



**PROTECTIVE SERVICES
SPECIAL IMMIGRANT JUVENILE STATUS AND LEGAL
PERMANENT RESIDENCY
APPLICATION GUIDE AND INSTRUCTIONS**

TABLE OF CONTENTS

What are SIJS and LPR?.....Page 2

Who is eligible?.....Page 2

Why apply?.....Page 2

How to apply.....Page 3

What are the forms for?.....Page 3

Who’s responsible for what?.....Page 4

Role of PS worker.....Page 4

Role of PS Immigration Liaison.....Page 5

Role of Children’s Court attorney.....Page 5

Role of District Court.....Page 5

Role of Foster Parent.....Page 5

Role of Child.....Page 5

Supporting documentation required.....Page 6

Court Order.....Page 6

Birth Certificate/Proof of ID.....Page 6

Photos.....Page 6

Fingerprints.....Page 7

Medical Exam.....Page 7

Tips on filling out forms.....Page 7

Application Fees.....Page 8

Post-Application.....Page 8

Special Considerations.....Page 9

Aging Out.....Page 9

Potential Risks of Applying.....Page 9

Instructions for PS workers on filling out forms.....Page 10

Example Forms.....Page 12

WHAT ARE SPECIAL IMMIGRANT JUVENILE STATUS & LAWFUL PERMANENT RESIDENCY?

Special Immigrant Juvenile Status (SIJS) is an immigration status created by federal law that provides a basis for eligible foreign national children in PS custody to become lawful permanent residents of the United States, with permission to live and work indefinitely in the US but not to vote. Persons who are permanent residents are also known as “green card” holders. Lawful permanent residency creates a pathway for these children to become US citizens in the future.

WHO IS ELIGIBLE?

When Protective Services obtains custody of a child who is from a country other than the United States, the worker determines whether the child is an undocumented foreign national.

For an undocumented foreign national child to be eligible for SIJS:

1. The child must be under court jurisdiction, or committed or placed in custody of CYFD, and must remain under court jurisdiction throughout the application process.
2. The court must determine that the child is deemed unable to reunify with one or both parents due to abuse, neglect or abandonment.
3. The court must also determine that it is not in the child’s best interest to be returned to his or her country of nationality or last habitual residence.

If this is the case, the worker shall begin the application process to the Department of Homeland Security’s (DHS) Citizen and Immigration Services (USCIS) to obtain Special Immigration Juvenile Status (SIJS) for the child.

WHY APPLY?

Obtaining SIJS and lawful permanent residency (LPR) is beneficial for children in PS custody for a couple reasons. First, it allows children who have LPR and are subsequently adopted by US citizens to obtain US citizenship within two years of being adopted. If an eligible child does not have LPR when he or she is adopted by US citizens, the adoptive family has to apply for LPR for the child. Then the child must have LPR for five (5) years before qualifying to become a US citizen.

For those youth who are not adopted, it is even more crucial to obtain lawful permanent residency for them before they emancipate from foster care. These youth qualify for US citizenship five (5) years after obtaining LPR. If a youth emancipates from foster care without LPR, he/she will not qualify for any federal medical, educational, or public assistance.

HOW TO APPLY

Two applications are *required*: the I-360, Petition for SIJS, and the I-485, the application for adjustment of status to LPR. These forms can be downloaded from the USCIS website (www.uscis.gov). SIJS-eligible children must adjust status to LPR status while still dependent upon the juvenile court, or they will become ineligible for legal status. That means that for children in PS custody, both the I-360 and the I-485 must *submitted at the same time*, and the legal determination must be made while the child is still under jurisdiction of the court.

In addition to the I-360 (Petition for SIJS) and the I-485 (Application for LPR), there are two other forms that all Special Juvenile Immigrants are required to submit to USCIS:

- G-28 Appointment of Representative, and
- I-693, USCIS Medical Exam Form

If the child is 14 years of age or older, there are *two additional forms* an applicant must submit:

- Form G-325A, Biographic information, and
- *(Optional) I-765 Application for Employment Authorization Document*

WHAT ARE THESE FORMS FOR?

