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FACT SHEET

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Unaccompanied Alien Children in Immigration Proceedings

This fact sheet provides basic information on unaccompanied alien children in immigration proceedings. It is intended for general informational purposes only and is not a substitute for legal advice, nor does it constitute any legal opinion by the Department of Justice. This fact sheet is not fully inclusive; does not address all applicable laws including case interpretation; and may be subject to change as new laws and regulations are enacted.

“Unaccompanied alien children” are children, 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 care for them. There are many reasons why unaccompanied alien children are found in the United States: they may be orphans; their relatives may have sent them here to work; they may be fleeing poverty or war; they may be running away from abuse; or they may be victims of trafficking.

The Department of Homeland Security (DHS) is responsible for the apprehension and repatriation of unaccompanied alien children, while the Department of Health and Human Services, Office of Refugee Resettlement (ORR), is responsible for their care and custody. The Executive Office for Immigration Review (EOIR), an agency within the Department of Justice, conducts the immigration proceedings that determine whether a child may remain in the United States or must be returned to his or her homeland.

Challenges in Adjudicating Unaccompanied Alien Children’s Cases

When a child is the subject of immigration proceedings, the immigration judge faces fundamental and profound questions in adjudicating the case. 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 legal interests? In addition, there are often legal issues that arise during the proceedings that make the proceedings even more complicated, such as determining the child’s age in the absence of birth documents or parents, and determining whether a child legally qualifies to remain in the United States.

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All immigration cases are adjudicated on a case-by-case basis. Some result in relief from removal and legal permission to remain in the United States, while others result in an order of removal. EOIR is committed to ensuring fairness in all cases and understands the importance of being sensitive to this especially vulnerable population.

Legal Representation

Immigration law is extremely complex, and the capacity of children to understand their legal proceedings varies greatly. For this reason, immigration judges strongly encourage and facilitate pro bono representation whenever a child is not represented. Immigration judges regularly participate in pro bono attorney training programs sponsored by the private bar, law schools, and legal service providers to help increase the available pool of legal representatives.

EOIR also works closely with ORR, both on the national level and the local level, and a number of non-governmental organizations to identify children in need of legal assistance. Thanks to these partnership efforts, the large majority of unaccompanied alien children in government custody have access to basic legal programs.

Guidelines for Immigration Judges

Immigration judges follow guidelines to foster a child-friendly environment in the immigration courtroom. Under these guidelines, the immigration judge will:

- Establish special dockets for unaccompanied alien children to keep them separate from the general population;
- Allow child-friendly courtroom modifications;
- Provide courtroom orientations to familiarize the children with the court;
- Explain the proceedings at the outset;
- Prepare the child to testify; and
- Employ child-sensitive questioning.

These guidelines also encourage immigration judges to use appropriate pro bono resources whenever a child is not represented. The current guidelines are found in Immigration Court Operating Policies and Procedures Memorandum 07-01: “[Guidelines for Immigration Court Cases Involving Unaccompanied Alien Children](#).”

Juvenile Dockets

EOIR has established “juvenile dockets” throughout the country to facilitate consistency, encourage child-friendly courtroom practices, and promote pro bono representation for unaccompanied alien children.

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Currently, there are at least 10 courts that have juvenile dockets — Phoenix, Ariz.; Los Angeles, San Diego, and San Francisco, Calif.; Miami, Fla.; Chicago, Ill.; New York, N.Y.; and Harlingen, Houston, and San Antonio, Texas. The immigration judges and court administrators at these locations diligently work to ensure the well-being of the children. They meet with representatives of the private bar, DHS, and ORR on an ongoing basis.

Training for Immigration Judges

EOIR has been training judges on children's issues with the help of 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. Training is supplemented with written materials on relevant topics and recent developments.

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. In 2006, EOIR funded a 1-year pilot program to provide legal orientation programs specifically for children at ORR shelters. Four ORR children's shelters were chosen for the pilot program in the following cities: Corpus Christi, Texas; Vincennes, Ind.; Chicago, Ill.; and Seattle, Wash. Children at these sites received 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.

— EOIR —

EOIR, an agency within the Department of Justice, 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 the fair, expeditious, and uniform interpretation and application of immigration law in all cases.