

65C-9 Undocumented Foreign National Children ~~Alien Children~~

65C-9.002 Definitions.

(1) “Undocumented Foreign National ~~Alien Child~~” ~~means is defined as~~ an unmarried person under the age of 18 who is not a citizen or national of the United States, and who is not in possession of valid U.S. Citizenship and Immigration and Naturalization Services (USCIS) (~~USCISINS~~) issued documents authorizing the juvenile to be in the United States.

(2) ~~PRUCOL (“Permanent Residence Person residing in the United States Under Ceolor of Law (PRUCOL)” means) is defined as~~ a public benefits eligibility category available to undocumented foreign nationals who are residing in the United States with the knowledge and permission of the Department of Homeland Security (DHS), a person who is known to USCIS INS and whose forced departure from the United States is not imminent.

(3) ~~SAVE (“Systematic Alien Verification for Entitlements Unit” Program (SAVE)” means a program is a subdivision of the INS District Offices that verifies the validity of purported USCIS INS documents for purposes of entitlement.~~

(4) “Special Immigrant Juvenile Visa” ~~means is~~ an immigrant visa available to a person who meets the eligibility requirements set forth in 8 CFR §204.11. 8 CFR §204.11 is hereby incorporated by reference and available at <https://www.flrules.org/gateway/reference.asp?NO=Ref-XXX>. ~~has been declared dependent by a juvenile court, who was deemed eligible for long term foster care, and for whom it has been determined that it would not be in her best interest to return to her or her parents’ previous country of nationality or country of last habitual residence.~~

(5) “Immigration and Customs Enforcement (ICE) USCIS INS Custody” ~~means is defined as~~ physical presence in a Department of Homeland Security (DHS) ~~an INS~~ facility.

(6) ~~Immigration Proceedings are defined as either exclusion or deportation proceedings before the Executive Office for Immigration Review.~~

(6)(7) “Special Interest Order” ~~means is defined as~~ an order from the Circuit Court establishing that the child has met the requirements for a special immigrant juvenile ~~immigrant~~ visa.

Rulemaking Authority 39.012, 39.0121, 39.5075(8) 409.026(8), 415.514 FS. Law Implemented 39.5075 39.001(1), 409.145, 415.501, 415.5016, 415.502 FS. History–New 6-12-95, Formerly 10M-47.002. Amended

65C-9.003 Procedure for Handling Foreign National ~~Alien~~ Children Alleged to Be Abused, Neglected or Abandoned.

(1) All calls received by the statewide Department of Children and ~~Families Florida Family Services~~ Abuse Hotline (“Hotline”) will be screened without regard to the immigration status of the alleged victim or the family or household of the victim, pursuant to the procedures established in Chapter ~~65C-29~~ ~~65C-10~~, F.A.C. A child’s immigration status will be determined through the Systematic Alien Verification for Entitlements Program (SAVE) only, concurrent with the ongoing investigation into allegations of abuse, abandonment or neglect, and only in an effort to promote the child’s best interests, which includes ascertaining, ~~in good faith,~~ a child’s eligibility for public benefits or need for a special immigrant juvenile visa. No such status check or other contact shall be made for the purpose of seeking the child’s or the family’s detention by Immigration and Customs Enforcement (ICE) INS or the initiation or resumption of deportation or exclusion proceedings against the child or the child’s family, irrespective of the outcome of the dependency proceeding. No staff member from the Department of Children and Families, Sheriff’s Office conducting child protective investigations, or Community-based Care or subcontracted provider Family Services staff member may attempt to place any undocumented foreign national alien child in ICE INS custody. The immigration status of a child shall have no bearing on either the care or service ~~rendered by~~ ~~Department of Children and Family Services~~ to a child or on judicial proceedings undertaken by Department of Children and ~~Families, Sheriff’s Office child protective investigations unit and Community-based Care, or their subcontracted provider staff Family Services~~ on behalf of the child. Child welfare professionals may initiate communication ~~In the event an abuse report is determined to be unfounded, Department of Children and Family Services shall not thereafter communicate~~ with ICE ~~the INS~~ concerning the child or the child’s family only if maltreatment has been verified and the child has been determined to be unsafe to obtain information relevant to determining the best interests of the child. Child welfare professionals shall cooperate fully when ICE initiates contact regarding any criminal justice proceeding.

