



November 8, 2023

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Policy Alert

SUBJECT: Special Immigrant Juvenile Classification Litigation Update on Tolling Provision

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) to align with *Casa Libre/Freedom House v. Mayorkas*.¹ The district court in *Casa Libre* issued a Declaratory Judgment stating that the tolling provisions outlined in DHS regulations² are not in accordance with the 180-day timeframe for the adjudication of a special immigrant juvenile (SIJ) petition as required by statute,³ to the extent that the regulations allow adjudication beyond the 180-day timeframe.

Background

The SIJ classification is available to children who have been subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law.⁴ USCIS determines if the petitioner meets the requirements for SIJ classification by adjudicating a Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)).⁵

On March 8, 2022, USCIS published the Special Immigrant Juvenile Petitions Final Rule.⁶ The rule provided tolling provisions for cases where USCIS issues a Request for Evidence (RFE). Specifically, the rule provided that a request for initial evidence restarts the 180-day timeframe for adjudication from the date USCIS receives the required initial evidence, and a request for additional evidence suspends the timeframe from the date of issuance of the RFE and resumes at the same point where it stopped when USCIS receives the requested evidence or response.⁷

On July 31, 2023, the U.S. District Court for the Central District of California in *Casa Libre/Freedom House v. Mayorkas* issued a Declaratory Judgment that the 180-day adjudicatory timeframe is not

¹ See *Casa Libre/Freedom House v. Mayorkas*, No: 2:22-cv-01510-ODW, 2023 WL 4872892 (C.D. Cal. July 31, 2023).

² See [8 CFR 204.11\(g\)\(1\)](#).

³ See [8 U.S.C. 1232\(d\)\(2\)](#).

⁴ See [INA 101\(a\)\(27\)\(J\)](#).

⁵ See Section 235(d)(2) of the Trafficking Victims Protection and Reauthorization Act of 2008, [Pub. L. 110-457](#), 122 Stat. 5044, 5080 (December 23, 2008).

⁶ See [87 FR 13066](#) (Mar. 8, 2022).

⁷ See [87 FR 13066, 13071](#) (Mar. 8, 2022).

restarted if USCIS requests initial evidence and is not suspended if USCIS requests additional evidence.

USCIS is therefore updating the Policy Manual to align with the Declaratory Judgment. This update, contained in Volume 6 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

Policy Highlights

- Aligns USCIS policy guidance with the *Casa Libre/Freedom House v. Mayorkas* Declaratory Judgment, which provides that the 180-day timeframe for USCIS to adjudicate an SIJ petition is not restarted or suspended if USCIS requests initial or additional evidence.

Summary of Changes

Affected Section: Volume 6, Immigrants > Part J, Special Immigrant Juveniles > Chapter 4, Adjudication > Section B, Expeditious Adjudication

- Adds a footnote to the first paragraph and removes the second and third paragraphs.

USCIS may also make other minor technical, stylistic, and conforming changes consistent with this update.

Citation

Volume 6: Immigrants, Part J, Special Immigrant Juveniles, Chapter 4, Adjudication [[6 USCIS-PM J.4](#)].