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Policy Alert

SUBJECT: Special Immigrant Juvenile Classification and Adjustment of Status

Purpose

U.S. Citizenship and Immigration Services (USCIS) is updating policy guidance in the [USCIS Policy Manual](#) to incorporate changes from the Special Immigrant Juvenile Petitions Final Rule (SIJ Final Rule), including updated citations, new definitions, and clarifications.¹

Background

The special immigrant juvenile (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.² To apply for SIJ classification, eligible children must file a Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)). A noncitizen classified as an SIJ may seek to adjust status to that of a lawful permanent resident (LPR) based on the SIJ classification if the noncitizen meets certain requirements.³

The SIJ Final Rule, published on March 8, 2022, and effective on April 7, 2022, codifies statutorily mandated changes regarding the requirements and procedures for juveniles seeking classification as an SIJ and related adjustment of status to an LPR. The rule also clarifies: the definitions of key terms, such as “juvenile court” and “judicial determination;” what constitutes a qualifying juvenile court order for SIJ purposes; what constitutes a qualifying parental reunification determination; DHS’s consent function; and applicable bars to adjustment, inadmissibility grounds, and waivers for SIJ-based adjustment to LPR status.

This rule further removes bases for automatic revocation that are inconsistent with the statutory requirements of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008)⁴ and makes other technical and procedural changes. USCIS is updating policy guidance to incorporate these changes and clarifications from the SIJ Final Rule.

The updates contained in Volumes 6 and 7 of the Policy Manual apply to SIJ petitions and adjustment of status applications filed or pending on or after April 7, 2022 (effective date of SIJ Final Rule).

¹ See [87 FR 13066](#) (Mar. 8, 2022).

² See [INA 101\(a\)\(27\)\(J\)](#).

³ See [INA 245\(h\)](#).

⁴ See [Pub. L. 110-457](#) (Dec. 23, 2008).

The SIJ Final Rule and this policy update supersede the guidance found in the following Administrative Appeals Office (AAO) adopted decisions: [Matter of D-Y-S-C-, Adopted Decision 2019-02 \(AAO Oct. 11, 2019\)](#); [Matter of A-O-C-, Adopted Decision 2019-03 \(AAO Oct. 11, 2019\)](#); and [Matter of E-A-L-O-, Adopted Decision 2019-04 \(AAO Oct. 11, 2019\)](#). The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

Policy Highlights

- Confirms that USCIS relies on the expertise of the juvenile court in making child welfare decisions and does not reweigh the evidence to determine if the child was subjected to abuse, neglect, abandonment, or a similar basis under state law.
- Clarifies that in order to consent to the grant of SIJ classification, USCIS must review the juvenile court order(s) and any supplemental evidence submitted by the petitioner to conclude that the request for SIJ classification is bona fide.
- Explains that the evidentiary requirements for DHS consent include the factual basis for the required juvenile court determinations, as well as the relief from parental abuse, neglect, abandonment, or a similar basis under state law granted or recognized by the juvenile court.
- Provides that relief from parental maltreatment may include the court-ordered custodial placement, the court-ordered dependency on the court for the provision of child welfare services, and/or other court-ordered or court-recognized protective or remedial relief.
- Explains that the evidentiary requirements for establishing the age of an SIJ petitioner include a petitioner's valid birth certificate, official government-issued identification, or any other document that in USCIS' discretion establishes the petitioner's age, which may include affidavits or secondary evidence of age.⁵
- Removes marriage as a basis for automatic revocation of the petition for SIJ classification.

Summary of Changes

Affected Section: Volume 6, Immigrants > Part J, Special Immigrant Juveniles

- Throughout Part J (Special Immigrant Juveniles), revises existing citations and adds new citations to reflect new regulatory provisions, removes references to affected and superseded AAO adopted decisions, and adds other minor edits for style, formatting, clarity, and consistency.