(2) ~~No report~~ ~~Absent an immediate and life-threatening emergency, no call~~ will be accepted by the Hotline for alleged abuse, abandonment, or neglect of a ~~Foreign n~~ ~~National an undocumented alien~~ child who is documented to be in ICE INS custody. Such callers will be referred to local law enforcement in the case of an emergency or to the appropriate officials within the United States Department of Justice to investigate the alleged maltreatment and to take appropriate remedial steps if any are necessary. Such referrals shall, however, be promptly documented by the

Hotline. All other calls of alleged abuse, abandonment or neglect will be taken by the Hotline and investigated, by Department of Children and Family Services, regardless of a child's immigration status.

(3) Child welfare professionals shall immediately notify the appropriate consular or diplomatic officers when a foreign national child has been taken into custody because the child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. Working investigations and cases involving undocumented foreign national children shall adhere to specific requirements regarding consular notification in cases of minor foreign nationals, pursuant to 8 CFR 236.1. 8 CFR 236.1 is hereby incorporated by reference and available at <https://www.flrules.org/gateway/reference.asp?NO=Ref-XXX>. Department of Children and Family Services Protective Investigators will respond to the scene to determine the safety of the child, without regard to immigration status, and stabilize the situation, pursuant to Chapter 65C-10, F.A.C.

(4) Child welfare professionals working investigations and cases involving undocumented foreign national children shall assess each child for indicators of human trafficking victimization as outlined in Chapter 65C-43, F.A.C.

(5)(4) Reference Department of Children and Family Services shall not place in a dependency petition reference to a child's alienage or immigration status shall not be placed in a shelter or dependency petition or to the INS unless such reference is in good faith material to the grounds for the petition's allegation of abuse, neglect or abandonment.

(6)(5) Nothing contained in this rule shall preclude the Department's Children's Legal Services, State Attorney Office or Office of the Attorney General Department of Children and Family Services from, following appointment for the child of legal counsel and a Guardian aAd Litem, requesting the assistance of a private international social service agency in determining the appropriateness of reunification of the child with family members abroad, in accordance with criteria established by Florida law for determining the appropriateness of reunification within the United States. No child shall depart the United States under this provision prior to exhaustion of all judicial appeal periods following a court order authorizing same, absent agreement on behalf of the child by his or her counsel.

(7)(6) No extension of time to comply with Chapter 39's deadline for filing a dependency petition shall be sought by Department of Children and Family Services to ascertain a child's immigration status. Nothing contained in this paragraph shall preclude legal counsel Department of Children and Family Services from seeking reasonable extensions of time when necessary to promote the best interests of the child to the extent authorized by statute or the

Florida Rules of Juvenile Procedure.

~~(8)(7) When an undocumented Foreign National or Permanent Residence Under Color of Law (PRUCOL) minor meets the eligibility requirements set forth in 8 CFR §204.11, alien child is adjudicated dependent and deemed eligible for long term foster care and it is determined to be in the child's best interest to remain in the United States, Department of Children and Family Services shall promptly seek a special interest order from the Circuit Court shall be sought on the child's behalf. If the child Department of Children and Family Services determines that such child, who has been adjudicated dependent, does not meet the criteria for entry of a special interest order, the Department of Children and Family Services official making that decision shall advise the child, if of suitable age, the child's Guardian aAd Litem, and counsel, if any, shall be advised in writing by the child's case manager of the specific factual or legal basis for the decision. A copy of this notice shall become part of the child's case file.~~

~~(8) Department of Children and Family Services shall either (a) directly or pursuant to service contract handle the application for a special juvenile immigrant visa on behalf of a child for whom a special interest order has been obtained by Department of Children and Family Services or (b) ensure that a volunteer attorney for Department of Children and Family Services submits the visa application within sixty (60) days of the entry of the special interest order, failing which the obligation to do so shall revert to the Department of Children and Family Services.~~

~~(9) In the event a working group or committee is established between INS and Department of Children and Family Services with respect to actual or prospective dependent children who are undocumented or PRUCOL aliens, the district administrator whose district participates in such group or committee shall invite a representative of the Guardian Ad Litem program and legal services or legal aid agency, if any, to at least become an observer, if not a participant of that group or committee.~~

~~(10) Department of Children and Family Services shall promptly furnish a complete copy of this rule to each of its personnel responsible for discharging Department of Children and Family Service's obligations under Chapters 39, 409 and 415, F.S.~~

Rulemaking Authority 39.012, 39.0121, 39.5075(8) ~~409.026(8), 415.514~~ FS. Law Implemented ~~39.001(1), 39.201, 39.301, 39.501, 39.5075~~ 409.145, 415.501, 415.5016, 415.502 FS. History—New 6-12-95, Amended 5-2-96, Formerly 10M-47.003. Amended