

Welcome

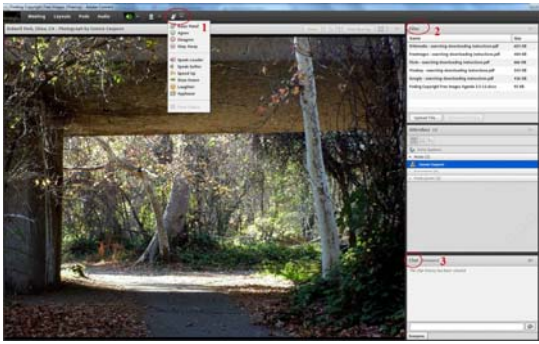
Family Preparedness:
Helping immigrant families prepare for their children's future under the Trump Administration



The webinar will start at 11:00 am Pacific. The call will be muted.

Audio: Dial (855) 212-0212, access code 744-892-087#

Please contact Orrin Banta at (530) 872-3896 ext. 4 or email obanta@youth4change.org with any connection or handout related issues.

Interaction



Moderator	Presenter
	
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Family Preparedness
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Presentation Goals

- To provide you with the necessary information and tools to help families plan for the future of their children
- To debunk common misinformation
- Materials:
 - Caregiver's Affidavit
 - Bet Tzedek's toolkit (English and Spanish)

Immigration Concerns

- With the current immigration climate under the Trump Administration, many families with mixed immigration status are faced with the harsh reality that they could be torn apart.
- Immigrant parents who entered the U.S. w/o permission or who are believed to have committed a crime are more susceptible to being detained and/or deported
- What can they do to secure their child's safety and stability in their absence?

Communication



- Advise clients to speak to their children, friends, and family and come to an agreement about who should be the caretaker for their children in the event of detention/removal from the US

Have a Plan of Action

- Keep important documents for each child in a folder and alert friends and family as to location of such folder
- Keep a list of important contact information for child in such folder
 - See Bet Tzedek and Immigrant Legal Resource Center’s toolkits for sample lists



Decisions

- Does the parent want the children to reunite with them abroad in the future?
 - Don't want the family to be apart
 - Don't have anyone willing or able to care for their children for an extended period of time
 - Children are very young

Decisions

- Does the parent prefer to have their child stay in the United States?
 - Child has special needs and more access to healthcare and community resources in the US
 - Child is old enough to verbalize unwillingness to move to another country
 - Child has more opportunities to an education and other resources in the US

Finding a Caregiver

- Regardless, the child will most likely be without parent for a period of time and the parent should decide who will care for his/her child during that time
- Identify this person or persons, and make sure they know you have designated them
- There are two types of caregivers:
 - Informal Caregivers
 - Legal Guardians

Informal Caregivers

- Those who have assumed responsibility for a child in need without involvement from the court system, child protective services, or other authorities
- May have physical custody of the child, but have limited rights to make decisions regarding a child in their care because they do not have legal custody

Legal Guardianship

- A legal process where an informal caregiver files a petition with the Probate Court to ask for legal custody of a child.
- Does not terminate the child's parent's rights; rather it *suspends* a parent's rights temporarily.
- *Many parents are reluctant to fathom the idea of giving up custody rights over their children*

Quick Poll

How many of you have heard of parents paying for Powers of Attorney or notarized letters granting a non-parent custody of a child in the event a parent gets deported?



Avoid Notario Fraud



- The immigrant population is especially susceptible to *notario* fraud
- Many individuals have been advised to draft a Power of Attorney or notarized letter “giving temporary legal custody” of their children to an individual in the event of a deportation
 - I’ve heard of this “service” costing parents upwards to \$200!!!
- Custody of a minor can only be legally transferred from a parent to a non-parent via a court order
- In California, notarized letters and POAs have no legal validity in terms of the transfer of custody of children and should not be used as a part of family preparedness

Caregiver’s Affidavit

- If a parent is reluctant to have their parental rights suspended they can complete a Caregiver’s Affidavit
- This Affidavit identifies the individual whom they authorize to make decisions regarding the child.

Caregiver’s Authorization Affidavit

Use of this affidavit is authorized by Part 3.5 (commencing with Section 6750) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 of age or older.

