



**SPECIAL SESSION FOR CHILD WELFARE
PRACTITIONERS:**

CHILD WELFARE BEST PRACTICE

POLLING QUESTION





IS not a law enforcement agency.

Is not required to share information with federal immigration authorities.

Is a state agency bound by laws of confidentiality—immigration status is confidential.

Serves children and families in New Mexico regardless of national origin or immigration status—our primary goal is to strengthen families and to keep children safe.

PROTECTIVE SERVICES & IMMIGRATION ISSUES

CHALLENGES IN CHILD WELFARE PRACTICE

- Lack of coordination between local ICE and CPS agencies
- Difficulty assessing immigration status of children
- Difficulty identifying viable relatives for placement
- Inability of parents to participate in cases that cross borders
- Difficulty coordinating reunification at the time of a parent's release/deportation
- Inability of parents to visit with child, meet child welfare case plan requirements, participate in family court proceedings
- Barriers to receipt of needed services
- Strict child welfare timelines that can result in termination of parental rights

CHAT

**WHAT CHALLENGES
HAVE YOU
EXPERIENCED IN
WORKING WITH
IMMIGRANTS IN YOUR
ROLE AT CYFD?**

IMPORTANT PRINCIPLES IN CHILD WELFARE IMMIGRATION CASES

- All parents have a constitutional right concerning care, custody and control of their children, regardless immigration status.
- Agencies are required to satisfy reasonable efforts in all cases, including those involving detained or deported parents.
- Agencies are to investigate reunification with parent in home country when aboard, and parental rights may not be terminated based on standard of living in another country.
- Parental deportation does not constitute abandonment without additional evidence of abuse or neglect.
- All parents have a right to participate in hearings and to have legal counsel represent them.
- Complications in facilitating cases involving parental detention or deportation do not nullify a parent's right to participate in proceedings.

(Beidler Carr, 2019)



ICE DETAINED PARENTS DIRECTIVE (2017)

- ICE should allow parents and/or guardians to make alternative care arrangements for their children;
- ICE should detain parents and guardians in close proximity to their children; and
- ICE should facilitate regular visitation between detained parents or guardians and children.

BEST PRACTICE ACROSS BORDERS

Work case plan across borders

- Involve and develop relationships with foreign consulate → MOUs
- Locate parents/relatives
- Conduct home studies
- SKYPE, Facetime, WhatsApp
- Arrange for participation in court proceedings, visits
- Arrange for service provision in other countries
- Placement in other countries



CONSULAR RELATIONS: BASIS IN INTERNATIONAL LAW

The Vienna
Convention on
Consular Relations
(1967)

The Bilateral
Convention between
the U.S. and the
United Mexican
States, Article VI

MOU: MUTUAL COOPERATION

Location of family members

Evidence and documentation (birth certificates, medical records, proof of Mexican citizenship etc.)

Home studies

Monitoring of placements

Repatriation to Mexico

ROLE OF THE MEXICAN CONSULATE IN SAFETY PLANNING

- CYFD has a duty to notify the Mexican Consulate when a “Mexican minor” is taken into CYFD custody in Abuse and Neglect cases per MOU
- Consulate interprets this to mean even US citizen children who have Mexican citizen parents
- Contact Mexican Consulate for preparation of travel documents and/or dual citizenship for US born children
- Consulate explores viability and best interests of the child for reunification
- If reunification not viable, Consulate works to ensure due process rights are protected

SIJS - WHO IS ELIGIBLE?

For an undocumented foreign national child to be eligible:

- Reunification with one or both parents is not a viable option.
- It is not in the child's best interest to return to his or her country of nationality or last habitual residence.
- The child must be under the jurisdiction of the court throughout the application process and status adjustment.

Also, child must be:

- In the U.S.
- Under the age of 21
- Unmarried

“If a child is an undocumented foreign national PSD shall apply to the department of homeland security’s (DHS) citizen and immigration services (USCIS) to obtain ‘special immigrant juvenile status’ for the child.”



PROTECTIVE SERVICE POLICY & PROCEDURE REFERENCE:	
Permanency Planning	Legal
Permanency Planning Policy (paragraph 8.10.8.22, page 7)	Legal Policy (paragraph 8.10.7.29, page 10)
Permanency Planning Procedures (PR 22, pages 81-86)	Legal Procedures (PR 28—Special Immigrant Juvenile Status, pages 36 - 39)

POLLING QUESTION



FOSTER LICENSING OF NON-CITIZEN RELATIVES

8.26.4 NMAC—Licensing Requirements for Relative Foster, Kinship Care.

- It is no longer a mandated requirement for **relative** foster care or fictive kin provider applicants to be a U.S. Citizen or have permanent residency in New Mexico.
 - Contact Emily Martin at Emily.Martin@state.nm.us or Lorie Pacheco at LorieA.Pacheco@state.nm.us on how to license relative families who are undocumented, don't want to be fingerprinted
 - Alert Title IV-E Specialist when relatives/fictive kin do not go through the fingerprint process
- Fingerprinting is not a mandated requirement, but is the preferred method for background checks for all relatives.
 - **Non- citizen** relative /fictive kin may choose not to be fingerprinted and may provide other forms of identification for a background check.
 - Accepted forms of identification:
 - Foreign Passports
 - Consular Identification (Matricula Consular)
 - Non- REAL ID state identification

QUESTIONS?
