

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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## INFORMATION MEMORANDUM

**TO:** State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-B and IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

**SUBJECT:** Case Planning and Service Delivery for Families with Parents and Legal Guardians who are Detained or Deported by Immigration Enforcement

**PURPOSE:** To encourage child welfare agencies and others that work with families with a child involved in the child welfare system whose parent(s) may be at risk of, or are, being detained or removed to engage in case planning activities that ensure the safety, permanency and well-being of all children in foster care.

**LEGAL AND RELATED REFERENCES:** Titles IV-E and IV-B of the Social Security Act; U.S. Immigration and Customs Enforcement Directive 11064.1: [Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities](#)

### INFORMATION

This Information Memorandum (IM) emphasizes the importance of child welfare agencies assessing and providing appropriate services to families with a child in foster care or involved with a child welfare agency, whose parent(s) and legal guardians may be at risk of, or are, being detained or deported<sup>1</sup>. The unique characteristics of these families, including preferred language, religious beliefs, cultural practices, and legal status mean that child welfare staff should be trained on how to best engage and support these families in successfully meeting case plan requirements. Immigration enforcement actions against parents or legal guardians with children in foster care may present child welfare agencies with complex challenges. For these children and families, it is critical for case workers to work closely with their local U.S. Immigration and Customs Enforcement (ICE) field office (contact information available on ICE's [Contact ERO page](#)) and to be familiar with the directive ICE issued in August 2013, [Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities \(the Directive\)](#). This document directs ICE personnel to ensure that immigration enforcement activities do not

<sup>1</sup> For the purposes of this IM, immigrant refers to individuals subject to ICE immigration enforcement activities.

unnecessarily disrupt the parental rights of immigrant parents or legal guardians of minor children. In the Directive, particular attention is given to (1) parents or legal guardians who are primary caretakers; (2) parents or legal guardians who have a direct interest in family court or child welfare proceedings; and (3) parents or legal guardians whose minor children are physically present in the United States (U.S.) and are U.S. citizens or lawful permanent residents. The Directive includes guidelines for ICE personnel to follow when a parent is detained or has been removed related to parental participation in family court or child welfare proceedings, parent-child visitation in detention, and coordinating care or travel of minor children when a parent is facing imminent removal. The Directive also addresses outreach by ICE personnel to courts and child welfare authorities to develop methods for improving communication and cooperation between the immigration enforcement, family or dependency court, and child welfare systems; and training of ICE staff regarding the safeguarding of parental rights.<sup>2</sup> We urge child welfare agencies to work with ICE to provide families with tailored and individualized services that support the best interests of the child with a focus on safety, permanency and well-being regardless of the cultural background, country of origin, or immigration status of a child's parents or legal guardians.

In addition to the ICE directive, we encourage child welfare agencies to take advantage of new training curricula, toolkits, handbooks, models of best practices and other resources that focus on the special needs of this population to ensure that children are not needlessly separated from their families or left to languish in foster care for prolonged periods of time. These materials include the Issue Brief with information regarding how child welfare agencies can collaborate with foreign consulates, released in December 2013 by the Office of the Assistant Secretary for Planning and Evaluation within the U.S. Department of Health and Human Services (HHS) (see the Resources section).

### **Detained or Removed Immigrant Parents and the Child Welfare System**

Children of immigrant parents may become involved with the child welfare system because their parents are detained or removed due to immigration violations, or when informal substitute caregiving arrangements put in place by a detained or removed parent or legal guardian break down. Child welfare agencies need to ensure that any child in foster care is in such a placement for appropriate reasons, and that parental rights are not inappropriately disrupted or terminated in any case.

