

## **OBTAINING SPECIAL IMMIGRANT JUVENILE STATUS (SIJS) FOR DEPENDENTS AND WARDS OF THE JUVENILE COURT**

This fact sheet provides information on the “Special Immigrant Juvenile Status” (SIJS) process. The federal law that governs SIJS is found at 8 USC 1101(a)(27)(j) and the federal SIJS regulations are found at 8 CFR 204.11.

If a youth is not a U.S. citizen or a lawful permanent resident of the United States, or has some other kind of temporary lawful immigration status, she is considered an undocumented person. Being undocumented presents a host of problems for a youth: She cannot work legally, obtain a Social Security Card, a drivers license, or bank account, and she could be deported to her country of origin if her presence becomes known to the Department of Homeland Security (DHS, formerly INS). She is not eligible for federal financial aid for college – however, she may qualify for in-state tuition at California state schools if she attended a California high school for three years or more and meets other requirements. For information on this in-state tuition option, please see <http://www.maldef.org/ab540/ab540.cfm>.

SIJS, an important part of the immigration law, can solve these pressing problems for some foster youth. If a youth qualifies for SIJS, she may obtain lawful permanent residency (get a “green card”) in the United States – that is, obtain the right to live and work in the United States and to eventually apply to become a U.S. citizen. She can then obtain her needed IDs, access federal financial aid, work legally, and live without constant fear of deportation – and make a productive life for herself after she leaves the juvenile court system. For more information about living in California with or without lawful immigration status, go to “Living in the United States: A Guide for Immigrant Youth” at <http://www.ilrc.org/resources/sijs/Youth%20Handbook.pdf>.

Although SIJS is an extremely important immigration option, many people do not know about it. It is crucial that court dependents and wards, and people working with these youth, know about SIJS and that youth emancipating from the juvenile court system – or those being adopted out of the system – obtain SIJS before their juvenile court case is closed. Please note that youth must remain under the jurisdiction of the juvenile court until the youth’s entire immigration process is complete.

### **SIJS ELIGIBILITY REQUIREMENTS**

To qualify for SIJS, a youth must:

- Be under the jurisdiction of a juvenile court (meaning having an open juvenile dependency or juvenile delinquency case);
- Be declared dependent upon a juvenile court (for court dependents) or committed to the care and custody of an agency or department of the state (for wards);
- Be “eligible for long-term foster care” – meaning that the juvenile court has either not ordered reunification services under California Welfare and Institutions Code Section 361.5(b) (for dependents) or 727.2 (for wards) OR has terminated reunification services under WIC 366.21 or 366.22 (for dependents) or 727.3 (for wards) OR ordered the child into a guardianship under WIC 360;
- Be under 21 and unmarried; and
- The juvenile court must determine it is in the youth’s best interests to remain in the United States rather than return back to her country of origin.

In addition, a youth must also qualify for adjustment of status – that is, qualify to get her green card once her SIJS status is granted. Some youth who meet the SIJS requirements above many not qualify for adjustment of status. Examples of reasons why permanent residency might not be granted include: (1) a youth who marries prior to age 21; (2) a youth who has a delinquency record that involves drugs or certain other crimes; (3) a youth with mental health issues; (4) a youth who is HIV positive; (5) a youth with addiction issues; or (6) a

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youth who has had prior contact with DHS and has an outstanding deportation order. Remember, there is always risk in filing documents with the immigration service. If the youth does not qualify for immigration benefits, DHS may move to deport her from the United States. It is therefore important that youth have access to advocates with experience working on SIJS to help them file their immigration applications. If the child falls into one of the six categories noted above, it is especially important that the youth have access to an immigration attorney for assistance with her case.

