

CHAPTER 13: IMMIGRATION

Introduction: Having valid immigration status is so important to making a successful transition to adulthood. Without it, it will be hard to work, go to school, and access services and benefits. This chapter provides you basic information about what you should think about and when to get help so you can make sure you get valid immigration status before leaving foster care.

How do I find out what my immigration status is?

- If you were not born in the U.S., you must get documentation of your immigration status as soon as possible—especially before you age out of care. This is really important for ensuring that you can be employed and have access to services and benefits as an adult.
- There are many immigration categories in the United States. Most people fall into one of three categories: U.S. citizens, green card holders (also known as legal permanent residents), and undocumented immigrants (who do not have legal status in the United States). But there are also many other immigration categories—such as being a refugee, having Special Immigrant Juvenile Status, or temporary protected status—that still allow you to remain in the country legally.
- If you have questions or concerns about your immigration status, speak to your dependency lawyer who will help you figure your status out. Immigration is a special and complicated area of the law, and it is important for you to get good advice so you can get the help you need.

I am undocumented and in the foster care system. How do I find out if I qualify for any pathways to citizenship or a valid immigration status?

- Make sure your lawyer knows your immigration status, especially if you are undocumented. There are special immigration categories the U.S. government has set up for people, including youth, who are unable to return to their home country. It's important to get a valid immigration status, and there are options for a youth under age 18 that you should take advantage of.

What are examples of immigration statuses that I may be eligible for?

Here are some examples of immigration categories that sometimes provide pathways to a valid immigration status:

- **Special Immigrant Juvenile Status (SIJS):** SIJS is a special immigration category for youth who are in foster care that allows the youth to stay in the country, work, and eventually get a green card. **You must file your SIJS petition with the Immigration Service before you turn 21.** You can still get SIJS if you are adopted or you live with family members who are in the U.S. Youth granted SIJS are eligible to seek a green card. However, if a green card is granted, youth can never sponsor their parents to immigrate to the U.S.

To be eligible for this status, you must demonstrate to the family court that:

- You are under 21;
 - You are not married;
 - You are dependent on the court or placed in the custody of an agency or individual appointed by the court;
 - You cannot be reunited with either of your parents because of problems at home such as abuse, neglect or abandonment, or a similar basis under Pennsylvania law, and
 - It's not in your best interest to go back to your home country.
- **Asylum:** You may be eligible for asylum if you or your family are afraid to return to your country due to past or future persecution because of your race, religion, nationality, political opinion, or membership in a particular social group.
 - **Refugee status:** Refugees are people who fled their countries because of persecution and who the U.S. government has allowed to enter the U.S. through the refugee resettlement program. It's not something that you apply for after you have already entered the U.S. Refugees may apply for a green card after living in the U.S. as a refugee for one year.
 - **U or T visas:** You may be eligible for a "U" visa if you were a victim of a violent crime while in the U.S. and if you helped law enforcement to investigate or prosecute the crime (for example, by making a police report or speaking with an investigator). You may be eligible for a "T" visa if you are present in the U.S. because you were a victim of human trafficking (for example, if someone forced, tricked, or intimidated you into coming to the U.S. to work).
 - **Violence Against Women Act (VAWA):** You may be eligible to remain in the U.S. under VAWA if you are the spouse or child of a U.S. citizen or legal permanent resident and you have been the victim of their abuse.
 - **Deferred Action for Childhood Arrivals (DACA):** DACA provides temporary permission to remain in the U.S. for certain people who entered the U.S. as children on or before June 15, 2007 and meet other requirements. Those eligible for DACA may receive work authorization for two years, and some states, including Pennsylvania, permit DACA recipients to obtain driver's licenses. DACA alone does NOT allow you to seek a green card. On September 5, 2017, the federal government ended the DACA program and will

not accept new applications. **However, people who already had DACA can continue to file applications to renew it.**

- **Temporary Protected Status (TPS):** You may be eligible to temporarily remain in the U.S. if the U.S. government has granted citizens of your country this status because the country is experiencing ongoing problems, like a civil war, natural disaster, or other national emergency. TPS alone does NOT allow you to apply for a green card. To find out which countries currently have TPS, you can check online through the U.S. Citizenship and Immigration Service.¹

Who can help me understand or apply for valid immigration status?

- **You will need an immigration lawyer to help determine if you are eligible for any of these categories, and to assist with the application process.** Your child welfare lawyer can help you find an immigration lawyer. You can also call HIAS at **215-832-0900**. HIAS is an immigration organization that can help you find immigration assistance in the state of Pennsylvania.

What immigration documents should I have?

- If you are not a U.S. citizen, it's important that you have copies of documents that show your legal immigration status, especially if you are transitioning out of care.
 - **An immigration attorney can help you determine what documents you need and how you can go about getting them.** It is important for you to get both the original and copies of your passport—including any pages with stamps that show your status as a green card or visa holder, your green card, your social security card, and any work permits that you have been issued by the U.S. government.

Is getting valid immigration status part of my discharge/transition plan?

- Yes. Without documentation that you have valid immigration status it will be hard to make a successful transition to adulthood. You will need this documentation to be able to work, go to school, and access benefits.
- The judge cannot close a case of youth who is age 18 or older without an acceptable transition plan that includes at least:
 - the specific plans for housing;
 - a description of the child's source of income; the specific plans for pursuing educational or vocational training goals;
 - the child's employment goals and whether the child is employed;
 - a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;

- a description of any available programs that would provide mentors or assistance in establishing positive adult connections; and
- verification that all vital identification documents and records have been provided to the child; a description of any other needed support services.²

Without valid immigration status, you will not be able to complete a successful transition plan.

What tips do you have to help make sure I have a valid immigration status before I leave foster care?

- Make sure that getting your valid immigration status is part of your transition to adulthood plan as soon as possible since applying for immigration status takes time.
 - Make sure that there are concrete goals and action steps in your transition to adulthood and case plans so steps are taken to help you apply for status.
 - Steps could include: making sure you meet with and have an immigration attorney; helping you arrange and go to any meetings with the immigration agency; and help in gathering any documentation needed for applications for status.
- Make sure your lawyer helps you raise at your court hearings any help you need in order to get valid immigration status.
- Make sure you and your lawyer oppose any efforts to close your case if you do not yet have valid immigration status.

¹ *Temporary Protected Status*, U.S. CITIZENSHIP AND IMMIGRATION SERVS. (Mar. 30, 2020), <https://www.uscis.gov/humanitarian/temporary-protected-status>.

² PA.J.R.C.P. 1631 (e)(3-4) (requiring that the court review the transition plan and that it “shall not terminate its supervision of the child without approving an appropriate transition plan”).