

Florida Administrative Rule: Alien Children (65C – 9)

65C-9.002 Definitions.

- (1) Undocumented Alien Child 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 Immigration and Naturalization Services (INS) issued documents authorizing the juvenile to be in the United States.
 - (2) PRUCOL (“Person residing in the United States under color of law”) is defined as a person who is known to INS and whose forced departure from the United States is not imminent.
 - (3) SAVE (“Systematic Alien Verification for Entitlements Unit”) is a subdivision of the INS District Offices that verifies the validity of purported INS documents for purposes of entitlement.
 - (4) Special Immigrant Juvenile Visa is an immigrant visa available to a person who 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) INS Custody is defined as physical presence in an INS facility.
 - (6) Immigration Proceedings are defined as either exclusion or deportation proceedings before the Executive Office for Immigration Review.
 - (7) Special Interest Order is defined as an order from the Circuit Court establishing that the child has met the requirements for a special juvenile immigrant visa.
- Rulemaking Authority 39.012, 409.026(8), 415.514 FS. Law Implemented 39.001(1), 409.145, 415.501, 415.5016, 415.502 FS. History–New 6-12-95, Formerly 10M-47.002.

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

- (1) All calls received by the statewide Department of Children and 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-10, F.A.C.** A child’s immigration status will be determined through 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 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 Department of Children and Family Services staff member may attempt to place any alien child in 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 Family Services on behalf of the child.** In the event an abuse report is determined to be unfounded, Department of Children and Family Services shall not thereafter communicate with the INS concerning the child or the child’s family.
- (2) Absent an immediate and life-threatening emergency, no call will be accepted by the Hotline for alleged abuse, abandonment, or neglect of an undocumented alien child who is documented to be in INS custody. Such callers will be referred to the appropriate officials within the United States Department of Justice to investigate 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.

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(3) 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) Department of Children and Family Services shall not place in a dependency petition reference to a child's alienage or immigration status, 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.

(5) Nothing contained in this rule shall preclude Department of Children and Family Services from, following appointment for the child of legal counsel and a Guardian Ad 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.

(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 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.

(7) When an undocumented or PRUCOL 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 on the child's behalf. If 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 Ad Litem, and counsel, if any, in writing 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.