Affected Section: Volume 6 > Part J > Chapter 2, Eligibility Requirements

- In Section C (Juvenile Court Order), revises definitions of "juvenile court" and "custody," clarifies evidentiary requirements under Subsection 2 (Parental Reunification) and Subsection

⁵ See [8 CFR 204.11\(d\)\(2\)](#). SIJ petitioners are not subject to the general presumption of ineligibility at [8 CFR 103.2\(b\)\(2\)\(i\)](#), since that general rule is superseded by the specific provisions in [8 CFR 204.11\(d\)\(2\)](#).

3 (Best Interests), and revises guidance on the validity of juvenile court orders in Subsection 4 (Validity of Order).

- In Section D (USCIS Consent), renames to “DHS Consent” and revises first two paragraphs in their entirety and adds further guidance at the end of Section D, and revises Section E (U.S. Department of Health and Human Services Consent).

Affected Section: Volume 6 > Part J > Chapter 3, Documentation and Evidence

- Adds new language regarding documentation of age in introduction to chapter and revises content in Section A (Juvenile Court Order(s) and Administrative Documents), Subsection 1 (Qualifying Juvenile Court Determinations) under italicized subheading “Similar Basis under State Law.”
- Removes Subsection 2 (Final Orders) in the same Section A and redesignates remaining subsections accordingly.
- In the same Section A, redesignates and renames Subsection 3 (Factual Basis and USCIS Consent) to Subsection 2, “Evidentiary Requirements for DHS Consent,” and revises and adds to content in subsection, including under new italicized subheadings “Youth in HHS Custody” and “Declaratory Judgments.”

Affected Section: Volume 6 > Part J > Chapter 4, Adjudication

- Revises Section B (Expeditious Adjudication) in its entirety, adds clarifying sentence at the end of Section C (Interview), revises the second to last bullet point in Section D (Requests for Evidence), and removes the first bullet point regarding marriage of the petitioner under Subsection 3 (Revocation) of Section F (Decision).

Affected Section: Volume 7, Adjustment of Status > Part F, Special Immigrant-Based (EB-4) Adjustment

- Throughout Part F (Special Immigrant-Based (EB-4) Adjustment), revises existing citations and adds new citations to reflect new regulatory provisions, and adds other minor edits for style, formatting, clarity, and consistency throughout.

Affected Section: Volume 7 > Chapter 7, Special Immigrant Juveniles

- In Section C (Eligibility Requirements), removes first bullet point in second bulleted list regarding marriage of the petitioner under Subsection 2 (Eligibility to Receive an Immigrant Visa), adds an exception in the footnote corresponding to the table “Inadmissibility Grounds

that Cannot be Waived” in Subsection 4 (Admissibility and Waiver Requirements), and removes Subsection 6 (Requirements for *Perez-Olano* Litigation Class Members).⁶

- In Section D (Documentation and Evidence), revises bulleted list to clarify the evidentiary requirements for adjustment of status and adds clarifying sentence at the end of Subsection 2 (Interview) of Section E (Adjudication).

Citation

Volume 6: Immigrants, Part J, Special Immigrant Juveniles, Chapter 1, Purpose and Background [[6 USCIS-PM J.1](#)]; Chapter 2, Eligibility Requirements [[6 USCIS-PM J.2](#)]; Chapter 3, Documentation and Evidence [[6 USCIS-PM J.3](#)]; Chapter 4, Adjudication [[6 USCIS-PM J.4](#)].

Volume 7: Adjustment of Status, Part F, Special Immigrant-Based (EB-4) Adjustment, Chapter 7, Special Immigrant Juveniles [[7 USCIS-PM F.7](#)].

⁶ The *Perez-Olano* settlement agreement took effect December 14, 2010, and expired December 13, 2016. The underlying settlement agreement included terms on age-related protections and clarifications on the circumstances under which petitioners in the custody of the U.S. Department of Health and Human Services (HHS) must obtain HHS specific consent. See *Perez-Olano, et al. v. Holder, et al.*, Case No. CV 05-3604 (C.D. Cal. 2015). Although the settlement agreement has now expired, the age-related protections and clarifications on HHS specific consent have been incorporated in the SIJ Final Rule and Policy Manual guidance.