Speakers of any language may report abuse or neglect to the Child Abuse and Neglect Center Registry. It might not always be possible to determine if a family needs an interpreter before making the home visit. Remember, you cannot determine someone's native language from his or her name. What appears to be a Spanish surname could be Portuguese, or the individual might speak an indigenous Latin American language and not be proficient in Spanish. If it is determined that the primary language spoken is not English, or if the children and/or caretakers appear to have a limited English-speaking ability, notify the individuals of the available language assistance services and offer an interpreter. They may feel more comfortable speaking through an interpreter and may be able to provide more detailed accurate information.

If some members of the family are perfectly comfortable speaking in English and decline interpreter services, there may be other family members who still need an interpreter. Due to the potential for a conflict of interest, it is **NOT** recommended that a family member should be used to interpret for another family member. This is especially important in situations where children might be interpreting for their parents or where one spouse might be interpreting for the other. When informational, legal, or other such documents are handed to family members in order to read and/or sign, it is important to use the interpreter to explain the content verbally.

discharge from foster care to "independent living." 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 United States citizen and does not need immigration assistance. To get a copy of a foreign birth certificate, take the child to the consulate of his or her home country. Obtaining a copy of the child's birth certificate and collecting other relevant documents including a foreign passport and dispositions in any family court, criminal or delinquency proceedings will facilitate the status adjustment process.

**Note:**

Immigrant families with immigration issues, including undocumented status, can and should be referred to certain agencies for free legal assistance or case consultation. Please see the list of immigration attorneys in this guide for further guidance/contact information. There are certain fees associated with the SIJS process. The immigration law attorney will give you a list of the various fees, and how and to whom they are payable. Your foster care agency must issue all funds in that regard promptly and keep copies of all bills/invoices, receipts and checks issued as documentation of the payments. DFCS will thereafter reimburse your foster care agency for all payments. You should send a request for reimbursement for immigration law-related expenses to the DFCS case manager, along with copies of all supporting documentation. After the DFCS case manager obtains necessary approvals and submits your approved request, the agency's Budget and Fiscal Division will issue the reimbursement. Be aware that DFCS has a special contract with Catholic Charities to assist child welfare staff.

procedures. Persons born in the United States territories are American nationals.

**THE FOLLOWING IS SOME VALUABLE INFORMATION THAT MAY BE HELPFUL WHEN WORKING WITH IMMIGRANT FAMILIES**

**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 years of age.

**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 United States at age 2 might speak perfect English and yet be an undocumented immigrant; an elderly woman who speaks no English may be a United States 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 undocumented mother and father may have children who

were born in the United States (and who are thus citizens). They may live with recently arrived relatives who have “green cards”, and be receiving a visit from a family member in the country on a tourist visa.

## **IMMIGRATION ISSUES AND DFCS INVESTIGATIONS/FOSTER CARE PLACEMENTS**

### **Dual Citizenship:**

The United States recognizes dual citizenship under some circumstances. Children who may have dual citizenship should be considered United States citizens, but DFCS may still be required to contact the consulate general of the other country of citizenship. If such contact is necessary, please contact Catholic Charities or another immigration service agency.

### **Kinship Care:**

DFCS is 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 meet the other criteria for becoming kinship resources. Note that relatives residing outside the United States **CAN** be considered as a discharge resource for children in foster care.

Organizations are available to arrange for home studies in other countries to explore relatives as discharge resources.

Please see the list of resources in the Immigration and Language Issues Reference List for Child Welfare Staff in this guide for further assistance.

### **Protective Custody:**

In the case where a child who is not a United States citizen is taken into protective custody (removed from the home), DFCS may be required to notify the consulate general of the child’s country of citizenship. Staff should contact the County Counsel working on the case in this situation. They should also inform the family members that it is their right to contact their home country’s consulate for assistance if they so wish.

## **UNDOCUMENTED CHILDREN IN FOSTER CARE**

In the case of foster children who are neither U.S. citizens nor lawful permanent residents, the caseworker should refer them to a legal service that could assess their eligibility and provide assistance in legalizing their status through an application for Special Immigrant Juvenile Status (SIJS). (Please see above description of Special Immigrant Juvenile Status and refer to the Special Immigrant Juvenile Status memorandum issued August 2003.) Since qualification is dependent both on foster care status and the timely filing of application, workers should promptly bring any such situation to the attention of the DFCS County Counsel. Because discharge from foster care can impact a Special Immigrant Juvenile Status application, workers should consult with County Counsel and immigration attorneys prior to the child’s