### **SIJS PROCESS**

The first step in this process is for the placement worker to determine whether the youth is a lawful permanent resident of the United States. If the youth is not, and the youth meets the SIJS requirements, the placement worker should assist the child in the SIJS process – either by preparing and filing the immigration applications herself if she has experience or arranging for the youth to work with an experienced advocate. Before moving forward on an SIJS case, it is crucial that the placement worker and advocate consult the ILRC Special Immigrant Juvenile Status Manual found at <http://www.ilrc.org/sijs.php> for more details.

The first step in the SIJS process is to obtain SIJS findings from the juvenile court on the California Judicial Council form JV-224. You can find this form at <http://www.courtinfo.ca.gov/forms/documents/jv224.pdf>. Without a JV-224 signed by a juvenile court judge, the youth cannot apply for SIJS and lawful permanent residency. The youth's worker or attorney or county counsel can obtain the SIJS findings. At the time the court makes the findings, the judge should understand that the juvenile court case must remain open until the immigration process is complete – which can sometimes take years.

Once the juvenile court has made the SIJS findings on JV-224, the advocate must obtain the following materials: (1) U.S. Citizenship & Immigration Services Forms I-360, I-485, G-325A (if the youth is 14 or older) and I-765 (if the child wants a work permit); (2) the \$930.00 fee (\$1010.00 if the youth is 14 or older) in a check or money order payable to the *Department of Homeland Security* OR a fee waiver request; (3) a certified copy of the youth's birth certificate; (4) a government-issued photo identification (typically issued by the youth's home-country consulate in the United States); (5) a completed I-693 medical exam form, in a sealed envelope and completed by a doctor certified by DHS; (6) a certified copy of the juvenile delinquency disposition for each arrest, if the child has a delinquency record; and (7) a certified copy of the JV-224. Information on all of these items can be found in ILRC's SIJS Manual.

The advocate should then mail items (1), (2), a copy of item (3) with a translation, (5), (6), and (7) to: U.S. Citizenship & Immigration Services, P.O. Box 805887, Chicago, IL 60680-4120. Within about a month, you will receive a receipt notice and an appointment notice for the child to have her photo – and her fingerprints, if she is 14 and older – taken. She must have her government-issued ID for this appointment. After this appointment is completed, the youth will be given another appointment at her local CIS office for her adjustment of status interview – her green card interview. The youth should be prepared for the interview, as described in the ILRC's SIJS Manual, and the advocate should accompany her to the interview. At the interview, the CIS officer will ask the child questions to determine if she is eligible for SIJS and adjustment of status. If the child is under 14, the CIS officer should be able to make a decision on the date of the interview. If the child is 14 or older, the CIS office may have to wait to make a decision on the case until the youth's background checks are complete.

| As noted earlier, **youth who are already 18 but are not yet 21 can still qualify for SIJS and lawful permanent residency as long as they continue to be court dependents or wards.** This is true even if the

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county is no longer issuing foster care payments on behalf of the youth. Therefore, for these youth, **it is critical that court jurisdiction be in place until SIJS and lawful permanent residency are obtained.**

Attached are:

- Forms I-360 and I-485;
- JV-224 Order Regarding Eligibility for Special Immigrant Juvenile Status; and
- A sample completed SIJS application packet.

Remember: ALWAYS CHECK to see if fees have been increased or forms have been updated. Go to <http://www.uscis.gov> to obtain that information.

FOR MORE INFORMATION, see nonprofit sites such as <http://www.ilrc.org/sijs.php> where you can find:

- *Living in the United States: A Guide for Immigrant Youth* – a booklet written for youth, both green-card holders and undocumented youth, on topics ranging from drivers licenses to college to family immigration;
- *The SIJS Manual* – a complete booklet on how to what SIJS is and how to apply for it;
- *The Immigration Benchbook for Juvenile and Family Courts* – a booklet that discusses how dependency, delinquency, custody, divorce, and adoption proceedings affect non-citizens' immigration status; and
- *One-Page Fact Sheets* – covering SIJS, asylum, and other ways that undocumented youth can get lawful immigration status.

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