

**CLARIFYING ROLES:**  
**Who Impacts a DUCS<sup>1</sup> Child's**  
**Special Immigrant Juvenile Status (SIJS) Case?**

**Attorneys**

○ ***Child's Immigration Attorney***

- An immigration attorney counsels the child about immigration issues and forms of legal relief from removal, and represents the child's legal interests before the Executive Office for Immigration Review (EOIR, or "immigration court") or before the Department of Homeland Security (DHS).
- This attorney might be an employee of a non-profit agency, a *pro bono* volunteer from a private law firm, or in private practice. Since SIJS applicants are by definition without parents able to care for them, the child's SIJS immigration attorney is generally not employed by the child's family. Children have the right to be represented by an attorney in immigration court, but the federal government does not arrange, ensure or fund this representation. There are no public defenders in immigration court.
- This attorney may choose to only represent the child in his/her immigration proceedings. A separate attorney may represent the child in dependency proceedings, or in juvenile delinquency matters (if such matters arise.)
- Immigration attorneys must be members in good standing of the bar association of any U.S. state or territory. Besides attorneys, children may be represented in immigration matters by: law students and law graduates not yet admitted to the bar (with attorney supervision, and permission from the immigration judge); and individuals accredited by the Board of Immigration Appeals (who may be partially accredited to represent clients only before DHS, or fully accredited to represent people before EOIR and DHS).
- The conduct of legal practitioners in federal immigration matters is governed by federal regulations. In addition, licensed attorneys are governed by state rules of professional conduct.

○ ***Child's Juvenile/Family Court Attorney***

- Most juvenile/family court systems provide legal counsel and representation for children in child welfare proceedings. This attorney represents the child's interests in child welfare matters.
- In some places, this role may be combined with the guardian *ad litem* (GAL), in which case the child's attorney must balance what the child says she or he wants with what appears to be in the child's best interests. In other places, this attorney and the GAL will be separate, with the child's juvenile court attorney merely representing the child's wishes.
- Typically, this attorney is provided free of charge if the child cannot pay for his or her own representation in juvenile court.

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<sup>1</sup> "DUCS" refers to children in programs funded by the Office of Refugee Resettlement's (ORR) Division of Unaccompanied Children's Services programs.

## **Caseworkers**

### ***o DUCS Shelter Caseworker***

- This caseworker is employed by the Office of Refugee Resettlement (ORR)-funded shelter facility and has day-to-day responsibility for the child's care while in the shelter.
- This caseworker assists with gathering information from family members and pursuing family reunification options for children in the shelter. The caseworker may play a role in identifying children without family reunification options as possible foster care or SIJS-candidates.

### ***o DUCS Foster Care Caseworker***

- The child's foster care caseworker holds primary responsibility for addressing the child's needs while in "out-of-home" placement through the specialized DUCS foster care network. The caseworker has day-to-day responsibility for a child's care while in foster care.
- The caseworker's foundational approach is ensuring that a child's needs and best interests are met.
- Related to an SIJS application, the foster care caseworker will typically be involved in coordinating with the child's attorney and foster family for the services and appointments required for the SIJS application (such as the medical exam, photos, fingerprints and other documentation.)
- DUCS foster care caseworkers are bound by ORR's policies and procedures, state licensing requirements, agency policies and procedures, and the [Flores Settlement Agreement](#). Those who are professionally licensed (such as social workers) are also bound by their individual licensure requirements and professional ethical standards.
- The foster care caseworker should be the initial point of contact for concerns or needs arising in relation to the child, or the child's placement (such as issues with the foster family, the living situation, or service needs).

### ***o Child Welfare Caseworker***

- This caseworker is sometimes (but not always) assigned when a child is declared dependent on the juvenile court.
- Responsibilities will vary widely from place to place, but they typically revolve around general oversight of the child's care while dependent upon the local juvenile court.

## **Court Systems and Judges**

### ***o Executive Office for Immigration Review (EOIR)***

- EOIR, part of the U.S. Department of Justice, oversees the immigration courts, where children in removal proceedings have their court hearings before an immigration judge. EOIR also oversees the Board of Immigration Appeals (BIA), whose Members review appeals of immigration court decisions. In addition to determining a child's eligibility for legal relief from removal, an immigration judge may adjudicate the Adjustment of Status (green card) application for a child with a U.S. Citizenship and Immigration Services (USCIS)-approved SIJS application who is still in removal proceedings before the immigration court.

○ ***Juvenile or Family Court***

- The structure and name of these courts will vary from state to state, but they may be called juvenile, family, district, superior or circuit court. Their judges make determinations about whether a child should be declared dependent upon the juvenile court due to abuse, abandonment or neglect. In SIJS cases, these judges must also determine if it is in the child's best interests not to return to the country of origin, and if the child is in need of long term foster care.

○ ***Probate Court***

- Probate courts typically determine matters of legal guardianship and conservatorship for children who are cared for by non-parental relatives, but who are not under the custody of the juvenile court. In other words, the probate court legally recognizes the guardianship arrangement without taking custody of the child. Some guardianship children may also be eligible for SIJS.

## **Family**

○ ***Birth Family***

- The birth family refers to the child's biological mother and father. The SIJS-applicant child's birth family may be deceased, in the country of origin, or if in the U.S., unable to care for the child. The juvenile court may attempt to contact the child's birth family to determine if it is in the child's best interests to remain in the U.S., and to determine whether the child has experienced abuse, abandonment or neglect.

○ ***Foster Family***

- The foster family provides day-to-day care for the child with the oversight and support of the foster care agency. In coordination with the foster care caseworker, the foster family may take an SIJS-applicant child to appointments related to securing SIJS documentation (medical exams, photos, fingerprints, birth certificates, etc.) Foster families undergo training, home inspection, criminal background check, licensure, and regular oversight to assume responsibility for foster children. They receive some financial assistance and social services to assist with the care of the fostered child.

○ ***Legal Guardian***

- Legal guardians are non-parental relatives or other adults who have established legal responsibility for a child through the probate court. They are permitted to make parent-like decisions for a child, but the parent-child relationship is not formally severed (as with adoption). Some children in legal guardianship arrangements may be eligible for SIJS.

## **Federal Government Agencies**

○ ***Department of Homeland Security (DHS)***

- ***U.S. Citizenship and Immigration Services (USCIS):*** USCIS Field Operations Officers adjudicate the Special Immigrant application (form I-360), as well as the Adjustment of