Child welfare agencies should begin the permanency planning process and service delivery as soon as possible following a child's removal from home. Regardless of the reason a child enters foster care, the title IV-E/title IV-B agency must appropriately address all title IV-E and IV-B requirements. Typical child welfare cases require parents to participate in family meetings and in the development of case plans as well as to appear at court proceedings. While it can be difficult for child welfare agencies to ensure that detained parents and legal guardians participate in these activities, it is possible, and section 5.4 of the ICE directive outlines guidance on court participation. Success requires educating courts and providers about the unique needs of these families and working in partnership with the local ICE office to facilitate safe and secure participation or alternative arrangements.

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<sup>2</sup> Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities (August 2013) U.S. Immigration and Customs Enforcement. See sections 5.9 and 5.10.

In determining how to involve detained parents and legal guardians in family court or child welfare proceedings<sup>3</sup>, and how to arrange visitation<sup>4</sup>, agencies should coordinate with their local ICE field office. ICE can facilitate the parental interests of detained or removed parents, legal guardians and primary caretakers involved in ongoing family or dependency court proceedings in a variety of ways, including placing them as close as practicable to their children and/or the location of the family court or child welfare proceedings; arranging for their transportation to family court or child welfare hearings; identifying alternative means to participate in hearings; and facilitating parent-child visitation where required by a family or dependency court or a child welfare authority. For more information on the role of ICE field staff, agencies can refer to the ICE Parental Interests Directive Frequently Asked Questions document (see the Resources section). In addition, while title IV-E/IV-B agencies are required under section 475(5)(E) of the Social Security Act to file a petition for the termination of parental rights (TPR) for any child left in foster care for 15 out of the most recent 22 months, they should carefully consider compelling reasons that might warrant an exception to TPR filing timelines, including the impact of detention or removal on efforts of otherwise fit parents to maintain connections with their children. Open communication between child welfare agencies, ICE field staff, foreign consulates, courts, providers and families about child welfare requirements, parent circumstances and options for relief is necessary to ensure that child welfare agency recommendations and decisions about placement and permanency goals are in the best interests of the child. Such communication may require language assistance for children and family members with limited English proficiency (LEP) to ensure effective communication and is consistent with protections against discrimination under Title VI of the Civil Rights Act of 1964.<sup>5</sup> See the Resources section for more information on providing language assistance services.

### **Unaccompanied Children**

An unaccompanied alien child is a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom, there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.<sup>6</sup>

Generally, there is little interaction between unaccompanied children and the traditional state foster care system while children are in HHS care. In cases where an immigration status is granted, or the child receives a letter of eligibility from HHS as a victim of trafficking, the child may be eligible to apply for placement into the HHS Unaccompanied Refugee Minor (URM) foster care program. HHS provides grants to 15 states which serve approximately 1,600 URM

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<sup>3</sup> Defined in the Directive as “a proceeding in which a family or dependency court or child welfare agency adjudicates or enforces the rights of parents or minor children through determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or other legal obligations in the context of parental rights.”

<sup>4</sup> See the following visitation forms and guidance to be used for requesting visitation at a detention facility through your local ICE office: [Visitor Code of Conduct](#), [Tour/Visit Notification Flyer](#), and [Procedures for Visiting/Touring a Detention Facility](#)

<sup>5</sup> See 42 U.S.C. § 2000d et seq.; 45 C.F.R. Part 80. Title VI requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to individuals with LEP. Providing meaningful access may include the provision of language assistance services, such as oral interpretation, written translation, and taglines in non-English languages indicating the availability of language assistance services. See Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47,311 (Aug. 8, 2003), available at <http://www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html>.

<sup>6</sup> See 6 U.S.C. § 279(g)(2).

children and youth in foster care, the full cost of which is supported with HHS funds. The URM program traditionally has served unaccompanied refugee children who are identified in countries of first asylum as requiring foster care upon their arrival in this country.

Any allegations of abuse after a child is released from HHS care are reported through the state's child welfare system which in turn is responsible for investigating and following up on the allegations, just as with other reported allegations for other children and families in the state.