1. *I-360, Petition for Special Immigrant Juvenile Status*: This grants the child approval for green card eligibility and must be determined before the child reaches the “age of majority” (age 18 in New Mexico) and while the child is still dependent upon the juvenile court. To be approved for this status, the children’s court must issue an order finding that establishes that:
 - The child is dependent on the court due to abuse, abandonment or neglect.
 - Reunification with one or both parents is not a viable option (meaning both parents, unless the child only has one parent)
 - It is not in the child’s best interests to return to the country of origin.
2. *I-485, Application for Adjustment of Status (Green Card)*: If the I-360 is granted, the child is immediately eligible to “adjust status” to that of a Legal Permanent Resident. That process requires the submission of the I-485.
3. *G-28, Appointment of Representative*: This form appoints the PS Immigration Liaison as the child’s representative in the SIJS petition and is submitted with the I-360 and I-485.
4. *I-693, USCIS Medical Exam Form, and Supplemental I-693, Immunization Record*: The child must have a medical exam by a USCIS-approved physician as part of the I-485 Application for Adjustment of Status (See page 7 for more info)
5. *G-325A, Biographic information*: This form is needed for children aged 14 or older, and is submitted with the I-360 and I-485. (See page 7 for more info)
6. *I-765, Application for Employment Authorization Document (EAD, or Work Permit)*: This form is optional and is to be used if the child is 14 years of age or older AND wishes to work.

WHO IS RESPONSIBLE FOR WHAT?

The Protective Services Worker:

- Determines when a child becomes eligible for SIJS, *i.e. when the plan for the child is going to change from reunification.*
- Screens for potential risks to applying and alerts the PS Immigration Liaison if any risk is identified. (See page 9 for potential risks.)
- Consults with the Children's Court Attorney (CCA) and requests that the CCA file a motion for a court order when it has been determined that the child is eligible. (See page 6 for more information on the court order.)
- Completes the child-related information on the I-360 Petition for SIJS and I-485 Application for Adjustment of Status (do not enter own contact info and does not sign the forms.)
- Enters the payment for the USCIS filing fees into FACTS (see page 8).
- Arranges for photos to be taken (see page 6).
- Obtains proof of birth or proof of identity (see page 6).
- Discusses work authorization option with child. (Food for thought: Work authorization is typically a minor concern for the child's worker or attorney, and often a major concern for the child. On a practical level, the work permit also serves as an important form of identification for youth who have little official identification. The work permit enables the child to obtain a social security number and SSI. A work permit can provide youth with hope, so that they are more willing to wait out the lengthy legal process for SIJS and a green card.)
- Obtains and compiles the packet of all necessary documentation as follows:
 - a. cover letter and brief case summary;
 - b. Form I-360, Petition for SIJS (available on USCIS website);
 - c. Form I-485, Application for Adjustment of Status (available on USCIS website) ****if the child answers "yes" to any of the questions in Part 3, the worker must notify the PS Immigration Liaison immediately;
 - d. certified copy of the required District Court order (obtain from CCA);
 - e. birth certificate or other proof of identity, with English translation;
 - f. two color, passport-style photographs of the child;
 - i. Form G-325A, Biographic Information, if the child is over age 14;
 - j. fingerprints, if the child is over age 14;
 - k. Form I-765 Application for Employment Authorization, if the child is over age 14 and wishes to work;
 - l. passport, I-94, or other entry document, if available.
- Sends the entire packet of information to the PS Immigration Liaison.
- Accompanies child to fingerprinting if the child is over age 14 (see page 7).
- Takes child to USCIS medical exam if requested (see page 7).
- Obtains a government issued photo ID of the child (may be issued by CYFD).
- Responds to requests for further information from the PS Immigration Liaison.

- Accompanies the child to the USCIS adjustment of status interview (see post application on page 8).

Role of the Protective Services Immigration Liaison

- Communicates with PS worker regarding any potential risks to applying when a child is determined to be eligible for SIJS.
- Consults with an immigration attorney on how to proceed if risk is identified and attempts to locate a pro-bono attorney to represent the child on the case if deemed necessary (see special considerations on page 9).
- Receives the necessary forms and accompanying documents for application from the PS worker.
- Reviews the documents for accuracy and completion, requests further information from the PS worker if necessary, and signs off on the forms as the child's representative.
- Completes Form G-28 Appointment of Representative to appoint his or her self as the child's representative in the SIJS petition.
- Obtains the check for USCIS fees for application from the FACTS specialist.
- Sends the entire application to the designated USCIS office for filing.
- Monitors the application and informs the PS worker of any additional information required by USCIS and of appointments.
- Attends the USCIS adjustment of status interview as the child's representative with the child and PS worker.

