

Unaccompanied Kids Have Rights, Too



A breakdown of rights and common pathways for unaccompanied children

According to federal regulations, an unaccompanied child is defined as someone who is:

- Under 18 years of age,
- Without lawful immigration status upon their arrival to the U.S., and
- Without a parent or legal guardian in the U.S. available to provide care and physical custody.

Each year, adults and children migrate to the U.S. seeking safety. Many flee dangerous conditions in their own countries and endure a harrowing and often life-threatening journey to the U.S.

Some Rights of Unaccompanied Children:

Constitutional Rights

- the right to due process
- the right to freedom of religion / speech / and assembly
- the right against unreasonable search and seizure
- the right to access a free, public education

- Flores Settlement Agreement
- Homeland Security Act of 2002
- Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008

Legal Protections

Asylum

Congress adopted key provisions of the international Geneva Refugee Convention into U.S. immigration law when it passed the Refugee Act of 1980. Unaccompanied children can apply for asylum in a non-adversarial process before the U.S. Citizenship and Immigration Services (USCIS) Asylum Office rather than in court.

Types of U.S. Immigration Relief Unaccompanied Children Commonly Qualify for:

- **Asylum:** a form of international protection granted to people facing persecution in their home countries, based on specific grounds, who are present in the United States.
- **Special Immigrant Juvenile Status (SIJS):** a humanitarian form of relief available to noncitizen minors who were abused, neglected, or abandoned by one or both parents.
- **U visa:** a visa available to survivors of certain crimes that cooperate with law enforcement in the investigation or prosecution of the crime.
- **T visa:** a visa available to people who have been trafficked.

Why Representation Matters

Immigrants - including children - are not guaranteed access to legal representation in immigration proceedings if they cannot independently afford it; however, certain provisions of the Constitution extend to afford all people in the U.S. basic rights, such as the constitutional rights enumerated above. Representation helps ensure immigrants have access to the defenses available to them under existing law. Research shows that unaccompanied children with access to legal representation at some point during their cases were **more than 7 times more likely than unrepresented unaccompanied children** to receive an outcome in immigration court that allowed them to stay in the United States.