



State of South Carolina

Department of Social Services

Child Welfare Policies and Procedures: Chapter 16

Subject:	1645 Service Needs of Non-Citizen Minors
Authority:	Title IV-E of the Social Security Act Section 471(a)(27); Immigration and Nationality Act; Vienna Convention on Consular Relations of 1963; S.C.Code Ann. Section 8-29-10
Standards:	Guiding Principles and Standards (GPS) Practice Model
Application:	All Child Welfare Programs
Purpose:	To verify the citizenship or immigration status of any foster child or youth under the care and custody of the South Carolina Department of Social Services (SCDSS) without regard to whether foster care maintenance payments are made under Title IV-E.
Policy Statement:	SCDSS provides services to foster children or youth, under the age of 18, without regard to their citizenship or immigration status. Federal and State funds, including foster care board payments, are not utilized to provide services to individuals, 18 and over, who cannot verify lawful residence in the United States.
Definitions:	Documented Immigrants: An individual who has unexpired documentation to verify they are currently present in the United States with authorization. Documented immigrants may or may not have the right to work, have access to public benefits, or the right to remain permanently in the United States. The most common categories of documented immigrants include lawful permanent residents (Green Card Holders), refugees, or asylees. Lawful permanent residents are non-citizens permitted to live and work permanently in the United States. Lawful permanent resident children or youth are entitled to food stamps but are not entitled to most other benefits until they have had lawful permanent resident status for five years. Some immigrants have been granted refugee or asylee status based on persecution in their home country. Refugees and asylees will have the opportunity to apply for lawful permanent residency. Dual Citizenship: An individual who is a citizen of two countries at the same time. Dual citizenship occurs automatically for some individuals. Each country determines whether an individual qualifies for citizenship. Educational and Training Vouchers (ETV): Grants, funded by the federal government and administered by the states, awarded to youth with foster care experience pursuing post-secondary education in an approved educational program. Immigrant: A person who has been granted the right by U.S. Citizenship and Immigration Services (USCIS) to reside permanently in the United States and work without restriction.

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Immigration Status: How a person is present in the United States. Every person has an Immigration Status. Some examples of Immigration Status include Green Card Holder (Lawful Permanent Resident), Asylee, Refugee, and an Undocumented Immigrant.

The John H. Chafee Foster Care Independence Program (CFCIP): This program provides funds to assist current and former foster care youth in achieving self-sufficiency. Funds assist youth in a wide variety of areas designed to support a successful transition to adulthood. Activities and programs include, but are not limited to, help with education, employment, financial management, housing, emotional support and maintain connections to caring adults.

Non-Citizen Minor: An individual under the age of 18 who does not have any of the following: U.S. Birth Certificate, U.S. Passport, or a Certificate of Citizenship or Naturalization.

Non-Immigrants: An individual who has been granted temporary authorization to enter or remain in the United States. There are many different categories of authorized non-immigrants, i.e. tourist, students, temporary workers, and victims of a crime assisting in an investigation or prosecution. Each category has specific limits on the amount of time the person can remain lawfully in the United States and has specific conditions on allowable activity. Some non-immigrant categories allow the person to work in the United States while others do not.

Special Immigrant Juvenile Status (SIJS): Helps certain undocumented children or youth in a state child welfare system become Lawful Permanent Residents (LPR). Children or youth involved in adoption or guardianship proceedings who have been abandoned, abused, or neglected may be able to obtain SIJS and apply to become an LPR.

Title IV-E: Refers to Title IV-E of the Social Security Act which entitles States, Tribes, and Territories to claim partial federal reimbursement for the costs associated with providing foster care, adoption assistance, and kinship guardianship assistance to children or youth who meet federal eligibility criteria.

Undocumented Immigrant: A person who enters the United States illegally without the proper authorization and documents, or who entered the US legally and has since violated the terms of their visa or overstayed the time limit indicated on their documentation.

U.S. Citizenship and Immigration Services (USCIS): The governmental agency that oversees lawful immigration to the United States, a division of the United States Department of Homeland Security (DHS).

U.S. Immigration and Customs Enforcement (ICE): The principal investigative arm of the DHS.