1. Name of minor: _____
2. Minor’s birth date: _____
3. My name (adult giving authorization): _____
4. My home address: _____
5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of “qualified relative”).
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 - I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care and have received no objection.
 - I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver’s license or identification card number: _____

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____ Signed: _____

Caregiver's Affidavit, cont.

- Document based on Division 11 of the California Family Code
- Document is to be signed by the intended caregiver, not the parent
- Expires one year after date of signature
- To be kept unsigned by the parent until needed
- **DOES NOT NEED TO BE NOTARIZED**

When is a notarized letter appropriate?

- Many parents want to know how they can ensure their child can travel to parent's home country without one or both parents being on the plane.
- Parents will need to contact the airline and home country's consulate to see what documentation they need to allow child to board plane
- May include the need for a very specific notarized letter signed by the parents granting child permission to travel alone or accompanied by a non-parent

If Child is to Stay in the US

If a parent wishes that their child remain in the United States and not be reunited with parent in parent's home country, parent should seriously consider a potential legal guardian for their child.

What are the Rights of a Guardian

- A legal guardian has the ability to act on the child's behalf and make decisions regarding the child as if the guardian were actually the child's parent.

What's the Difference?

Informal Custody vs. Legal Guardianship	
• Parents have full rights, including the right to reclaim the child at any time	• Parents' rights suspended and transferred temporarily to legal guardian; parent must go to court to terminate the legal guardianship before reclaiming the child
• Child ineligible for caregiver's work insurance plans	• Child eligible for caregiver's work insurance plans
• Caregiver can't consent if "parent or legal guardian consent required"	• Legal guardian can give consent
• Parents have responsibility to financially support child	• Parents have responsibility to financially support child

What Benefits are Available?

- Children being raised by a caregiver or legal guardian may be eligible for:
 - Monthly cash assistance from CalWORKs
 - Health insurance through Medi-Cal
 - SSI (where the child has a disability)
 - Survivorship Benefits

DISTINGUISH - ADOPTION

Temporary suspension of rights

v.

Permanent termination of parental rights

DISTINGUISH – CAREGIVER’S AFFIDAVIT

Right to care, custody, and control of minor

v.

Power to enroll minor in school and authorize medical care

Guardian considerations

- The caretaker should be over 18
- The caretaker does not need to have lawful status him/herself
- The caretaker does not need to be a family member
- The caretaker must be willing to be responsible for the child until their 18th birthday
- The caretaker will need to undergo an investigation by the Probate Court (if a family member) or the Department of Children and Family Services (if not a relative caretaker)

**NOTICE REQUIREMENTS:
GUARDIANSHIP**

Personal service at least 15 days prior to hearing to:

- Child subject to proceeding if over age 12.
- Child's parents.
- Proposed guardian.
- Child's legal custodian.

AND...

**NOTICE REQUIREMENTS:
GUARDIANSHIP**

Mail service at least 15 days prior to hearing to:

- Paternal and maternal grandparents.
 - Siblings & half-siblings over the age of 12.
 - Person presently having the care of minor.
 - Department of Children and Family Services*
 - California Department of Social Services*
- *notice is needed for this agency ONLY if the petitioner is not related to the minor

NOTICE REQUIREMENTS: EXCEPTIONS

Two exceptions

- Providing notice would be contrary to the interest of justice.
- Individual cannot with reasonable diligence be given notice.

GUARDIANSHIP TIMELINE

- Complete & Sign petition.
- File Petition.
- Attend hearing for appointment of temporary guardian (if necessary).
- Probate investigation / Case Review Conference.
- Provide notice.
- Attend hearing for appointment of guardian.
- File Letters of Guardianship.

PROBATE INVESTIGATION

- Investigation of proposed guardian's home and background.
- Type of investigation depends on relationship between child and proposed guardian.
 - If proposed guardian a relative: probate investigator.
 - If proposed guardian a non-relative: DCFS social worker.

**ATTENDING HEARING FOR
GUARDIANSHIP**

- Child(ren) and Petitioner(s) must attend.
- File Order Appointing Guardian of the Minor and Letters of Guardianship.

Questions?