Role of Children's Court Attorney:

- Consults with worker when it is believed that a child may qualify for special immigrant status.
- Files a motion and obtains the court order containing the required findings to submit with the I-360 Petition for Special Immigrant Juvenile Status (see page 6).

Role of the District Court:

- Issues an order finding that the child is deemed unable to reunify with one (if the child only has one parent) or both parents due to abuse, neglect or abandonment and that it is not in the child's best interest to be returned to his or her country of nationality or country of last habitual residence.

Role of Foster Parent:

- In coordination with the worker, may take an SIJS-applicant child to appointments related to securing SIJS documentation (medical exams, photos, fingerprints, birth certificates, etc.).

Role of Child:

- Signs the application forms.
- Participates in medical exams.

- Gets passport photos and fingerprints.
- Participates in interview with USCIS official.

SUPPORTING DOCUMENTATION REQUIRED

In addition to filling out the applications, the PS worker needs to obtain the following:

1. Court Order

- The PS worker needs to request that the CCA obtain a court order and include the order in the application packet sent to the PS central office representative.
- Under the federal regulations, a child is eligible for SIJS if he/ she is:
 - 1) under 21 years old;
 - 2) unmarried;
 - 3) declared dependent on a juvenile (children's) court in accordance with state law governing such declaration of dependency;
 - 4) deemed unable to reunify with one or both parents due to abuse, neglect or abandonment
 - 5) the subject of judicial proceedings where it has been recognized that return to the country of origin is not in the child's best interest.
- The CCA needs to obtain the necessary children's court order, containing the SIJS eligibility findings, which must be included with the I-360 form (see example court order in Example section).
- The order need not be certified.
- The order should not contain additional information, but only the findings that USCIS requires.

2. Birth Certificate/Proof of Identity

- Proof of the child's date and place of birth is required, and should be sent with the application forms.
- If the child has a birth certificate, a copy translated to English shall be included with the application forms. The relevant foreign consulate can assist with locating birth certificates if the worker has information about where and when the birth was registered.
- If the worker is unable to locate a birth certificate, other options to prove date of birth may be acceptable, including:
 - a current or expired passport
 - baptismal records,
 - hospital records,
 - school records,
 - affidavits from persons who have personal knowledge of the birth.
- As a last resort, the CCA may obtain a judicial finding that sets forth the child's date and place of birth.

3. Photos

- Every applicant needs at least two passport-style photos.
- Most photography shops are familiar with the specifications if told it is for USCIS.

4. Fingerprints

- Any child *14 years* or older must be fingerprinted.
- After submitting the applications, USCIS will send an appointment letter for fingerprints to the PS Immigration Liaison, designating the office where the prints will be taken.
- The PS Immigration Liaison will notify the worker of the appointment.
- The child **must bring photo identification** when fingerprinted.
- The child must not miss the appointment for fingerprinting. If the child is unable to make the appointment on the day scheduled, the PS Immigration Liaison must be advised in order to request a different appointment as promptly as possible.

5. Medical Exam

- According to the regulations, every child must have a USCIS medical exam as part of the process.
- In the NM jurisdiction, USCIS *requests the medical exam after the petition and application have been submitted.*
- The PS Immigration Liaison will notify the worker to make an appointment once USCIS has requested the medical exam.
- There is a list of USCIS approved doctors on the USCIS website (search for “civil surgeon”). Some doctors take Medicaid for these exams, and others don’t. The PS Immigration Liaison can assist the worker in finding an approved doctor if needed.
- The worker makes an appointment with an approved doctor for a USCIS exam.
- If the child has immunization records, they should be taken to the exam.
- The doctor must complete and sign both required USCIS forms: I-693, Medical Exam, and Supplemental I-693, Immunization Record. The doctor’s office will have both forms. (USCIS does not accept signature stamps). The doctor will put the completed exams in a sealed envelope. The envelope should not be opened.
- The worker sends the sealed envelope to the PS Immigration Liaison, who will pass to it the appropriate USCIS office.