### **Special Immigrant Juvenile Status (SIJS)**

If a child does not have an immigration status to remain in the U.S., is dependent upon a juvenile court or legally committed to an individual or entity appointed by a state or juvenile court, and is unable to reunify or be placed with one or both parent(s) because of abuse, neglect, or abandonment, he or she may be eligible for Special Immigrant Juvenile Status (SIJS). To qualify for this status, a child must be under age 21 and unmarried; must be under the jurisdiction of a juvenile court; cannot be reunited with a parent due to parental abuse, neglect, abandonment, or a similar basis under state law; and cannot return to his or her country of nationality because it is not in his or her best interest. This status allows a child to remain in the U.S. and eventually obtain lawful permanent residency.

Child welfare agencies should screen all children in their care who are without an immigration status for SIJ status and provide eligible children necessary information, particularly when preparing for emancipation from foster care and prior to aging out (see the Resources section for more information on SIJS). Helping children and youth access legal assistance is critical. A list of legal service organizations that provide free or low-cost immigration legal assistance and representation for non-detained children in immigration proceedings is available on ACF's website: <http://www.acf.hhs.gov/programs/orr/resource/unaccompanied-childrens-services>.

### **Workforce and Provider Competence Development**

It is critical that child welfare workers understand each individual's circumstances, including their immigration experience, culture, and language access needs. Four components of culturally competent practice particularly important in working with immigrant families are: awareness of one's own culture, knowledge acquisition of different cultures, developing the skills necessary to temper social work intervention skills with the cultural knowledge and self-assessment, and indicative learning in being able to use one's understanding of culture beyond the particular family to advocate for the children and families in the community.<sup>7</sup> Agencies should continuously address the training needs of staff, including Culturally and Linguistically Appropriate Services Standards (CLAS Standards) to ensure that caseworkers are prepared to accurately assess and serve the needs of families without bias and to ensure the safety of all.<sup>8</sup>

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<sup>7</sup> Lum, D. (2010). *Culturally Competent Practice: A Framework for Understanding Diverse Groups and Justice Issues*. Belmont, CA: Brooks/Cole.

<sup>8</sup> The Enhanced National Standards on Culturally and Linguistically Appropriate Services Standards in Health and Health Care (CLAS Standards) establish a comprehensive framework for how organizations can advance health equity and eliminate health disparities, such as through promoting a diverse workforce trained in culturally and linguistically appropriate policies and practices and providing oral interpretation and written translation in non-English languages to the community. For the CLAS Standards, see <https://www.thinkculturalhealth.hhs.gov/Content/clas.asp>. Although the Enhanced National CLAS Standards do not represent statutory requirements, failure by a recipient of Federal financial assistance to provide services consistent with CLAS communication standards could result in a violation of Title VI of the Civil Rights Act of 1964.

Several child welfare agencies have instituted supportive policies and practices in working with immigrant children and families, such as staff training curriculums, practice handbooks, a specialized immigration legal services program, and a specialized office whose purpose is to monitor, coordinate and promote best practices with immigrant children, families and youth (see the Resource section). We encourage child welfare agencies to review the available research, tools and resources and develop strategies to increase their workforce's competence in working with immigrant families, including training and supporting policy.

### **Best Practice Considerations**

Child welfare agencies can promote improved case planning practice by considering the following:

