

Immigration Relief for Abused Children

SPECIAL IMMIGRANT JUVENILE STATUS

Information for Juvenile Court Judges
and Child Welfare Professionals



U.S. Citizenship
and Immigration
Services

Overview

Special Immigrant Juvenile (SIJ) status is an immigration classification for certain foreign children present in the United States who have been abused, neglected or abandoned by a parent. Children may be eligible if they are the subject of a juvenile court order that makes certain findings regarding:

- Their court-ordered custody, placement or dependency;
- The non-viability of parental reunification; and
- The best interests of the child.

SIJ classification allows these individuals to apply for lawful permanent resident (LPR) status (also known as a Green Card). Children eligible for SIJ classification may include those who are:

- In a state's child welfare system;
- Currently (or were previously) in federal custody due to their undocumented status; or
- Living with a foster family, an appointed guardian or the non-abusive custodial parent.

Eligibility Requirements

To qualify, a child must meet the following four requirements:

1. Be under 21 years of age at time of filing the SIJ petition;
2. Be unmarried;
3. Be physically present in the United States; and
4. Have an order from a juvenile court that makes the following three findings:
 - **DEPENDENCY/CUSTODY:** Declares the child dependent on the court, or legally places the child under the custody of an agency or department of a state, or an individual or entity appointed by a state or juvenile court.
 - Temporary orders are generally not sufficient. If a state or an individual appointed by the state is acting in loco parentis, such a state or individual is not considered a legal guardian for purposes of SIJ eligibility.
 - **PARENTAL REUNIFICATION:** Reunification with one or both of the child's parents is not viable because of abuse, neglect, abandonment or a similar basis under state law.
 - "Not viable" generally means the child cannot be reunified with his or her parent(s) before the age of majority.
 - The abuse, neglect, abandonment or similar basis under state law may have occurred in the child's home country or in the United States.
 - **BEST INTEREST:** It would not be in the child's best interest to be returned to his or her country of origin.



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Role of Child Welfare Professionals

Child welfare professionals are uniquely positioned to identify and assist victims of child abuse, neglect or abandonment who may be eligible for SIJ classification. Child welfare professionals may assist by:

- Referring the child's case to an immigration attorney or accredited representative;
- Providing assessments and reports to assist the juvenile court in making findings that may establish SIJ eligibility; and
- Collecting important documents, such as proof of the child's age and identity.

Role of Juvenile Courts

For SIJ purposes, a juvenile court is a court that has jurisdiction under state law to make judicial determinations about the care and custody of juveniles. Juvenile courts make child-welfare related findings based on state law. Juvenile court judges apply state law on issues such as:

- Jurisdiction;
- Evidentiary standards; and
- Parental notice, parental rights and due process.

Although USCIS relies on the juvenile court's findings on child welfare issues to determine whether a child is eligible for SIJ classification, only USCIS can adjudicate the SIJ petition.



Role of USCIS

USCIS determines if the child meets the statutory requirements for SIJ classification under immigration law by reviewing the SIJ petition (Form I-360) and supporting evidence, including the juvenile court order. USCIS reviews the juvenile court order to ensure that all of the requisite findings were made. USCIS also determines whether or not to consent to the granting of SIJ classification. In order to consent, USCIS must determine that the request for SIJ classification is bona fide, which means the court order was sought for relief from abuse, neglect, abandonment or a similar basis under state law, rather than primarily to obtain an immigration benefit. To make this determination, USCIS requires evidence of the factual basis that the court relied upon in making its findings.

Additional Tips

1. BE FAMILIAR WITH THE CURRENT ELIGIBILITY REQUIREMENTS.

Section 101(a)(27)(J) of the Immigration and Nationality Act establishes the definition of Special Immigrant Juvenile.

2. PROVIDE THE FACTUAL BASIS FOR THE JUVENILE COURT ORDER FINDINGS.

Template court orders are usually not sufficient. The court order should include the factual basis for the findings on dependency or custody, parental reunification and best interests. Petitioners may also submit separate orders containing findings of fact, records from the judicial proceedings or affidavits summarizing the evidence presented to the court.

3. BE TIMELY.

- The child must obtain the juvenile court order before he or she ages out of the court's jurisdiction. State laws on jurisdiction vary, but jurisdiction may end at 18 years of age.

NOTE: If a child (who is otherwise eligible) ages out of the juvenile's court's jurisdiction prior to filing the SIJ petition with USCIS, he or she remains eligible to petition for SIJ classification.

- The child must submit the SIJ petition to USCIS before turning 21, even in states where court jurisdiction extends beyond age 21.

NOTE: If a child (who is otherwise eligible) turns 21 years of age after filing the SIJ petition with USCIS, he or she remains eligible for SIJ classification.

Filing with USCIS

Petition for SIJ Classification

The child must have a juvenile court order that contains the required findings before filing the following forms and supporting documentation with USCIS:

Petition for SIJ Classification	
Form	Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant
Fee	None
Supporting Documentation	<ul style="list-style-type: none">• The child’s birth certificate or other evidence of the child’s age;• Certified copy of the juvenile court order and documents that establish eligibility, including the judicial findings or additional evidence for the findings; and• U.S. Department of Health and Human Services consent, if a child in their custody seeks a juvenile court order that alters his or her HHS custody status or placement.
Supporting Forms	Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, if applicable.

Any documents submitted in a foreign language must be accompanied by a full English translation. Translators must certify that they are competent to translate and that the translation is accurate.

SIJ Based Lawful Permanent Resident (LPR) Application

A child who is granted SIJ classification must file a separate application to obtain LPR status, which is also known as “adjustment of status.” An application for LPR status may be filed together with the Form I-360 if a visa number is immediately available at the time of filing (in the EB-4 category) and USCIS has jurisdiction over the child’s application to adjust status. To apply for LPR status, a child submits a Form I-485, Application to Register Permanent Residence or Adjust Status, with all required documentation and evidence. Form I-485 instructions provide detailed information about the filing requirements.

NOTE: Biological or former adoptive parents of a child who obtains LPR status through SIJ classification can never be granted any immigration benefits through the SIJ child. However, a child who obtains lawful permanent residence or U.S. citizenship, may petition for certain other qualifying family members through family-based immigration.

Questions to USCIS

State juvenile courts and child welfare agencies can submit general questions or outreach requests to USCIS-IGAOutreach@uscis.dhs.gov.

General SIJ Information

Visit the “Humanitarian” section of the USCIS Web site www.uscis.gov/humanitarian.

Reporting Crimes

Contact DHS Homeland Security Investigations at **(866) DHS-2-ICE** for concerns regarding human trafficking.

General Information on Adjustment of Status

<http://www.uscis.gov/green-card/green-card-processes-and-procedures/adjustment-status>

Questions Regarding a Case

You may ask USCIS about a case by calling **(800) 375-5283**, or making an INFOPASS appointment at <https://infopass.uscis.gov>.

Check Case Status

Check the status of a case by visiting the “Check your Case Status” section of www.uscis.gov.