U.S. Citizen: A person born in the U.S. or who becomes a citizen through the naturalization process. Some children or youth born abroad may also obtain citizenship through their U.S. Citizen parent or grandparent. Additionally, a child or youth may automatically become a U.S. Citizen if he or she is an LPR under the age of 18 when one of his or her parents who have legal and physical

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custody of him or her becomes a U.S. Citizen or the child or youth is adopted by a U.S. Citizen in compliance with U.S. immigration law.	
Procedures:	
A. Verification of citizenship or immigration status	Assess children or youth who have an open CPS, family preservation, or foster care case with SCDSS to determine verification of citizenship or immigration status. Refer to Special Topics Work Aid 16.3 Service Needs of Non-Citizens Minors .
B. Permanency	Provide foster children or youth who are in the custody of the SCDSS and who are non-citizen minors with foster care services when necessary. Refer to Special Topics Work Aid 16.3 Service Needs of Non-Citizens Minors .
C. Maintain current legal status	For foster children or youth who are non-citizen minors, it is important to maintain the foster child or youth's current legal status while in the custody of the SCDSS. Case Managers are to timely file for extensions or changes of immigration status as needed so the immigration status of a child or youth in the custody of SCDSS remains current. This is necessary because many of the documents granting legal immigration status have expiration dates. Refer to Special Topics Work Aid 16.3 Service Needs of Non-Citizens Minors .
D. Special Circumstances	Foster children or youth without Legal Status: The foster child or youth's legal status, or lack thereof, should be one of the first things determined. The foster child or youth will need to have a certified foreign birth certificate and passport. These can be obtained at their consulate in the U.S. The foster child or youth may be eligible for one of the following: 1. A foster child or youth could be eligible for derivative U.S. Citizenship if: a. One of the foster child or youth's parents or grandparents were a U.S. Citizen at the time of the foster child or youth's birth, or b. One of the foster child or youth's biological or adoptive parents became a U.S. Citizen and obtained the foster child or youth's Green Card while the foster child or youth was under the age of 18. 2. A foster child or youth could be eligible for legal status through Special Immigrant Juvenile Status (SIJS). A foster child or youth who meets these criteria can receive a Green Card, and eventually U.S. Citizenship. To be eligible for SIJS, the following must be applicable: a. The foster child or youth is under 21 and unmarried; b. Reunification with at least one of the parents is not possible because of abuse, neglect, or abandonment; and c. It is not in the foster child or youth's best interest to return to the country of their birth. 3. There are other ways a foster child or youth may become eligible for citizenship or an adjustment in status, including if a foster child, youth, or

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	foster child or youth's parent is a victim of certain crimes. If SCDSS has had an open family preservation or foster care case, those types of visas could be available. Immediately upon learning that a family lacks legal status, the Case Manager should make a referral to an immigration attorney for assistance in obtaining a visa for the foster child or youth and parent with whom the foster child or youth resides. In such cases, SCDSS' investigation of the abuse will be utilized as documentation for the application and eligibility for a visa. The Office of General Counsel may advise the County Director regarding specific documentation which may be shared with the immigration attorney during this process.
E. Services Available to Non-Citizens	1. Efforts to reunite families must continue, and whenever possible and appropriate, referrals for needed services must be made. Monthly contacts, judicial reviews, advisory board reviews (Foster Care Review Board), and other required duties for foster children or youth must be met. Additionally, timelines to achieve permanency for foster children or youth are the same regardless of their citizenship or immigration status. 2. Case Managers must be cognizant of cultural differences. Interpreters and translators are to be used when needed for communication and paperwork and appropriate resources must be located to assist the parents. 3. Documented immigrants may qualify for Medicaid and other federally funded assistance including resources from the SCDSS Office of Economic Services, such as Food Stamps and Temporary Assistance to Needy Families, as a child-only case if the foster child or youth is a U.S. Citizen. 4. Undocumented immigrants may be eligible to receive payment for medical services in cases of an emergency only. To obtain information about eligibility for Medicaid, contact the SCDSS Office of Child Health and Well-Being at childhealthandwell-beingappeals@dss.sc.gov. 5. An immigrant employed by an agricultural or farm-related employer might be eligible to receive assistance from The South Carolina Agricultural Worker Health Program formally known as the South Carolina Migrant Worker Health Program. To make use of these services, contact the South Carolina Primary Health Care Association. In the event, an immigrant is not employed in an agricultural setting, they may still access medical services through Community Health Centers on a sliding fee scale or use a free or reduced fee clinic. 6. Immigrant victims of child trafficking who are certified by the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) are eligible for federal benefits, including Medicaid

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and Children's Health Insurance Program (CHIP). Refer to [Recognizing and Serving Child Trafficking Victims Policy 1600](#).