- Assist families with the case planning development and implementation process even when a parent or legal guardian may be in a detention facility;
- Provide meaningful access to families and children with Limited English Proficiency (LEP) through translation of written materials into non-English languages and oral interpretation for all communication, such as for all family team meetings and court proceedings;
- Utilize culturally competent assessments, engagement and intervention to ensure the safety, permanency, and well-being of children;
- Develop Memoranda of Understanding (MOUs) with foreign consulates to promote cooperation in cases involving children who are nationals of another country or whose parents are nationals of another country and to assist in locating for these parents and relatives<sup>9</sup>;
- Engage and institutionalize partnerships with immigrant advocacy organizations and immigrant-serving federal or state government agencies as well as faith-based and community/ethnic-based organizations to share technical assistance resources, and promote collaboration and coordination of services to meet the needs of families and children that cannot otherwise be met through usual channels;
- Utilize partnerships with immigrant-serving and advocacy organizations to facilitate linkages with far-reaching immigrant networks in order to share relevant information, resources, announcements, and initiatives such as: recruit immigrants as foster and kinship care providers; remove systemic barriers that impede immigrant relatives of a child in foster care from becoming kinship guardians; and promote foster family resources;
- Engage immigrant families in leadership roles within the child welfare system, such as through parent partner programs, to support their participation in shaping child welfare policy and practice;
- Develop legal services referrals or other ways for families to assess immigration relief options for which they may be eligible;
- Prioritize identifying immigration status as a factor in permanency planning and communicate any confounding issues to courts and service providers. For example, when a child is in foster care on account of a parent's or legal guardian's detention or removal, this information must be conveyed to the court so as not to give the impression that a parent's or legal guardian's absence is due to abandonment or lack of interest. In such circumstances, the

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<sup>9</sup> Radel, L. (2013). Emerging Child Welfare Practice Regarding Immigrant Children in Foster Care: Collaborations with Foreign Consulates. Washington, DC: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Link: [http://aspe.hhs.gov/hsp/14/MOUsWithConsulates/ib\\_MOUsWithConsulates.pdf](http://aspe.hhs.gov/hsp/14/MOUsWithConsulates/ib_MOUsWithConsulates.pdf)

parent's or legal guardian's detention should be considered as a potential compelling factor that might warrant an exception to the requirement to file a petition to terminate parental rights pursuant to the 15 out of 22 months in foster care requirement under title IV-E/IV-B; and

- Train child welfare caseworkers on such topics as challenges in immigration and acculturation; culturally and linguistically appropriate services; how immigration status affects families, children, and youth; access to services and benefits; and the complexities of immigration enforcement.

### **Conclusion**

Immigration status has profound effects on children and families and becomes even more complex when these families come in contact with the child welfare system. The need for title IV-E/IV-B agencies, dependency courts and service providers to have the information, resources and tools necessary to understand how to work effectively with children of immigrant families when they come to their attention is paramount to ensure safety, permanency and well-being. We encourage child welfare agencies and other stakeholders to implement strategies to work with ICE, develop workforce competency, and enhance and foster collaboration in engaging and serving immigrant families.

### **Resources**

#### **U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Issue Brief**

- Emerging Child Welfare Practice Regarding Immigrant Children in Foster Care: Collaborations with Foreign Consulates:  
[http://aspe.hhs.gov/hsp/14/MOUsWithConsulates/ib\\_MOUsWithConsulates.pdf](http://aspe.hhs.gov/hsp/14/MOUsWithConsulates/ib_MOUsWithConsulates.pdf)

**Child Welfare Information Gateway:** <https://www.childwelfare.gov/systemwide/immigration/>

#### **U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement Documents**

- U.S. Immigration and Customs Enforcement Parental Interests Directive:  
[http://www.ice.gov/doclib/detention-reform/pdf/parental\\_interest\\_directive\\_signed.pdf](http://www.ice.gov/doclib/detention-reform/pdf/parental_interest_directive_signed.pdf)
- Frequently Asked Questions on the Parental Interests Directive  
<http://www.ice.gov/about/offices/enforcement-removal-operations/parental-directive-faq.htm>
- Parental Interests Directive 1-page Fact Sheet
  - English:  
<http://www.ice.gov/doclib/about/offices/ero/pdf/parentalInterestsFactsheet.pdf>
  - Spanish:  
<http://www.ice.gov/doclib/about/offices/ero/pdf/parentalInterestsFactsheetSp.pdf>

