



U.S. Department of Justice
Executive Office for Immigration Review
Office of the Director
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

FACT SHEET

Contact: Office of Legislative and Public Affairs
(703) 305-0289 Fax: (703) 605-0365
Internet: www.usdoj.gov/eoir

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Unaccompanied Alien Children in Immigration Proceedings

In FY 2006, nearly 8,000 “Unaccompanied Alien Children” came to the United States. They are persons, under the age of 18, who have no lawful immigration status in the United States and have no parent or legal guardian in the United States to provide care. They may be orphans, sent by their families to seek work, or running away from poverty and/or abuse. They may also be victims of trafficking into this country. Others may have parents or other family members who have settled in the United States and have sent for them.

The Department of Homeland Security (DHS) has jurisdiction over the apprehension and repatriation of Unaccompanied Alien Children, while the Department of Health and Human Services, Office of Refugee Resettlement (ORR), has jurisdiction over their care and custody.

The Executive Office for Immigration Review (EOIR) has jurisdiction to administer hearings in immigration court for Unaccompanied Alien Children to provide them the full due process that the law accords.

Challenges in Adjudicating Unaccompanied Alien Children’s Cases

When the person in immigration proceedings is a child, the immigration judge faces fundamental and profound questions in adjudicating the case. Some of these include: Does the child understand the nature of the proceeding? Can the child effectively present evidence about his or her case? Is there anyone who can properly advocate for the child’s interest? In addition, during the proceedings, legal issues may arise that are specific to Unaccompanied Alien Children, including such matters as age-determinations in relation to relief from removal or for other purposes.

Cases are adjudicated on a case-by-case basis, and may result in relief from removal, voluntary departure, or removal orders. EOIR is committed to ensuring fairness in all cases, and understands the importance of being sensitive to this especially vulnerable population.

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Training for Immigration Judges

Since 1998, EOIR has been training judges on Unaccompanied Alien Children's issues on an ongoing basis. Renowned experts from federal agencies such as ORR, and non-governmental organizations such as the American Bar Association, the Women's Commission for Refugee Women and Children, Lutheran Immigrant and Refugee Services, and Northwestern University School of Law, have all conducted presentations for the judges. Training is supplemented with written materials on relevant topics and recent developments.

Guidelines for Immigration Judges

EOIR has implemented guidelines that provide guidance and suggestions for adjudicating cases involving Unaccompanied Alien Children. The guidelines advise immigration judges regarding fostering child-friendly court settings and procedures, including:

- Establishing special dockets for Unaccompanied Alien Children to keep them separate from the general population;
- Allowing child-friendly courtroom modifications;
- Providing courtroom orientations to familiarize the children with the court;
- Explaining the proceedings at the outset;
- Preparing the child to testify; and
- Employing child-sensitive questioning.

These guidelines also encourage immigration judges to use appropriate *pro bono* resources whenever a child respondent is not represented.

The Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children (07-01), found at <http://www.usdoj.gov/eoir/efoia/ocij/OPPMLG2.htm>, replaces the 2004 interim guidelines.

Juvenile Dockets

Since the late 1990s, EOIR has established "juvenile dockets" for Unaccompanied Alien Children. Juvenile dockets help consolidate children's cases before a single immigration judge to facilitate consistency and *pro bono* counsels' access to the children. They also allow the immigration judges to take more time to explain the court process in a simple, clear, and child-friendly manner, and to respond to the children's questions and concerns.

Currently, there are at least nine court locations that have juvenile dockets for Unaccompanied Alien Children — Phoenix, AZ; Los Angeles, San Diego and San Francisco, CA; Miami, FL; Chicago, IL; New York, NY; and Harlingen and Houston, TX. The

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immigration judges and court administrators at these locations work hard to ensure the well-being of the children, as well as the efficient and effective handling of juvenile docket cases. They meet with representatives of the private bar, DHS, and ORR on an ongoing basis.

Legal Representation

Because of the complexity of immigration laws and the varying degrees of maturity of child respondents, there is a greater challenge for judges to ensure that children's proceedings are fair and that the children understand the serious nature of the proceedings. For this reason, immigration judges encourage the use of appropriate *pro bono* resources whenever a child respondent is not represented. Moreover, immigration judges help increase the available pool of legal representatives by participating in *pro bono* attorney training programs sponsored by the private bar, law schools, and legal service providers.

EOIR works with ORR and a number of non-governmental organizations to identify children in need of legal services and facilitate *pro bono* assistance for them nationwide. These partnership efforts help provide basic legal programs to the majority of children in government custody.

Legal Orientation Program

EOIR's Legal Orientation Program assists detained individuals in immigration court proceedings by explaining their legal rights and options, and facilitating *pro bono* legal services. Currently, EOIR is funding Legal Orientation Programs at four ORR children's shelters in the following cities: Corpus Christi, TX; Vincennes, IN; Chicago, IL; and Seattle, WA. Children at these sites receive individual orientations to help them understand and feel more at ease with the court process. The Legal Orientation Program's goal is to increase each child's comfort level so that he or she will be able to cooperate, as much as possible, with the court and *pro bono* counsel. For more information about EOIR's Legal Orientation Program, click on <http://www.usdoj.gov/eoir/press/06/LegalAccessLOPSitesAwarded.pdf>.

— EOIR —

EOIR is responsible for adjudicating immigration cases. Specifically, under delegated authority from the Attorney General, EOIR interprets and administers federal immigration laws by conducting immigration court proceedings, appellate reviews, and administrative hearings. EOIR consists of three components: the Office of the Chief Immigration Judge, which is responsible for managing the numerous immigration courts located throughout the United States where immigration judges adjudicate individual cases; the Board of Immigration Appeals, which primarily conducts appellate reviews of immigration judge decisions; and the Office of the Chief Administrative Hearing Officer, which adjudicates immigration-related employment cases. EOIR is committed to providing fair, expeditious, and uniform application of the nation's immigration laws in all cases. Information about EOIR immigration proceedings is available on EOIR's website <http://www.usdoj.gov/eoir/press/subject.htm>.