7. Abandoned Baby:

If the parents cannot be found, any child under the age of five is presumed to be a U.S. Citizen. Source: [\[8 U.S.C. section 1401 \(f\)\]](#). If a child was not born in the U.S. but one of the child's parents is a U.S. Citizen, the child may be entitled to U.S. Citizenship. If there is a question about the child's citizenship status, assistance should be requested from an immigration attorney. If a baby has been abandoned at a Safe Haven, refer to Safe Haven for Abandoned Babies Act, [SC Code Ann. Section 63-7-40](#), and [Foster Care and Permanency Policy 510.1](#) for procedures. If a baby has been abandoned elsewhere, provide necessary services so that the child's needs are met. At the Merits Hearing, the worker must request that the court order the Bureau of Vital Statistics to create a birth certificate using the estimated date of the child's birth.

8. Undocumented Immigrants as Foster Parents:

Foster care licensing regulations do not require that a foster parent or adoptive parent be a U.S. Citizen or documented immigrant. However, the inability to obtain a complete criminal history record may prevent licensure as a foster or adoptive parent.

9. Requesting an Interstate Compact on the Placement of Children Home Study on Undocumented Immigrants:

State policy prohibits the denial of a placement solely based upon the immigration status of the applicant. However, the inability to obtain a criminal history record may prevent approval of the home study.

10. Case Planning for Foster Children or Youth Who Have Relatives in Another Country:

Concurrent planning must begin early upon a foster child or youth's entry into foster care. Whenever a relative resides in another country, the steps to obtain a home evaluation are different than requesting a home study from another state. Contact the nearest embassy or consular office of the relative's country of residence and request assistance in obtaining a home evaluation. The embassy or consular office may require additional information and the completion of other forms if a home evaluation is needed.

11. Flex funds for Services for Undocumented Immigrant Families:

Federal approval has been given to use flex funds if there is confirmation by a court that there has been abuse or neglect.

Note: Flex funds may be used to serve undocumented immigrants according to the federal government's definition of IV-B funds.

12. Chafee and ETV Funds Cannot be used for Undocumented Youth:

Current restrictions limit the use of these funds to youth who are citizens or legal immigrants of the United States. Youth who are undocumented are not eligible for Education and Training Vouchers (ETV) funds and are not eligible for the John H. Chafee Foster Care Independence Program (CFCIP) services unless they are victims of Child Trafficking and obtain a statement of eligibility from HHS. Refer to [Recognizing and Serving Child Trafficking Victims Policy 1600](#) and [Work Aid 16.1 Identifying and Serving Child Trafficking Victims](#).

13. Organizations and Agencies that Assist with Services for Immigrants:
Each SCDSS county office should have a directory of available services. The following is a link to the South Carolina Appleseed Legal Justice Center's Guide to Immigrant Resources in South Carolina
<https://www.scjustice.org/brochure/immigrant-resource-guide/>

Additional Resources for Immigrant Families

<u>SOURCES</u>	<u>SERVICES PROVIDED</u>	<u>CONTACT INFORMATION</u>
Care Line	Toll-free, a statewide hotline which provides information and referral services	1-800-868-0404
Telamon	The primary program is for documented <u>agricultural workers only</u> , with assistance provided for, Housing, Employment, GED, etc. Some additional programs are available for low-income families.	http://www.telamon.org/ (803) 256-7411
Hispanic Resource Hotline	Referral services for resources.	http://www.hispanicaccess.org/ 1-800-473-3003
National Hispanic Pre-Natal	Information and referral for pre-natal services for Hispanics.	1-800-504-7081 http://www.hispanichealth.org/
FirstGov.Gov	Federal government website resource listings in Spanish.	http://www.firstgov.gov/Espanol/index.shtml

	Su Familia: The National Hispanic Family Health Helpline	Provides basic information on health topics and referral services for medical services for Hispanics	1-866-783-2645 http://www.hispanichealth.org/	
Forms:	N/A			
Resources:	N/A			
Related Management Reports	N/A			

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