#### **National Resource Center for Permanency and Family Connections (NRC-PFC)**

Information and tools are available to child welfare agencies and professionals necessary to ensure safety, permanency and well-being for immigrant families and children, even in instances when a parent is detained or deported. The National Resource Center for Permanency and Family Connections (NRC-PFC) maintains a webpage on Immigration & Child Welfare, which

provides links to relevant resources on the NRCPPFC website:

[http://www.hunter.cuny.edu/socwork/nrcfcpp/info\\_services/immigration-and-child-welfare.html](http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/immigration-and-child-welfare.html)

Resources you will find on this webpage include:

- Research reports that explore the intersections of child welfare and immigration;
- Practice guides and tool kits on issues such as:
  - a basic overview of the U.S. immigration system as it impacts the clients of public child welfare professionals;
  - working with immigrant families to address trauma;
  - how and when immigration issues may arise during a child welfare case;
  - Special Immigrant Juvenile Status (SIJS);
- Resources for working with immigrant parents whose status is undocumented, including planning tools to prepare for the possibility of separation from their children in order to increase the likelihood of reunification if they are detained or deported; strategies to protect parental rights; and, a guide to protecting assets and child custody in the face of deportation;
- Resources that promote cultural competence and address: parenting practices in various cultures; interviewing immigrant and refugee children; and working with newly-arrived immigrant and refugee parents;
- Resources and strategies developed by State and local child welfare agencies;
- Webinars/webcasts addressing policy and practice with immigrant children and families;
- The U.S. Immigration and Customs Enforcement Online Detainee Locator System.

The following websites provide information on Special Immigrant Juvenile Status (SIJS):

- [U.S. Citizenship and Immigration Services, Department of Homeland Security:](#)
  - SIJ Brochure:  
[http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Immigration\\_Relief\\_for\\_Abused\\_Children-FINAL.pdf](http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Immigration_Relief_for_Abused_Children-FINAL.pdf)
  - SIJ Information for Child Welfare Workers:  
[http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Information\\_for\\_Child\\_Welfare\\_Workers\\_-FINAL.pdf](http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Information_for_Child_Welfare_Workers_-FINAL.pdf)
  - SIJ Information for Juvenile Courts:  
[http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Information\\_for\\_Juvenile\\_Courts\\_-FINAL.pdf](http://www.uscis.gov/sites/default/files/USCIS/Green%20Card/Green%20Card%20Through%20a%20Job/Information_for_Juvenile_Courts_-FINAL.pdf)
- U.S. Committee for Refugees and Immigrants, Department of Homeland Security:  
<http://www.uscis.gov/green-card/special-immigrant-juveniles/special-immigrant-juveniles-sij-status>
- Minnesota Department of Human Services Bulletin on Special Juvenile Immigrant Status:  
[http://www.f2f.ca.gov/res/pdf/State\\_of\\_Minnesota.pdf](http://www.f2f.ca.gov/res/pdf/State_of_Minnesota.pdf)
- An Overview of Special Immigrant Juvenile Status by the Immigrant Legal Resource Center:  
<http://www.ilrc.org/resources/an-overview-to-special-immigrant-juvenile-status>

The following government websites provide information regarding immigration issues:

U.S. Department of Health and Human Services, Office for Civil Rights Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin

Discrimination Affecting Limited English Proficient Persons:

<http://www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html>

- HHS Language Access Plan 2013: <http://www.hhs.gov/open/execorders/2013-hhs-language-access-plan.pdf>
- Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits:  
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/tanf/triagencyletter.html>

U.S. Department of Health and Human Services, Office of Minority Health

- Website for the National CLAS Standards
  - <http://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53>
  - <https://www.thinkculturalhealth.hhs.gov/Content/clas.asp>
- National Standards for CLAS in Health and Health Care: A Blueprint for Advancing and Sustaining CLAS Policy and Practice – April 2013
- <https://www.thinkculturalhealth.hhs.gov/pdfs/EnhancedCLASStandardsBlueprint.pdf>
- 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>

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