
The Immigration Court Process:

Fact Sheet for Parent or Guardian of UAC

The Executive Office for Immigration Review (EOIR), which is part of the Department of Justice, directs the immigration courts that decide cases of removal (deportation) of people who are illegally in the U.S. The immigration judge, who will decide the child's case, is an employee of EOIR and has the responsibility of determining whether the child can stay in the country legally, or should return to his/her native country.

Attend Court Hearings

When the child is released from the ORR shelter to the custody of the sponsor, it does not mean that the child has legal immigration status or can stay in the U.S. legally. An immigration judge will decide whether the child may obtain legal immigration status and remain in the country. This means that the sponsor has the responsibility to ensure that the child in his/her care is present at all court hearings until the immigration judge concludes the case.

It is very important that the child be present in court on the day of the hearing. **If the child is not present the day of the court hearing, the judge will continue with the case of the child without his/her presence and it is likely that the judge will order that the child be removed (deported) for missing the hearing.** This type of removal is called a removal order in absentia (in one's absence). It is very difficult to get another hearing with an immigration judge after receiving a removal order in absentia.

Change Of Address

Whenever the child has a new address, as when he/she is released from the shelter or moves with the sponsor to a different home, the child needs to give the court the new address within the first 5 days of moving. If for some reason the change of address was not sent within 5 days, please do it as soon as possible. The court must be informed that the child has moved through submission of Form EOIR-331C, Change of Address Form, which is usually on blue paper. After that, the court will send the correspondence to the child at the new address.

Change Of Jurisdiction

When the child is released from the shelter, and is living with you, his/her immigration case will remain with the immigration court nearest to the shelter, unless the court decides to change the jurisdiction of the case to a more convenient location. You can tell the court that the child has a new address (by sending a Change of Address form, discussed above) and ask them to move the immigration proceedings to the court closest to the new address. This request is called a Motion to Change Venue, which is usually one page on purple paper for juveniles.

If the court does not receive and approve the motion for change of venue, the child will still have to report to court at the location originally scheduled. In preparation for reunification with you, the caseworker at the shelter can submit this motion to the court where the child's case is pending. The caseworker must give you a copy of this document for your records. If the caseworker does not send the motion on behalf of the child, you should take steps to send the motion in time for the court to approve it before the next hearing. If the court receives and approves the motion for change of venue, the court will send you a notice by mail.

During this process **it is very important to call the Immigration Court Information System at 800-898-7180** to learn when and where the child is scheduled to appear in immigration court. You need to provide the alien number (A #) of the minor to obtain system information. The computer system is automated, so you can call at any time.

Immigration Proceedings

There are two kinds of hearings in immigration court: Master Calendar Hearings and Individual Hearings.

Master Calendar Hearing

After leaving the shelter, the first time the minor reports to the court it will be at a Master Calendar Hearing. Generally, in a preliminary hearing, the immigration judge will explain the court process and the minor's rights to the minor. The judge will also grant a continuance to allow the minor to return to court at a later date to provide more evidence about his/her case or to get a lawyer. In this first hearing, the judge will not order that the child be removed from the U.S.

Individual Hearing

Generally, in an Individual Hearing, which would happen when the case is more advanced, the child must provide evidence to the judge about his/her immigration case including testimony. At this hearing there should not be other people in the courtroom except the employees of the court and the government attorney. The court will provide a free interpreter at each immigration hearing.

Attorneys

Although the child has the right to be represented by an attorney, the court will not appoint a free lawyer for the child. It is very important to find a qualified licensed attorney who can help the child to understand his/her legal options and can represent the child in immigration court. Note, however, that although it is very advantageous to have an attorney, the child is not required to have a lawyer, and the child must appear at the hearing in court even if they do not have a lawyer.

No To "Notarios," Unauthorized Practitioners Of Immigration Law!

Know that in the United States public notaries, or notarios as they are known in Spanish, and immigration "consultants" are not allowed, nor licensed, nor qualified, to assist with immigration issues. Public notaries and immigration consultants are not lawyers. They can cause serious problems in immigration cases for minors. They will collect your money, yet are not allowed by law to represent people in immigration court so they will not show up to court. On the contrary, all licensed lawyers, after accepting a case, are required to accompany their clients in court.

Possible Legal Remedies

Juvenile Visa - (Special Immigrant Juvenile Status Visa - SIJS):

For minors who have been victims of abuse, neglect, or abandonment, by at least one parent. The child must first obtain an order from the court in his/her state that handles these cases so that it is recognized that the child has been the victim of abuse, neglect or abandonment.

Asylum:

For minors who fear returning to their country of origin because they have been persecuted or fear persecution if returned and this fear is based on one of the following five reasons: race, nationality, religion, political opinion, or social group.

U Visa:

For minors who have been victims of serious crimes in the United States, who have suffered significant harm because of this crime, and have cooperated in the investigation or prosecution of these crimes.

T Visa:

For minors who have been identified as victims of human trafficking. Children who have been forced to work, were not paid for their work, were locked up with no way out, or who were forced into prostitution, may qualify for this kind of legal remedy.

Violence Against Women Act - VAWA:

For minors who have been abused by a parent / step parent who is a citizen or legal permanent resident (LPR) of the U.S., or if one parent has been abused by his/her spouse who is a citizen or LPR.

Family Petitions:

For minors who have LPR or USC family members who can file petitions on their behalf. Only certain family members can petition for a child. For example, parents or stepparents who are citizens or LPRs may petition for a child. A sibling over 21 years who is a citizen of the U.S. can also petition for a child. This process can be very time consuming and the child may be required to leave the United States while the petition is processed with the American Consulate in the country of origin of the child.