Tips for PS Workers on filling out the forms...

- Complete a separate form for each child.
- Complete as much information as possible following the instructions and samples provided.
- Do not complete parts that ask you to write your own contact info as the person preparing the form, and do not sign anything yourself.
- On Form I-485 , if you know or can find out from the child or family members, enter:
1. when the child most recently entered the United States (month/year), and

2. where (city/state) the child crossed the border and whether or not the child was inspected by the CIS or crossed the border without an official border inspection.
- Accuracy is important. If you do not know an answer, indicate “unknown.” If a question is not applicable, mark “N/A.” If you do not understand a question, DO NOT ANSWER until you receive clarification from the PS central office representative.
 - All Spanish documents must be translated into English by a certified translator.
*****Certified translator does not have to be an official translator.** “Certified” refers to the person who did the translation. That person certifies that he/she is competent to do the translation. (See the attached example form to use when certifying a translation.)
 - If the child has any immigration paperwork, keep a copy.

APPLICATION FEES

How much does it cost to apply?

- USCIS requires a filing fee for all applicants, as well as an additional fee for biometrics (fingerprints) for children age 14 or older.
- There is also a fee for the I-765 (Application for Employment Authorization) if **NOT** applied for at the same time as the I-485.
- As of 11/3/08, the fees are as follows:
 - I-360 Petition - no fee for SIJS.
 - I-485 Adjustment Application
 - Children under 14: \$930
 - Children 14 and over: \$930.00 and 80.00 for fingerprints = \$1010 in total.
 - I-765 Employment Authorization - ONLY for applicants needing work authorization, fee waived if the I-765 is submitted at the same time as the I-485.
- Always check the USCIS website (<http://www.uscis.gov>) for current information on the exact amount of the filing and biometrics fees.

How are the application fees paid for?

- In FACTS, the PS worker enters a payment request under “out of home placements - incidentals.” The service type is “Special Immigrant Juvenile Status.”
- Checks are made payable to the Department of Homeland Security, US Citizenship & Immigration Services (USCIS).
- The PS Immigration Liaison notifies the FACTS specialist to pull the check and includes it with the application.

POST-APPLICATION

- The last step in the process will be the interview at the USCIS office. USCIS will notify the PS Immigration Liaison of any additional information that may be required, and set up an adjustment of status interview.
- The PS Immigration Liaison will inform the PS worker of the date and details of the interview.

- The child must appear for the adjustment of status interview. The PS worker accompanies the child to the interview location. The PS Immigration Liaison attends the interview with the child, as the child's representative, and should brief the child prior to that meeting.
- The child must have a government issued photo ID at the interview (A CYFD-issued photo ID is acceptable).
- USCIS may approve the adjustment of status at the time of the interview or wait for background check approval.

SPECIAL CONSIDERATIONS

AGING OUT ISSUES

- If the case involves a child who is approaching 18 years old, all responsible parties needs to do everything possible to ensure that the application is completed and received before the child's 18th birthday. The child must be under children's court jurisdiction at the time that SIJS is applied for.
- As long as SIJS is applied for before the child's 18th birthday USCIS will process the application and a child can receive status after they turn 18.
- *The worker should always staff options with the CCA and the PS Immigration Liaison if the child is approaching 18 when they become eligible.*

POTENTIAL RISKS IN APPLYING

Before starting the application process, the PS worker should screen the case to determine whether any circumstances exist that would advise against applying for SIJS or adjustment of status to lawful permanent residency. The PS worker should notify the PS Immigration Liaison of potential risks identified, which include:

- history of arrests;
- admission of acts that constitutes crimes, adjudication as delinquent, conviction of any adult crime;
- a physical or mental condition that makes him a danger to self or others (suicidal, assaultive conduct, etc.);
- HIV/AIDS or any other significant communicable disease.

If, in filling out Form I-485, the child answers "yes" to any of the questions asked in Part 3, the worker should advise the PS Immigration Liaison immediately.

- The PS Immigration Liaison may need to consult with an expert in immigration before continuing the application process.

The greatest risk to the child is that if USCIS denies the application, DHS may attempt to remove the child from the United States.

- When a petition for SIJS is filed for a child, DHS is alerted to the fact that the child is unlawfully in the United States.

- SIJS documents are not confidential; therefore DHS may use the information provided there to begin removal proceedings for deportation if USCIS denies the SIJS and adjustment of status applications.

INSTRUCTIONS FOR PS WORKERS ON FILLING OUT FORMS

I-360 Petition for Special Immigrant Juvenile

Part 1:

Enter full name of child on first line. Starting on second line, enter the organization and representative's information, which is the following:

NM Children, Youth and Families Dept.-Protective Services
C/O Megan Finno, Immigration Liaison
P.O. Drawer 5160
Santa Fe, NM 87501

Part 2:

Check box c.

Part 3:

Repeat the name of the child and the same address as in Part 1. Include all the child's personal information here. If the child is unsure about when they entered into the U.S., do not enter a specific date. Instead, write "unknown", or if possible, write "approximately (month/year)"

Part 4:

In regards to the American Consulate and foreign address information, write "N/A".

Check the applicable boxes for the remaining questions. In the box that reads "Is an application for adjustment of status attached to this petition?", check "yes".

Part 5:

Write "N/A"

Part 6:

Write "N/A" or "none" for other names used.

Check "yes" in answer to both questions.

Part 7:

Write "N/A".

Part 8:

Write "N/A".

Part 9:

Write "none" or "N/A"

Part 10:

Have the child sign, date and print their name.

Part 11:

DO NOT fill out this section with your information, leave it blank. The PS Immigration Liaison fills this section out.

I-485 Application to Register Permanent Residence or Adjust Status

Part 1:

Enter full name of child on first line. Starting on second line, enter the organization and representative's information, which is the following:

NM Children, Youth and Families Dept.-Protective Services
C/O Megan Finno, Immigration Liaison
P.O. Drawer 5160
Santa Fe, NM 87501

Include the child's personal info. If inapplicable, write "none" or "N/A". If the child is unsure about when they entered into the U.S., do not enter a specific date. Instead, write "unknown", or if possible, write "approximately (month/year)".

Part 2:

Check box h. Write "Special Immigrant Juvenile Status".

Part 3:

- A. Include all requested information. If the child is not sure of the name of the city and state where they entered the U.S, write "unknown", or "USA Mexico Border" or "near (city, state)"
If child had a visa or has documentation of entry, include it here. Otherwise, write "without inspection".
- B. Write "none".
- C. If child is 16 years of age or older, include the applicable information, or write "none".
Go over questions 1-14 with the child. These are the same questions the USCIS officer will ask during the adjustment of status interview. *****If your client answers "yes" to any of the questions, inform the PS Immigration Liaison immediately to receive consultation from an immigration attorney. The child may be ineligible to adjust his or her status or may need to file a waiver—this needs to be done with the assistance of an immigration attorney.

Part 4:

Have the child sign and print their name, date, and include their phone number.
DO NOT fill in the section as the person preparing the form. Leave it blank.

G-325, Biographic Information (for children 14 and over)

Type in all child's information on fillable form on uscis.gov website.

Enter known information, if unknown leave blank or write "unknown" .

If item doesn't apply, write "none" or "n/a".

Always check the box on the bottom that reads "status as permanent resident".

Print and make sure the child signs and dates ALL FOUR copies of the form.

I-765, Application for Employment Authorization

Fill out all child information.

If item not applicable, write "none" or "N/A"

If unsure of date of entry, write "unknown" or "approximately (month/year)"

If unsure of place of entry, write "unknown" or "near (city, state)"

#16: Fill in (c) (9)

Make sure the child signs under "Certification", and places their phone number and date.

DO NOT fill out the section as the person preparing the form. Leave it blank.

I-693, Report of Medical Exam and Vaccination Record

Part 1: Enter the child's information. Have the child sign in front of the doctor.

Part 2: Do not enter information. Civil surgeon will complete the rest of this form.

EXAMPLE FORMS

I-360, Petition for Amerasian, Widow(er), or Special Immigrant

Example Court Order

I-485, Application to Register Permanent Residence or Adjust Status

G-325, Biographic Information

I-765, Application for Employment Authorization

I-693, Report of Medical Examination and Vaccination Record